

BEFORE THE PUBLIC UTILITY COMMISSION OF OREGON

IN THE MATTER OF IDAHO POWER COMPANY'S Petition for Certificate of Public Convenience and Necessity	Docket: PCN 5 Intervenor Cross-Answering and Rebuttal Testimony STOP B2H COALITION
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Date: March 20, 2023

Jim Kreider, Intervenor

On behalf of the Stop B2H Coalition

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1. Introduction

Stop B2H Coalition, hereinafter referred to as, STOP or Stop B2H, respectfully submits this rebuttal testimony in OPUC Docket PCN5. The purpose of the rebuttal is to respond to Idaho Power's Reply testimony to Staff and Intervenor Opening Testimony. Specifically, STOP will address the testimony of Barretto, Ellsworth, and Bastash, and to a lesser degree other witnesses.

As a procedural matter, STOP starts with expressing disappointment with IPC and their organization of Response Testimony, notably the fact that each witness seems to have responded to various intervenors' and staff points. Without an index or overall reference to intervenors' issues, it became extremely difficult to follow an intervenor's issues throughout the response testimony and/or the multitude of Exhibits from the 11 witnesses. Granted, Ms. Rackner attempted to rectify this confusion on 2/21/2023, by filing an "outline" of all response testimony. This was helpful to a degree but unfortunately there was still no index, nor a way for an intervenor to know that was a response to their opening testimony because it was buried within a witnesses' reply testimony. Therefore, some intervenors who may not have read all documents may not know that an IPC witness's testimony responded to an issue that they have raised.

2. Idaho's Grand Bargain: Oregon's Heritage for Idaho Power Profits

A. Alternatives

Related to the energy transitions and the inevitable changes in the energy sector's business models, we have offered many alternatives over the years which would be more prudent, more protective and less destructive of Oregon's resources than carving a nearly 300 mile, high-voltage transmission line corridor that may become a defacto utility corridor for other

projects. We know that the Commission is aware of our suggested alternatives from past dockets and [IRP filings](#)¹. In addition to STOP's numerous alternatives to the building the B2H, STOP adopts Susan Geer's rebuttal testimony with regard to the *alternative siting* of the B2H in Union County. There is an alternative route, approved by the BLM, that does not destroy one of the Union County's premier recreational and camping areas, Morgan and Twin Lake Park.

B. Is it in the Money?

In this section STOP will discuss Mr. Ellsworth's Reply Testimony, Idaho Power/500 (2/21/23). STOP appreciates the efforts the company made to clarify and update information from the 2021 IRP for this docket. In an effort to further clarify STOP's understanding of this very complex project STOP makes the following comments on: 1) Participants and Benefits, 2) Cost Estimate, 3) Budget, 4) Resource Adequacy and the Mid-C Market, and, 5) STOP B2H Response to IPC reply.

1. B2H Project Participants and Benefits

STOP does not see a partnership represented in this relationship. PAC's budgetary information is incomplete. Idaho Power is having to insert unverified estimates for PAC's indirect costs². There are no statements from PAC that STOP has seen, that neither verify these costs nor show them side by side, line by line. If the companies cannot present their total estimated costs in a clear concise way we won't clearly know what the revenue requirements are thus making verifying the least cost portfolio more difficult and rates customers will be charged.

PAC does not have the B2H acknowledged for construction in its most recently approved IRP.

¹ Also: Stop B2H/100 Kreider/102.b. Page 1.

² Idaho Power has estimated PacifiCorp's AFUDC and property tax costs. Idaho Power/500 Ellsworth/23

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Boardman-to-Hemingway (500 kV transmission line):

- Continue to support the project under the conditions of the Boardman-to-Hemingway Transmission Project (B2H) Joint Permit Funding Agreement.
- Continue to participate in the development and negotiations of the construction agreement.
- Continue to participate in “pre-construction” activities in support of the 2026 in-service date.
- Continue negotiations for plan of service post B2H for parties to the permitting agreement.

Why should this CPCN go forward when construction acknowledgment for PAC has not and will not be granted before the end of this docket, assuming a June ending. PAC has not submitted their 2023 IRP yet and the IRP process is usually 6 months. That puts this decision months behind IPC’s alleged “must start” date. It makes no sense to condemn peoples’ land when the majority partner has not sought nor received acknowledgment for construction of the B2H.

It should be noted that these partners are constructing the [Gateway West](#) (GWW). This project is jointly proposed by [Rocky Mountain Power](#) (part of PacifiCorp) and [Idaho Power](#) to build and operate approximately 1,000 miles of new high-voltage transmission lines between the Windstar substation near Glenrock, Wyoming and the Hemingway substation near Melba, Idaho. Rocky Mountain Power and Idaho Power are building this new transmission line to provide electricity to meet increasing customer needs. It will deliver power from existing and future electric resources including renewable resources such as wind energy. In addition, the line will provide strength and reliability to the region’s transmission system.

In the central Idaho area are the Midpoint 500/345-kV second transformer addition and Midpoint-Kinport 345-kV series capacitor which are transmission bolt-on portfolio costs³. Since this will be built now regardless of Gateway or B2H this has become a cost neutral item and suggest the GWW option needs deeper analysis for the preferred portfolio.

³ Idaho Power/500 Ellsworth/25



2. Cost Estimate

Cost Components

The 2021 IRP included costs associated with all components of the B2H transaction, including local interconnection into the Treasure Valley transmission system, and costs related to the asset exchange with PacifiCorp.⁴ The following is a list of the various components:

- Boardman to Hemingway Project
 - B2H transmission and substation costs
 - B2H midline series capacitor
 - BPA permitting buyout payment

⁴ In re Idaho Power Company, 2021 IRP, Docket LC 78, IRP Appendix D at 6-9, 28-29 (Feb.2022) (available at <https://edocs.puc.state.or.us/efdocs/HAQ/lc78haq15183.pdf>) (last visited Feb. 20, 2023) [hereinafter “2021 IRP, Appendix D”].

- Local interconnection projects (230-kV line from Hemingway to Bowmont to Hubbard substations, including supporting equipment)
- Midpoint 500/345-kV second transformer addition
- Midpoint-Kinport 345-kV series capacitor
- PacifiCorp asset exchange costs

Cost Categories

The projects and costs directly related to B2H include costs for permitting, preconstruction, right-of-way options, the transmission line itself, substation costs, overheads, contingency (which was excluded in the 2021 IRP modeling), and Idaho Power's Allowance for Funds Used During Construction ("AFUDC") and property tax⁵.

BPA permitting payback (\$25 million)

Not mentioned above as "cost" because this will be paid 15 years after in-service date. IPC will repay this permitting expense (\$25 million⁶), with accumulated interest, 15 years after the B2H project is placed into service. It is impossible to tell if this amount is in the revenue requirement or has been left out of the calculation since will occur at some future date.

The resulting sum of all the components listed above is approximately \$485 million (\$425 B2H + \$35 interconnection + \$10 Midline + \$14 permitting payback) and was the B2H cost estimate utilized for the purposes of the 2021 IRP.⁷

⁵ Idaho Power/500 Ellsworth/18

⁶ Idaho Power/500 Ellsworth/19

⁷ Idaho Power/500 Ellsworth/19

As we move through the Idaho Power/500 Ellsworth document the numbers evolve and descriptions of the items change or morph which makes it next to impossible to understand this budget and thus its impacts to ratepayers and shareholders.

Transformer/Capacitor (\$47 million)

Idaho Power anticipates investing in the Midpoint 500/345-kV second transformer addition (“Midpoint Transformer”) and the Midpoint-Kinport 345-kV Series Capacitor (“Kinport Series Capacitor”) independent of the B2H project⁸. However, in the 2021 IRP the B2H *inclusive* portfolios IPC has these as part of an asset exchange. In B2H *exclusive* portfolios there would be no asset exchange and the parties would build the assets together and split the cost according to the JOOA.

IPC either picks up \$47 million by itself or splits it based on the JOOA currently at 45% IPC and 55% PAC. What will it be as this creates a \$23m difference to ratepayers and shareholders. This leaves another amount of uncertainty regarding total cost and allocation between the partners’ ratepayers.

Branching Scenario Analysis and Transmission costs (\$\$ unknown)

The Company developed a branching scenario analysis strategy which included various combinations of the B2H project, the Gateway West project, and a “do-nothing” scenario. The appropriate transmission costs, therefore, can be simply added onto the portfolio associated with a specific transmission topology assumption, also referred to as bolt-on costs⁹.

8 Idaho Power/500 Ellsworth/20

9 Idaho Power/500 Ellsworth/21

Table 3 shows the updated total cost and NPV values from the 2021 IRP in table 2. Note

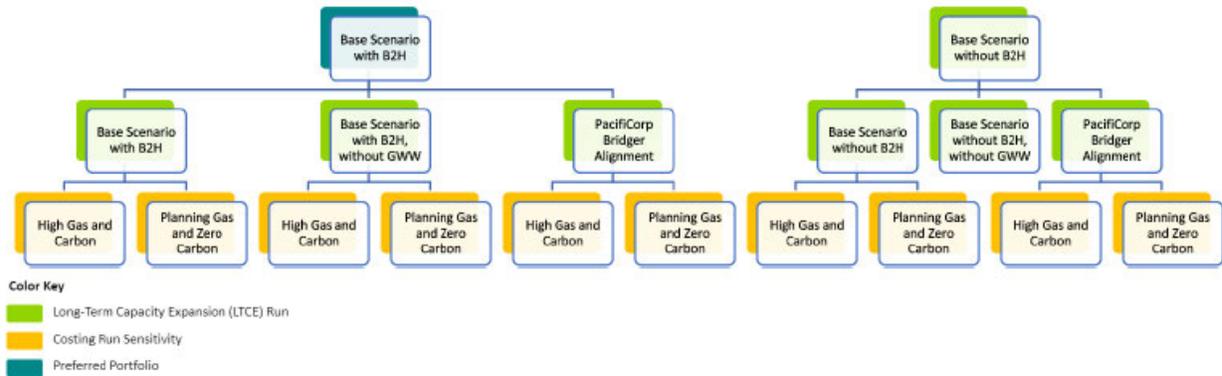
Table 3. Updated Levelized and Portfolio NPV Costs of Major Transmission Components

Project Description	Total Cost	Levelized Cost	In-Service Year	Updated Portfolio NPV Cost	2021 IRP Portfolio NPV Cost
B2H (with local interconnection)	\$668M	\$35.6M	2026 (Preferred Portfolio)	\$244.2M	\$159.9M
Midpoint Transformer & Kinport Series	\$47M	\$3.8M	2026 (Preferred Portfolio)	\$25.8M	\$25.8M

Capacitor					
GWW (with local interconnection)	\$284.9M	\$22.0M	2027 (Non-B2H Portfolio)	\$135.4M	\$100.9M
GWW (w/o local interconnection)	\$238M	\$17.7M	2033 (Non-B2H Portfolio)	\$49.4M	\$36.8M
Midpoint Transformer & Kinport Series Capacitor (No PacifiCorp exchange)	\$16.2M	\$1.3M	2027 (Non-B2H Portfolio)	\$8.2M	\$8.2M

that the GWW (with local interconnection) is the lowest cost of the major transmission components out performing the B2H (with local interconnection) by \$385 million. How has this been evaluated in the budget? The lack of transparency to see and understand the costs and budget is very frustrating.

The branching evaluation brings in a variable or “bolt-in” that STOP is hard press to find detailed information on. This is the PacifiCorp Bridger Alignment. The branching analysis displays the Bridger alignment in the 2nd row last box on right under both the Base Scenario with B2H and Base Scenario without B2H.



2021 IRP: Branching Evaluation

A search for “Bridger Alignment” in the 2021 IRP has 34 entries and Appendix D has 23. However, nowhere is there an explanation or definition of what makes up the PacifiCorp Bridger alignment. One can only summarize from the name that it is aligning the exits of the Bridger units with PacifiCorp or an Idaho Power accounting based solo exit. A cost for it also cannot be found. The only reference in the document is, “The Company completed this exercise, and the result was that the Base without B2H PAC Bridger Alignment portfolio cost increases from \$8,208 million in the 2021 IRP to \$8,255 million using the latest B2H estimate”¹⁰.

Contingency (20% of total)

This is treated so inconsistently that it needs to be restated in very clear and transparent manner. Using the same incremental way as in 2019 IRP would make sense. The 2021 IRP did not use any contingency amounts contrary to the commission’s direction. The revised Dec 22

¹⁰ Idaho Power/500 Ellsworth/26

Boardman to Hemingway Cost Estimates in Exhibit 301 just says including contingency. This needs to be broken out and displayed on its own line.

3. Budget

The budget as presented in confidential exhibit 301 is not very helpful. The line items below left do not cover what the narrative implies it would be in the detailed budget below right.

Line 11, Sub Total Transmission Line Construction and Mitigation Direct Costs are not defined. In lines 12 and 13 the 21% interest value is much greater than the 45% interest value and are totaled on line 15. But there is no understanding of what goes into these numbers. Is the interest to cover the BPA permitting payback and related to line 48 BPA Permitting Buyout (Future)? Another unknown.

Line 27, Sub Total B2H Project Estimated Construction Costs includes a property tax line that is blank. It seems to have been combined with AFUDC on line 40. But why? This gives less detail not more.

The items above were discussed in the Idaho Power/500 Ellsworth narrative but what budget lines do the items mentioned below belong in?

Where does the B2H B2H Midline series capacitor (\$10 million), local interconnections (\$35 million), Midpoint 500/345-kV second transformer addition ("Midpoint Transformer") and the Midpoint-Kinport 345-kV Series Capacitor ("Kinport Series Capacitor") (\$47 million), BPA permitting payback (\$25 million), and the Branching Scenario Analysis including the PAC Bridger Alignment and Transmission cost bolt-ons (\$?? million), appear in the budget? The contingency is stated to be 20% it is only 11.83%, which is 8% shy of the goal in the budget reviewed.

A plug and play budget using the bolt-on style that contains all the budget elements outlined in this response will create a more vibrant and understandable model.

Boardman to Hemingway Cost Estimates:	
Descriptions taken directly from B2H budget document from IPC)	Idaho Power/500 Ellsworth/18:
Description	Cost Components
Sub Total Transmission Line Permitting	- Boardman to Hemingway Project
21% Interest	• B2H transmission and substation costs
45% Interest	• B2H midline series capacitor
	• BPA permitting buyout payment
Sub Total Transmission Line Construction and Mitigation Direct Costs	- Local interconnection projects (230-kV
Pre-Construction Costs	line from Hemingway to <u>Bowmont</u> to
IPC Share	Hubbard substations, including
BPA Share	supporting equipment)
Right of Way Option Costs	- Midpoint 500/345-kV second transformer
Substation Total	addition
Total Property Tax	- Midpoint- <u>Kinport</u> 345-kV series capacitor
Sub Total B2H Project Estimated Construction Costs	- PacifiCorp asset exchange costs
Overheads	
IPC Share	Cost Categories
BPA Share	The projects and costs directly related to
Transmission Line Construction &	B2H include costs for permitting,
Mitigation Contingency	preconstruction, right-of-way options, the
<u>Total B2H Project Estimated Costs</u>	transmission line itself, substation costs,
IPC Share of Total B2H Cost w/o AFUDC &	overheads, contingency (which was
Prop Tax	excluded in the 2021 IRP modeling), and
Idaho Power AFUDC & Property Tax	Idaho Power's Allowance for Funds Used
Boardman to Hemingway Subtotal	During Construction ("AFUDC") and
Local Interconnection Costs	property tax.
Total Project Cost (Including Local Interconnection Facilities)	

It would appear that if the budget lines above and the ingredients that go into it can be jointly agreed to we could have a budget that we can all understand and coherently discuss to ensure the best decision.

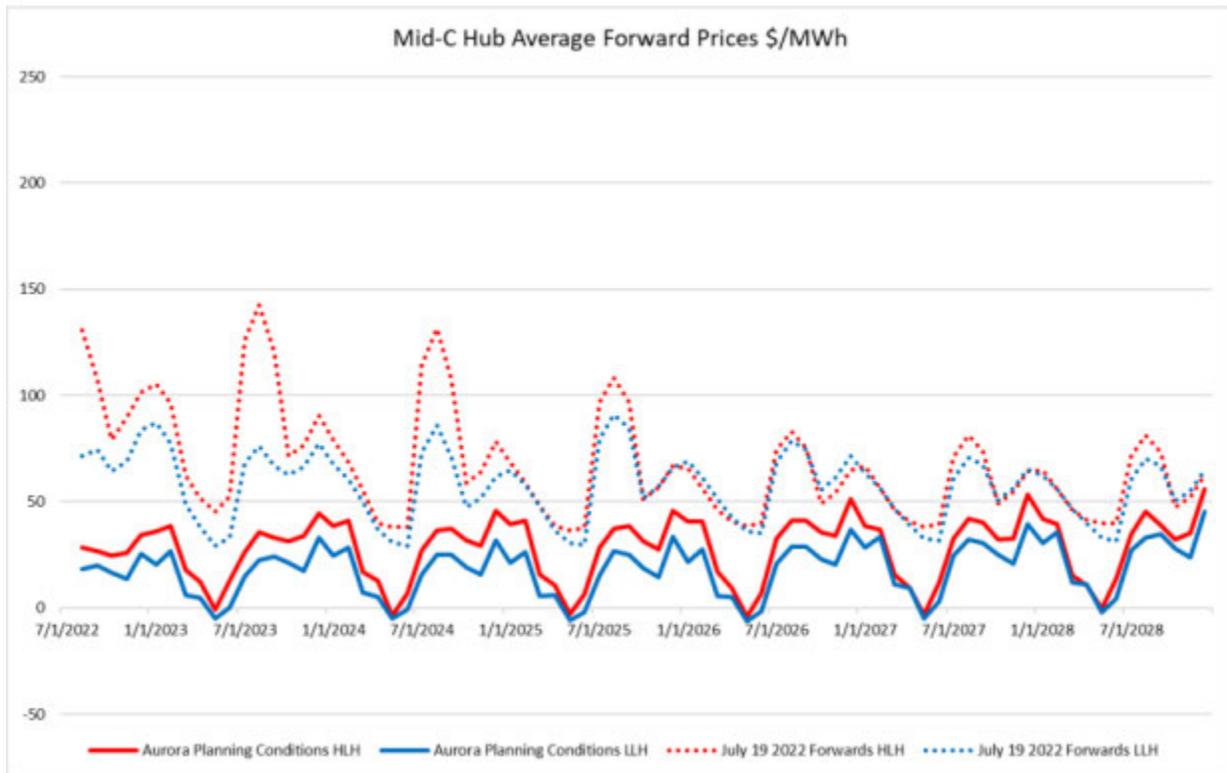
4. Resource Adequacy and the Mid-C Market

STOP believes that staff's recommendation in LC 78 IPC's 2021 IRP are still correct regarding Mid-C and the company's modeling procedures. Staff shared the following:

Mid-C Prices

The Mid-C prices Idaho Power modeled in the 2021 IRP are substantially lower than observed Mid-C prices. When the Company filed its 2021 IRP on December 30, 2021, the preceding months saw Mid-C prices significantly exceeding the highest estimates Idaho Power included in its stochastic risk analysis, let alone the Company's planning assumption. The current prices of Mid-C futures contracts, referred to in Figure 1 below as the forward price curve, suggests those high prices are indicative of a trend, rather than an anomaly associated with a single low hydro year. Figure 1 shows this trend persists past the window of the 2021 IRP's Action Plan. Persistent high prices in 2022 during a relatively normal hydro year, and the forward price curve show observed market prices that are significantly higher than the 2021 IRP's forecast.

Figure 1: Mid-C Forward Prices vs 2021 IRP Forecast



It needs to be noted that this budget is only at the 60% level. It appears the cost from the 30% level to the 60% added about 30% to the project. We need to remember that we have another 40% to go to get to a 100% estimate.

The 20% contingency needs to clearly stated and a Stop loss clause initiated so once the 20% contingency is reached the company is clearly responsible for any errors in their rush to get this done.

STOP also believes this was the incorrect portfolio to select as the high gas, high carbon is the most likely and selecting it will significantly reduce risk.

5. STOP B2H Response to IPC reply

Overall STOP is concerned with IPC's slowness to respond to innovation and its entrenchment in the traditional utility business model. The company seemed to be very comfortable in their vertically integrated monopoly until their 2019 IRP which took about 2 years to complete. Between the 2019 and 2021 IRP's the company realized that the energy world around them changed and suddenly were faced not with a surplus as they thought in 2028 but with an annually growing energy deficit (101 MW in 2023, 186 MW in 2024, and 311 MW in 2025¹¹). In UM 2210,¹² explaining their energy shortfall the company said,

This rapid change in resource position is caused by several dynamic and evolving factors including: third-party transmission constraints and changes to the assumptions in the L&R balance regarding available transmission capacity following the retirement of coal plants; the unavailability of import transmission capacity on the market; planning margin adjustments associated with incorporating Loss of Load Expectation ("LOLE") and Effective Load Carrying Capability ("ELCC") planning methodologies; increasing population and associated emergent demands on the Company's system; and the potential diminishing demand response ("DR") resource and low solar generation effectiveness during times of peak and critical load.

They are now playing catch up partially because they refused to see the magnitude of the decarbonization and transmission congestion that was coming because of the B2H blinders they had on. Is that occurring again?

¹¹ <https://edocs.puc.state.or.us/efdocs/HAA/haa165046.pdf> pdf7

¹² <https://edocs.puc.state.or.us/efdocs/HAA/haa165046.pdf> pdf 3

The company is depending on front office transaction or market purchases. The company purchases 36.4% of its power and 20% of that is via market purchases¹³. Putting a bigger pipe into the Mid-C market will most likely increase that percentage and drain the Mid-C's resources during a resource inadequacy. The Mid-C is trying to balance its energy deficit by building more generation. Is allowing more energy to go out of region now prudent?

Idaho Powers business strategy of not owning more of its generating resources, discouraging rooftop solar, fighting PURPA and QF facilities speaks to the attitude of we know how to do it best so leave us alone.

Until a budget can be developed showing the partners shares in all the component parts and the elements that go into them including how the transmission bolt-ons can be moved around to create the best least cost/risk portfolio we do not know what we are dealing with.

We look forward to working with the parties to developing a budget that is clear and accurate.

C. Safety & Compliance

1. Wildfire

Wildfire remains a huge concern of STOP, its members, and all people of Eastern Oregon. In the "OPUC Wildfire Mitigation Workshop 2023 Plan Presentation" on March 14, 2023, IPC was asked a question about the wildfire management plan for the B2H. The company's reply was that one was not developed yet because the line had not been constructed. STOP has pointed out numerous times to Idaho Power that the area in Union County by Morgan Lake is considered a high-risk wildfire wildland-urban interface area by the state, county, and is in a

¹³ Our Energy Sources <https://www.idahopower.com/energy-environment/energy/energy-sources/>

PSPS shut off zone from the local energy provider, Oregon Trail Electric Coop (OTEC).

However, there is no indication of this in IPC's 2023 Wildfire Mitigation Plan. In 2+ years of one to one meetings, the company will not share its detailed models as requested in writing on numerous occasions which are documented in the records of AR 638 and UM 2209. This shows a true disconnect of Idaho Power's situational awareness of the area they are building the B2H through. The BLM approved route farther to the west is in a lower fire risk area and farther away from the closest population center of La Grande.

Response testimony by Chris Lautenberger, who was also cross-examined in the EFSC case¹⁴ seems to particularly miss the points about wildfire risks associated with wind conditions. Intervenors Sam Myers and Wendy King will also provide specific rebuttals to Mr. Lautenberger.

To avoid redundancy, STOP: 1) stands by our Opening Testimony (StopB2H/100/ Kreider/Page 15, including footnotes #28 (Exhibit 1011 - Wildfire comments UM2209) and #29 (Exhibit 1012 - Sam Myers-EFSC-LU9), 2) adopts co-intervenors, Myers and King Rebuttal testimonies, addressing wildfire risks in Morrow Co dry farmlands, and 3) would like to reference the already filed record of the EFSC contested case¹⁵ specifically, selected Petitioner Matt Cooper's filings on wildfire risks, and reproduced as **Exhibit 201**. Since Mr. Lautenberger's account of his analysis of Union County wildfire risks (Idaho Power/1300/ Lautenberger/pages 51-53) essentially summarizes and makes references to the EFSC contested case; we feel that aligning these testimonies will inform the reader.

¹⁴ Cross-Examination transcript, Day 3, EFSC case, petitioner Dr. Mathew Cooper and Mr. Christopher Lautenberger 1/13/2022.

¹⁵ See StopB2H/100/ Kreider/Page 15, FN to Exhibit 107, for links.

2. Noise Control

We can thank Mr. Bastasch and IPC attorneys for their overview of ODEQ noise control rules and standards; there will be no need to repeat them here. In this rebuttal to Mr Bastasch's response testimony, STOP will address the mis-conceptions of compliance, including inappropriate analysis that ODOE allowed IPC to use - but that deviates from the ODEQ procedures and therefore cannot be considered protective of public health and safety. Finally, in this subsection on Noise Control, we will briefly call out the gas-lighting from Mr. Bastasch and IPC.

The Oregon Supreme Court ruled (March 2023) that EFSC can assume the responsibilities of another state agency (i.e.: ODEQ and their commission EQC¹⁶) as a practical matter since they lost funding for implementing the state's noise control laws and regulations. This was in STOP's appeal to the Oregon Supreme Court against EFSC in December 2022. Regardless of authority, **ODOE/EFSC still must comply with the existing laws and rules** for noise control, or propose legislative changes and/or promulgate their own rules. ODOE took their eye off of this responsibility. STOP is distraught that ODOE did not insist that the developer, Idaho Power, implement assessment methods (per the rules); rather they acquiesced to IPC's interpretations during the analysis. *Water-under-the-bridge* at this point since OPUC has indicated that it does not want to revisit EFSC decisions. However, OPUC being an independent evaluator of the CPCN criteria,¹⁷ STOP urges the OPUC to consider these noise control issues and protections, when assessing safety, costs, and the overall integrity of the processes that rural

¹⁶ ODEQ = Oregon Department of Environmental Quality. EQC = Environmental Quality Commission.

¹⁷ 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..."

citizens have participated and endured in their quest to protect themselves, their land, natural resources, and livelihoods.

STOP stands by its Opening Testimony¹⁸ and testimonies in the EFSC contested case¹⁹ that challenge IPC's compliance with criteria for exceptions and variances, regardless of who has the authority to approve.

a. Exceptions:

Exceptions in ODOE's *Draft* Proposed Order were contemplated at each NSR site that had predicted exceedances of corona noise.²⁰ This is the way that ODEQ Manual instructs the measurements and analysis: an NSR²¹ to the noise source. IPC somehow convinced ODOE prior to the issuing of the Proposed Order that a "linear facility," such as a transmission line, was "one noise source" and the NSRs were only measurement points for which to determine overall compliance²²; therefore, they did not have to determine site-specific exceptions. This concluded with an EFSC approval of an exception for the entire line, raising the anti-degradation ambient level 10 dBA.

(Remember: every 10 dBA is a doubling of sound.)

The blanket exemption serves no purpose but to lessen the protections for all Oregonians living near the line, and especially for the 41 NSRs already identified to

¹⁸ StopB2H/100/Kreider/Pages 11-15.

¹⁹ Stop B2H/100/Kreider/1010; and Stop B2H/100/Kreider/108.

²⁰ ODOE - B2HAPDoc2-1 Proposed Order on ASC w Hyperlink Attachments 2019-07-02. Page 650 of 699, lines 19-32.

²¹ NSR = Noise Sensitive Receptor. OAR 340-035-0015(38).

²² ODOE - B2HAPDoc2-1 Proposed Order on ASC w Hyperlink Attachments 2019-07-02. Page 650 of 699, lines 12-19: "Given the extent of exceedances predicted to occur in each of the five counties crossed by the proposed facility, including alternative segments, as presented in Table NC-4, *Summary of Acoustic Modeling Results – Comparison of Predicted Facility Sound Levels to Late Night Baseline L50* above, the Department recommends Council evaluate the exception request for the entirety of the transmission line alignment based on its interpretation that the ambient antidegradation standard under - 0035(1)(b)(B)(i) applies to the transmission line as the noise source, where identified NSRs represent the appropriate measurement points for which to determine overall compliance of the line." (lines 12-19.)

exceed the state's noise standards. Furthermore, given the fact that the Noise control mitigation plan, Condition 1 (NC1), orders IPC to make contact, negotiate, and create an individualized mitigation plan with all 41 NSRs *before* construction anyway, there really was no need for a blanket exception. If IPC truly believes that its analysis is "conservative," then why did they not agree to request exemptions for these 41 NSRs? A blanket exception to increase the standard by 10dBA is not protective.

b. Variances

Variances have basically four criteria.²³ A developer only needs to meet one of these to request a variance from compliance with the rules. Just because there is a request, does not mean that it must be approved; however in this situation EFSC approved the blanket variance -- again raising the anti-degradation ambient level 10 dBA. EFSC found that strict compliance with the rules would be inappropriate because of "conditions beyond the control" of the developer. In this context ODOE and IPC determined that "foul weather" was beyond IPC's ability to control.

It is true that IPC cannot control the weather (*except maybe by cloud seeding*). So the analysis needed to determine if the noise exceedances were "unusual and infrequent events" such that the public would not be harmed; or, if the variance should be denied.

While the Supreme Court ruled that EFSC can make the decision that statutorily was delegated to the EQC, STOP asserts that ODOE/EFSC exceeded its authority in this determination because they misapplied the ODEQ rules. As described in many forums, moisture (rain, humidity, ice, snow, fog, dew) on lines and especially the conductors will

²³ OAR [340-035-0100](#).

increase corona noise. Hence, the whole issue of “unusual and infrequent” foul weather became the flashpoint at EFSC. STOP insists that Table X-8 in the ASC²⁴ is the most accurate measure of meteorological conditions that exists for the project even though it is over a decade old. This is because the values in Table X-8 are derived using ODEQ’s metrics for frequency of exceedance occurrence: one consecutive hour in a given 24 hour period.²⁵ The region (from the historical data) is expected to experience “foul weather” 13% of the time and 22% of the time in the La Grande area.

Naturally, IPC tries to re-frame the frequency of exceedances to the contrary.²⁶ IPC attempts to compare documents and memorandums from the Bonneville Power Administration (BPA) to justify their non-complaint analysis. Mr. Bastasch uses two Exhibits that are not relevant in this case because: BPA is a federal agency and they do not have an anti-degradation ambient noise standard like Oregon. See: a) **Exhibit Bastasch Exhibit/1109**. This is the BPA’s EIS for the I-5 Corridor Reinforcement Project including a lot of obfuscation to tell us that rain hitting foliage also increases noise. (Note: this project was canceled when BPA chose to invest in “non-wires” solutions); and b) **Batasch Exhibit 1113**. This internal memorandum from 1982 regarding compliance with state noise rules does not address the anti-degradation standard at all. Furthermore, they actually state that

“a frequency of occurrence of less than 1 percent will qualify as an exception to the regulations. ... Based on a meteorological analysis of the frequency of these rain

²⁴ StopB2H/106 Kreider/Page 3; and ODOE - B2HAPPDoc3-41 ASC 24_ Exhibit X_Noise_ASC 2018-09-28. Page 30 of 371.

²⁵ OAR [340-035-0015\(7\)](#). One should remember that even when the rain stops, or the snow and ice fall off the conductors, they remain wet and the corona increases. The standard is set at one consecutive hour.

²⁶ IPC created a new definition for measuring the frequency of noise exceedance which has no basis in the ODEQ rules (i.e.: minutes in a 24 hour period); nor has ODOE promulgated any rules to change this metric used in the rule.

rates (0.8 - 5mm/hr) a-c transmission lines east of the Cascades will meet this criteria.”²⁷

Therefore, even using BPA’s way of loosely calculating occurrence of exceedances, **the project would not meet BPA’s criteria for exception to the regulations.** As the former ODEQ Noise Control Manager, John Hector said, 48 days per year is “not infrequent.” **This variance should have been denied!** It is not protective of Oregonians’ public health, safety, and welfare.

c. Gaslighting: “conservative estimates”

Throughout the response testimonies the reader is continually reminded about IPC’s “*conservative approaches*” in estimating, modeling, etc. Normally we ignore these statements; however, in Mr. Bastasch’s response it not only becomes redundantly irritating, he devotes a whole section: “**VII. Conservative Nature of Analysis**” to try to convince us. Some examples:

- a. “Idaho Power has *conservatively assumed* that the entire Project is being sited on land that has not previously been used for commercial or industrial purposes, and thus, that the ambient antidegradation standard applies...” (Idaho Power/1100/Bastasch/7)

Note: That’s state law; they knew it applied; there’s no assumption.

- b. Emphasis on conservatively monitoring “*outdoors*” rather than *indoors* (Idaho Power/1100/Bastasch/13 and 23).

Note: That’s in accordance with the NPCCS-1 Manual; no emphasis needed.

²⁷ **Batasch Exhibit 1113;** [ODOE - B2HAPPDoc2 Proposed Order on ASC and Attachments 2019-07-02. Page 7879 of 10016.]

- c. "... compared baseline ambient sound results *during the more restrictive* low wind, late-night period (12:00 a.m. to 5:00 a.m.) with predicted future Project sound levels. (Idaho Power/1100/Bastasch/14).

Note: Again, in accordance with the NPCCS-1 Manual; not more restrictive.

- d. The explanation of voltage impacts to corona noise stated, "...in fact, the Company expects that B2H will operate at maximum voltage only 0.01 percent of the time, with a normal operating voltage of 525-kV approximately 50 percent of the time." (Idaho Power/1100/Bastasch/18-19)

Note: This normal operating voltage is puzzling and begs the question if we are overbuilding, over-investing?

- e. The question asked: "How was the Company conservative in selecting representative baseline MPs?"²⁸ The answer: "In locations where there were several options for MPs that may apply to an NSR or grouping of NSRs, *Idaho Power erred on the side of selecting the quietest MP.*" (Idaho Power/1100/Bastasch/19)

Note: This answer is laughable given the controversy in the EFSC contested case over the location of MP 11²⁹ along the UP Railroad, which was assigned to represent approximately half of the NSRs, and motivated IPC to conduct another round of supplemental monitoring.

- f. The question asked: "How was the Company conservative in calculating ambient baseline sound levels?" The answer: "The Company analyzed baseline ambient sound levels in periods of low wind during the late-night period of the day (midnight

²⁸ MPs are the "monitoring points" (or stations) where baseline monitoring was conducted.

²⁹ MP 11 was located in railroad canyon along the UP railroad tracks and a state highway. (See EXHIBIT Kreider/202 and Stop B2H/100 Kreider/108, Written Direct Testimony, Exhibit #5 pp 3, 8-9, and Surrebuttal, Exhibit A, - Standlee Report (12/3/2021) pp 1-4.)

to 5:00 a.m.), which is the quietest time of the day. If Idaho Power were to have established the baseline using the measured sound levels recorded during the day time, or during all wind conditions, the baseline ambient sound levels would be greater, and therefore would have resulted in fewer exceedances.”³⁰

Note: There is nothing conservative here; again it’s in accordance with the NPCCS-1 Manual which dictates the time, distance, and conditions for calculating ambient baseline levels.

- g. In talking about the sound of rain³¹ “...Idaho Power’s baseline sound level measurements did not focus on these potentially louder conditions—*rather it was restricted* to low wind conditions during the late-night period.”

Note: same as above. There are no restrictions; it’s in accordance with the NPCCS -1 Manual. These are Oregon’s rules!

The company is *not conservative* when it comes to counting of NSRs with exceedances. Of particular note³²:

- A. NSRs that are forecasted at 1 or 2 dBA under the 11+ threshold in EFSC’s exceptions and variance are excluded from condition NC-1 mitigation. This is problematic because there were only 17 MP’s (monitoring points) for 137 NRSs. The MPs are “representative” of a number of NSR clusters and therefore variations will naturally exist. A good example of this would be the situation with Mr. Greg Larkin, who had a reading of 20 dBA at his property during a spot check by STOP’s acoustical

³⁰ Idaho Power/1100/Bastasch/19.

³¹ Idaho Power/1100/Bastasch/20

³² EXHIBIT Kreider/203; 2022-09-27-Attachment-X-4-Noise-Analysis-Results-NSR-Location

engineer³³ but yet his property is assigned to MP 11 which has a baseline reading at 31 dBA. While Mr. Larkin still has an exceedance rating and qualifies for mitigation (he is one of the identified 41 NSRs), the variance between his assigned MP and his actual background is significant. The point being that many NSRs within a cluster are right on the margin and they are *not conservatively* being included in the NSRs in Condition NC-1 and offered mitigation. This is unfair and may really just depend on how close (distance and representative terrain) the NSR is to the representative baseline MP. It may be interesting to note that even in the BPA internal memorandum in Mr. Bastasch's Response Testimony they allow for a margin or tolerance of error +/- 2 dBA in some of their analyses.³⁴

- B. Right from the start of the ODOE review process, IPC convinced the reviewing staff at ODOE to change the "analysis area" from one-mile to the noise source (per the ODEQ rules³⁵) to one-half mile.³⁶ This was clearly *not conservative*; furthermore, when ODOE did ask IPC for more forecasting at a greater distance in some areas, they discovered 5 more exceedances up to 1 mile.³⁷
- C. In Malheur County, *nearly all* of the NSRs will experience exceedance of noise standards! To downplay this impact solely because they are "east of the Cascades" or because it is the "dry-side" of the state is not a *conservative* interpretation; and should not be acceptable. The Malheur cluster of NSRs needs further investigation given the potential EJ impact there.

³³ Stop B2H/100 Kreider/108 Pages 4-5.

³⁴ Idaho Power/1113/Bastasch/2

³⁵ OAR 345-021-0010(x)(E)

³⁶ Stop B2H/100/Kreider/1010 pp. 16-18; and ODOE - B2HAPPDoc15 ApASC Second Amended Project Order 2018-07-26 p. 23

³⁷ ODOE - B2HAPPDoc2-1 Proposed Order on ASC w Hyperlink Attachments 2019-07-02. Page 627-628 of 699 and Fn 674

- D. It is not clear, particularly from the personal introduction in Mr. Bastasch’s response testimony (Idaho Power/1100 Bastasch/2): why IPC bothered with background monitoring at all? The new background for wind-siting standard, that Mr. Bastasch was involved with developing, would have been *more conservative* and would have sufficed? It certainly would have avoided all the costs, time and litigation involved with monitoring. The default ambient background sound level for wind-siting is 26 dBA by rule.³⁸ Strange; one would think that the background ambient would be the same regardless of facility—given that it hasn’t been built. A truly *conservative* approach was discussed in the EFSC case.³⁹
- E. In haste, IPC created another “supplemental monitoring” study in fall of 2021, when IPC was challenged by STOP’s acoustical engineer’s sample (or spot check) and came up with monitoring readings that were substantially lower than MP 11.⁴⁰ This study was *not conservative* by any means and violated many of the protocols in the NPCS-1 Manual. STOP’s Surrebutal Testimony in the EFSC case explains further.⁴¹
- F. Considering the fact that planned mitigation around Morgan Lake will: increase the number of towers, shorten the towers (closer to the ground), and the fact that the location is still unknown due to pending cultural surveys on the Williams property. It is more likely than not, that all these campsites⁴² (see far right column in Table) will be added to the NSR list and the city should demand mitigation.

³⁸ [340-035-0035](#)(1)(b)(B)(iii)

³⁹ Stop B2H/100/Kreider/1010/Page 24 (Exhibit 10, Stop B2H Closing Argument Opening Brief, pp.11-14.

⁴⁰ Stop B2H/100Kreider/108/Pages 4-6.

⁴¹ Stop B2H/200 Kreider/204.

⁴² Stop B2H/200 Kreider/203 (2022-09-27-Attachment-X-4-Noise-Analysis-Results-NSR-Location; See far right column.)

G. Recreation sites (as well as scenic and protected areas), also have noise standards that must be complied with. Seeing Attachment X-4 of the Final Order demonstrates that at one recreation area (Morgan Lake Park in Union County) will experience at least 16 exceedances in day-use areas. 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.

d. Mitigation Protection Measures and Continued Concerns.

While the Supreme Court has given EFSC a great deal of discretion to issue their Site Certificate with Conditions, it is still required for the OPUC to independently evaluate whether this project will be constructed, operated and maintained in a manner that protects the public from danger... and applicable safety standards.⁴³ Consequently, STOP would like to share some additional concerns and mitigating ideas for Commission consideration.

Over the course of the EFSC contested case, Stop B2H was able to influence a number of improvements to the noise control mitigation complaint process. However, we did not get everything we would have liked, especially regarding on-going safety and mitigation for the length of the project.⁴⁴ In a nutshell, our concerns fall into two categories: long-term safety and maintenance, and inclusion or access to future mitigation protections.

Of particular concern is the fact that the line **will age**. Hence, STOP tried to get EFSC to put in a protective condition to visit this noise intrusion every 10 years. But, the company

⁴³ OAR 860-025-0035(1)(b).

⁴⁴ Stop B2H/100/Kreider/1010/ Pages 67-77 (STOP Closing Argument Response Brief, pp. 23-33).

convinced EFSC that a new line is of the best technology and won't have these problems. We all know otherwise! Let's face it, things get old, time goes on,... and then, who knows what safety precautions will go by the wayside?

Over time, the transmission lines will sag, the finish will wear off, maintenance grease and other debris will collect⁴⁵, and new masking technologies are likely to become available (over the next 50-100 years). NC Condition 3 does not remedy our safety concerns.⁴⁶ We believe that there are minimal assurances of monitoring and protective factors for controlling corona noise into the future; and there are no mitigation measures projected to align and apply new technologies as they become available. STOP sought to remedy this by proposing Amended Noise Control Condition 3.⁴⁷ Most importantly, we advocated for regular inspections, at *reasonable* intervals (e.g.: inspections could possibly align with the 10 year wildfire prevention inspection schedules; or maybe scheduled on a rotating basis with few each year) to assure proper maintenance, cleaning, line tensioning, etc. IPC insists that maintenance is covered in other site conditions, however STOP sought particular attention to corona noise spot-checking or inspection, and making improvements as appropriate. We were flexible in this recommendation because we thought it best to incorporate with other line inspections or maintenance. We also sought a placeholder that if and when masking technology becomes available that the owner would be required to implement those masking mitigations (if too onerous, maybe over a period of time?).

⁴⁵ All conditions that increase corona noise – and that are “within the developers’ control.” (See generally: Bastasch, Golder, Kosky, and the EFSC case record.)

⁴⁶ See ODOE - B2HAPPDoc2 Proposed Order on ASC and Attachments 2019-07-02 p. 656 and Final Order, p. 689.

⁴⁷ Stop B2H/100/Kreider/1010/ Pages 75-77 (STOP Closing Argument Response Brief, pp. 31-33).

The second area of concern that STOP has with the site condition is: a) an NSR may be excluded from NC-1 for various reasons,⁴⁸ b) cost, and c) burden. If the NSR is not identified today (i.e.: not one of the 41 NSRs⁴⁹), then the cost and burden of receiving any possible mitigation goes up tremendously or may even be impossible to achieve. As it stands now, once the line is energized, if an NSR feels they are experiencing excessive noise and being negatively impacted, they will have to prove it by finding an acoustical engineer with equipment, have that contractor approved by IPC, etc. The burden is on the NSR/ratepayer/landowner and this is not fair.

The complaint process was improved from the original noise mitigation plan, however it is very aspirational in that it assumes the complainant NSR will be able to access noise monitoring contractors and services agreeable to IPC, or pay themselves, at the correct time, and then complete the proper complaint paperwork. No additional burdens should be placed on the unlucky landowners, ever. STOPs position is that this improved complaint process is still expensive and cumbersome; therefore the more that NSRs can be proactively identified now, the more protective. Condition NC-1 lacks the wider assessment that STOP recommended: conducting site-specific monitoring. Expanding this monitoring would be helpful particularly for those NSRs.(“on the margin”) as described above.

e. Notice of Correction

STOP has learned from the Response Testimony of Joe Stippel⁵⁰ that we were mistaken on our point of reference regarding the memo from Mitch Colburn to the BLM in 2015⁵¹ stating

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.

⁴⁹ Ibid.

⁵⁰ See Idaho Power/1500, Stippel/3-6 (Feb. 21, 2023).

that it would be “untenable to propose locating a 500-kV transmission line within 1,200 feet of so many residences when a viable alternative exists that would avoid those impacts.” While the subject and first part of the memo does refer to Umatilla County, we believed—in error—that the second part of the memo, addressing the 230vK line, was speaking to Union County and the route changes. This was right around the time of the routes changing from the NEPA/BLM’s to ODOE/IPC’s routing and the Union County advisory committee was speaking about the USFS corridor and co-locating with the 230kV line. We see the confusion clearly now, and we apologize. Nonetheless, we agree with Mr. Colburn: putting a high-voltage line like B2H this close to people is untenable.

4. Expedited Process: a Rushed Review

The perennial argument with Stop B2H and Idaho Power has been about the pressure that Idaho Power has placed on the people in the State of Oregon and their self-created urgency about a starting date for construction. As you witnessed in this docket, Idaho Power is relentless with their pressure (e.g.: short deadlines; constant objections), and their on the ground bullying tactics toward people and the communities of eastern Oregon (e.g.: pre-condemnation lawsuits for survey access; must-sign tactics given to the City of La Grande to accept proposed mitigation; implying to landowners to take their financial offer or go the eminent domain route.)

Meanwhile, they have much work to be done (e.g.: permits) as we described in our Opening Testimony⁵² as well as the pending surveys and other Section 106 obligations that intervenor John Williams describes in his testimonies. As STOP has testified before the docket

⁵¹ STOP B2H/100, Kreider/12-13 (Feb. 1, 2023), Fn 137. Exhibit 9 (109).

⁵² StopB2H/100/Kreider/Page 15 and Exhibit 1013.

began⁵³ and in our Opening Testimony), it is clear that the company will be able to provide ample electricity to its customers and the grid will not collapse in the time it would take to make this better.⁵⁴

While STOP, others in Eastern Oregon, and the regulatory environment in Oregon, may frustrate the company, that should not be of concern in this docket, where something as serious and controversial as “land-taking” is at stake. Journeying down a pity-path will only embarrass the company more.

STOP stands by its testimonies, filings, and documentation: Idaho Power’s urgency is a self-created smokescreen. IPC’s attacks against STOP as using “delay tactics” is short-sighted and shallow. STOP has been a determined and well-researched coalition, participating professionally throughout the process for many years. We’ve learned a lot during this time and have seen the renewable energy industry and distributed resource infrastructures throughout the nation beginning to align during this epic transition to a 100% fossil-free and climate-friendly energy future. This motivates us. It has also coincidentally pushed Idaho Power to do the right thing--or at least--begin. For example, in 2016-18 (for the 2017 IRP) when STOP began actively engaging at monthly Idaho Power IRP meetings, there was not a solar panel or battery in their portfolio! We were told that “those ideas were good but that they would be 20-30 years out.” We pushed--along with other Idaho environmental groups and advisory committee members--for

⁵³ pcn5hac113017: STOP B2H's Comments Regarding Setting a Prehearing Conference, filed by Jim Kreider, 9/16/2022.

⁵⁴ IPC will repeat its mantra about lack of energy resources to meet their needs come 2026. However, the facts are that this urgency was created by changing reserve margins: a paper exercise. We’d like to remind the Commission that in April 2022 with the acknowledgement of IPC’s 2019 IRP there was a minor deficit or need of MWs by 2026; and within a couple of months of submitting their 2021 IRP, the projected deficit was suddenly over 1,000MW. (See also: STOP’s Opening and Closing comments to the 2021 IRP - EXHIBIT Kreider/102.b.) These disparate amounts created even greater suspicion and ill-will between the company and the people of EO. While STOP can see that IPC is following the NW Power and Conservation Council’s recommendations, it was not intended to be implemented immediately, rather a phased-in approach would be more prudent. Predictably, IPC wants everyone to believe it is an urgent situation.

greener solutions (DERs, renewables, & batteries), for solutions that would place resources closer to load (“non-wires), and to build out their advanced metering infrastructures (AMI) and invest in smart grid technologies. By the very next IRP, less than two years, there was the first solar and battery portfolio -- so much for 20 years?!

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

We are proud to be a pressure group pushing Idaho Power’s green energy transition and we want to continue to do so by pushing for alternatives to transmission where it is not necessary. Granted, STOP cannot take all the credit for this (albeit, slow) transition to renewable generation on the part of Idaho Power, but we want to put this “delay thing” into context for the Commission. It is not our intention to be obstructionists, rather if we “hold their feet to the fire” (preventing the building of this line) they might actually do the right thing for the region: build out more generation in Idaho, and upgrade, reconductor, and fire harden, the three 230kV lines in Path 14 -- FIRST. If all three were upgraded, it would yield the equivalent of a new 345 kV, without carving a new corridor through Oregon’s lands and natural resources. This prudent approach offers more security, more reliability -- and less potential for destroying Oregon’s resources and overbuilding infrastructure. In a nutshell, a more prudent investment of ratepayer dollars during these times of transition.

Declaration and Certificate of Mailing

I hereby declare that the above statements are true to the best of my knowledge and belief, and I understand that they are made for use as evidence in administrative and court proceedings and are subject to penalty for perjury.

Dated this 20th day of March, 2023.

/s/Jim Kreider

Jim Kreider

CERTIFICATE OF MAILING

On March 20, 2023, I certify that I filed the above Rebuttal Testimony with the Administrative Law Judge via the OPUC Filing Center, for the Docket # PCN-5; and the following:

By: Hand Delivery:

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

/s/ Jim Kreider

Jim Kreider

Intervenor, PCN-5

EXHIBIT 201

Wildfire Risks: Issue PS-4 EFSC OAH Case No. 2019-ABC-02833

including:

- **Cross-Examination: Christopher Lautenberger**
- **Closing Brief: Dr. Matthew Cooper**
- **Closing Response Brief: Dr. Matthew Cooper**

Cross-Examination Hearing - Day 3

Re Application: Site Certificate for the Boardman to Hemingway Transmission Line

January 13, 2022



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BEFORE THE OFFICE OF ADMINISTRATIVE HEARINGS

STATE OF OREGON

for the

OREGON DEPARTMENT OF ENERGY

In the Matter of the)
Application for Site) OAH Case No. 2019-ABC-02833
Certificate for the)
Boardman to Hemingway))
Transmission Line)
)
_____)

PORTLAND, OREGON

January 13, 2022

Cross-Examination Hearing

Day 3

Reported By: CRYSTAL R. MCAULIFFE, RPR, CCR
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1 PORTLAND, OREGON; JANUARY 13, 2022

2 9:00 a.m.

3 -o0o-

4 JUDGE WEBSTER: Great. Let's consider us on
5 the record.

6 Any housekeeping matters from -- from Idaho
7 Power?

8 MS. PEASE: No, Your Honor.

9 JUDGE WEBSTER: Mr. Rowe, any housekeeping
10 matters from the Department?

11 MR. ROWE: Just a follow-up to the email
12 that I sent yesterday. Tim Butler of Department of
13 Agriculture, witness for the Department of Energy,
14 Mr. Butler was scheduled to testify tomorrow. Due to a
15 family medical emergency, he's not available.

16 I don't have any updates right now. I did
17 send him an email again this morning asking that he let
18 us know his availability.

19 You may have see Ms. Gilbert's response. As
20 she indicated, she would prefer to not cross-examine a
21 colleague of Mr. Butler's but rather wait until
22 Mr. Butler is available. So I will keep everyone
23 updated as to his availability.

24 JUDGE WEBSTER: Okay. Hopefully, he will be
25 able to make himself available early next week or next

1 week sometime and we'll figure that out from there.

2 MS. PEASE: Your Honor, on that point, could
3 we talk a little bit about what those options might be
4 and also your expectation as to whether Jessica Taylor,
5 the Idaho Power witness that would be cross-examined,
6 would provide testimony tomorrow or whether her
7 testimony would be rescheduled to the date on which
8 Mr. Butler would provide testimony.

9 I think it is our preference that -- to the
10 extent possible, that they be cross-examined on the same
11 day. But -- with that, our preference also is that this
12 proceeding and the cross-examination be wrapped up as
13 soon as possible and by next week at the latest.

14 JUDGE WEBSTER: Are there any schedule
15 constraints for Ms. Taylor?

16 MS. PEASE: She can be available -- based on
17 our current schedule for next week, my understanding was
18 that we did not have any activities scheduled for Monday
19 which I believe is a State holiday. And so I assumed
20 that the State employees would not be available. And
21 then we have other issues on Tuesday and Wednesday which
22 leaves open Thursday and Friday. I have confirmed that
23 Ms. Taylor is available for next Thursday and Friday, if
24 that should work for Mr. Butler.

25 JUDGE WEBSTER: Okay. If we find out

1 today -- at some point today that, you know, when -- if
2 we can confirm that Mr. Butler is available Thursday or
3 Friday next week, we will schedule them both together.

4 If we don't have any information about
5 Mr. Butler's availability and I think maybe just -- and
6 I appreciate your -- your sort of competing concerns
7 here about wanting to move forward with the hearing but
8 also have them on the same day. So let's -- let's see
9 how -- what we hear today and make the call then.

10 But my inclination would be to sort of, at
11 this point, if we don't have any information about
12 Mr. Butler, strike while the iron is hot and just go
13 forward with Ms. Taylor tomorrow.

14 MS. PEASE: Thank you, Your Honor.

15 JUDGE WEBSTER: Mr. Rowe, any heartburn over
16 that approach?

17 MR. ROWE: No. That approach makes sense.
18 I will send Mr. Butler another email asking him his
19 availability next Thursday and Friday.

20 JUDGE WEBSTER: Okay. And I don't see
21 Ms. Gilbert on the line yet. But if she joins us today,
22 we'll let her know that plan. So she can be prepared
23 to -- if -- she'll know what's happening tomorrow one
24 way or the other.

25 Anybody else with any housekeeping matters

1 before we -- and, I guess, maybe we want to talk about
2 how we want to proceed today.

3 I did receive Mr. Cooper's notice that he
4 was withdrawing his request to cross-examine Mr. Dockter
5 and Mr. Johnson, I believe, and only wanted to
6 cross-examine Mr. Lautenberger.

7 Does Idaho Power intend to call either
8 Mr. Johnson or Mr. Dockter today?

9 MS. PEASE: Your Honor, we do have live
10 sur-surrebuttal with both Mr. Dockter and
11 Dr. Lautenberger. And our plan for this morning was to
12 offer the live sur-surrebuttal for Mr. Dockter first and
13 then offer the live sur-surrebuttal for Dr. Lautenberger
14 and then make him available for cross-examination by
15 Mr. Cooper.

16 JUDGE WEBSTER: Okay. Then why don't we
17 proceed with that. This case is -- as we've discussed
18 previously, this is sort of -- because it's of the
19 shifting burden of proof and the uniqueness of these
20 Department of Energy contested cases -- or the EFSEC
21 contested cases, we have these awkward back and forth.

22 But I will allow the live sur-surrebuttal of
23 Mr. Dockter.

24 And Mr. Cooper, if -- despite your
25 withdrawal, if there is something that comes up in the

1 sur-surrebuttal that you would like to follow-up on,
2 then I will give you that opportunity.

3 MR. COOPER: Thank you, Your Honor.

4 JUDGE WEBSTER: So with that, Ms. Pease, I
5 guess I will turn it over to you to your first witness.

6 MS. PEASE: Thank you.

7 Mr. Dockter, could you please turn your
8 camera on?

9 THE WITNESS: Good morning. Can you hear
10 me?

11 JUDGE WEBSTER: Yes. Yes.

12 THE WITNESS: Thank you, your Honor.

13 JUDGE WEBSTER: All right. Mr. Dockter, I
14 will go ahead and swear you in. If you could please
15 raise your right hand?

16

17 DOUGLAS J. DOCKTER, witness herein, having been first
18 duly sworn on oath, was examined
19 and testified as follows:

20

21 JUDGE WEBSTER: All right. Ms. Pease.

22 D I R E C T E X A M I N A T I O N

23 BY MS. PEASE:

24 Q. Good morning, Mr. Dockter.

25 Could you please state and spell your name for

1 the record?

2 A. Yes. My name is Douglas J. Dockter.

3 D-o-u-g-l-a-s, J. Dockter, D-o-c-k-t-e-r.

4 Q. And who is your employer?

5 A. Up until last Friday, Idaho Power Company was my
6 employer. And I had an opportunity to move to another
7 subsidiary under IDACORP. So I am now, as this Monday,
8 employed by a company named Ida-West. Both are
9 subsidiaries of IDACORP.

10 Q. And when you were with Idaho Power, what was
11 your job title?

12 A. My job title at Idaho Power was the Transmission
13 and Distribution Engineering and Reliability Senior
14 Manager. And along with my job title, one of my main
15 responsibilities was to manage Idaho Power's Wildfire
16 Mitigation Plan and the program.

17 Q. And, Mr. Dockter, did you provide a declaration
18 and supporting exhibits in this proceeding on
19 September 17th, 2021?

20 A. Yes, I did.

21 Q. And, Mr. Dockter, did you provide rebuttal
22 testimony and supporting exhibits in this proceeding on
23 November 12th, 2021?

24 A. Yes, I did.

25 Q. I'd like to ask you a few questions about

1 Matthew Cooper's surrebuttal responding to rebuttal
2 testimony.

3 Mr. Dockter, have you reviewed Matthew Cooper's
4 surrebuttal testimony?

5 A. Yes, I have.

6 Q. I would like to start by asking you a few
7 questions about Mr. Cooper's statements and his
8 surrebuttal about the response time for the La Grande
9 Rural Fire Protection District.

10 In Mr. Cooper's testimony on page one, he
11 asserts that Idaho Power's response time estimate of 4
12 to 8 minutes for the La Grande Rural Fire Protection
13 District was unreasonably optimistic.

14 How do you respond to this characterization of
15 the response time estimate?

16 A. Yes. My response to that is, I think, at the
17 time that the information was submitted by Idaho Power
18 and for the location in which it was submitted that the
19 information was accurate. Idaho Power did not make up
20 the information. We -- through our consultant, we
21 contacted former La Grande Rural Fire Protection
22 District Chief Woolridge who has now since retired.

23 Q. And do you have any additional context to
24 explain the estimate provided by former Chief Woolridge?

25 A. Yes. So his estimate was really about the

1 response time to the project site within La Grande Rural
2 Fire Protection boundaries and not specifically to
3 Morgan Lake. My understanding is that at that time
4 those were two different locations.

5 Q. So, Mr. Dockter, are you saying that it is your
6 understanding that there was a boundary change for the
7 La Grande Rural Fire Protection District?

8 A. Yes, that's my understanding.

9 Q. And, Mr. Dockter, did Idaho Power conduct
10 discovery in this proceeding?

11 A. Yes, Idaho Power did conduct limited discovery
12 in this proceeding. I was not directly involved with
13 that discovery, but it did occur.

14 Q. Did Mr. Cooper provide information to Idaho
15 Power in discovery regarding the La Grande Rural Fire
16 Protection District response times?

17 A. Yes. Mr. Cooper did provide multiple documents
18 from him to Idaho Power. And one of the documents that
19 I would like to refer to is an email exchange that
20 was -- took place between the current La Grande Rural
21 Fire Protection District Chief Kretschmer and Mr. Jim
22 Krieder. It was in regard to the four to eight minute
23 response time. And I believe I had submitted that last
24 week as an Exhibit A.

25 MS. PEASE: And, Mr. Sumner, could you

1 please display Exhibit A to Mr. Dockter's
2 sur-surrebuttal?

3 BY MS. PEASE:

4 Q. Mr. Dockter, could you please summarize the
5 relevant portions of Exhibit A?

6 A. Yes, I can. The email exchange between
7 Mr. Kreider and Mr. Kretschmer basically stating that
8 the response time that was given was for responding to
9 the project site and not to Morgan Lake. And in that
10 email exchange, there was an -- after Chief Kretschmer
11 responded to Mr. Kreider, Mr. Kreider and Mr. John
12 Winters then acknowledged that that seemed to make sense
13 to them at the time that he was responding to an area
14 within his -- the La Grande Rural Fire Protection
15 District boundaries and not specifically to Morgan Lake.

16 Q. And is there anything else that you would like
17 to add about Exhibit A as it relates to Mr. Cooper's
18 surrebuttal testimony?

19 A. Yes, I believe that this demonstrates a
20 reasonable explanation for the differences between Idaho
21 Power's initial submission of the response time compared
22 to the response time that Mr. Cooper provided.

23 Q. Mr. Dockter, I would also like to ask you a few
24 questions about Mr. Cooper's surrebuttal testimony
25 addressing the deposition of Craig Kretschmer, the

1 current chief of the La Grande Rural Fire Protection
2 District.

3 In Mr. Cooper's testimony on pages one and two
4 he summarizes the deposition of Chief Kretschmer and
5 explains that the response time for the La Grande Rural
6 Fire Protection District, at the top of Morgan Lake
7 Road, could be a minimum of 17 minutes or as long as
8 23 minutes.

9 Do you agree with Mr. Cooper's summary of the
10 response time?

11 A. I do agree with Mr. Cooper's summary of the
12 response time.

13 Q. And Mr. Cooper includes in that 17- to 23-minute
14 estimate a 5- to 7-minute time period for mustering a
15 crew of volunteers to the La Grande Rural Fire
16 Protection District Fire Station.

17 How do you respond to Mr. Cooper's summary,
18 including the estimate that it could take 5 to 7 minutes
19 to muster a crew?

20 A. I agree that there are situations in which it
21 could take 5 to 7 minutes to muster a crew.

22 But according to Chief Kretschmer's deposition,
23 there are also times when there would be no need to
24 muster a crew. And -- or Chief Kretschmer mentions that
25 he mans the La Grande Rural Fire District, their

1 facilities. And during fire season, they hire seasonal
2 employees to help out with fire response. And if the
3 call comes in to respond to a fire during the time that
4 Chief Kretschmer and the seasonal employee are at the
5 facilities, then they could get into a brush truck
6 immediately, which is the vehicle that Chief Kretschmer
7 identified that they would likely respond to a wildland
8 fire and leave immediately for that location so there
9 would be no real need to muster a crew at that point.

10 And so I believe that more accurately stating,
11 that 5 to 7 minutes could be dropped off of the 17 to 23
12 minute response time and could potentially be 12 to
13 16 minutes.

14 So to more accurately described the La Grande
15 Rural Fire Protection District's response time to the
16 top of Morgan Lake Road, it could be stated that it
17 could be anywhere between 12 and 23 minutes.

18 Q. And, to your knowledge, would the La Grande
19 Rural Fire Protection District be responsible for
20 responding to a fire at the top of Morgan Lake Road?

21 A. Again, from Chief Kretschmer's deposition, he
22 responded that there's dual protection in the Morgan
23 Lake area and the dual protection is between three
24 separate fire response agencies or entities: The first
25 is the La Grande Rural Fire Protection District; the

1 second is the City of La Grande Fire Department; and the
2 third is the Oregon Department of Forestry.

3 So they have -- my understanding is they have
4 shared responsibilities for the Morgan Lake area and an
5 automatic assistance or an automatic aid between them
6 for that area.

7 Q. And do you recall, Mr. Dockter, did
8 Mr. Kretschmer make any comments about the level of
9 staffing for the La Grande Rural Fire Protection
10 District in comparison with the City of La Grande.

11 A. Yes. He did mention that the City of La Grande
12 is a fully staffed fire department and likely will be
13 able to respond more rapidly than the La Grande Rural
14 Fire Protection District to a call up at Morgan Lake.

15 Q. And, Mr. Dockter, have you prepared an exhibit
16 to illustrate the various locations of the La Grande
17 Rural Fire Protection District, the City of La Grande
18 Fire Department, and the Oregon Department of Forestry
19 with respect to the Morgan Lake area?

20 A. Yes, I did. I believe that is Exhibit C and was
21 provided earlier this week.

22 MS. PEASE: Mr. Sumner, if you could please
23 pull up Exhibit C.

24 BY MS. PEASE:

25 Q. And, Mr. Dockter, could you describe what we see

1 on Exhibit C?

2 A. Yes. What this map depicts is the location of
3 Morgan Lake on the left side of the screen and then the
4 location of the three fire agencies or departments that
5 would be responding to a fire in the Morgan Lake area.

6 And -- and I think it's important to note that the
7 La Grande Fire Department and the Oregon Department of
8 Forestry are in a closer location to Morgan Lake than
9 the La Grande Rural Fire Protection District is, and
10 therefore, would likely respond more rapidly to a fire
11 incident at the Morgan Lake area.

12 And I also believe in Chief Kretschmer's
13 deposition that he mentions that if there was a fire --
14 a wildland fire in that area, that the Oregon Department
15 of Forestry would take the lead on that fire.

16 Q. And, Mr. Dockter, for a wildland fire, are there
17 any other resources, such as aerial resources that could
18 also be deployed?

19 A. Yes. It is my understanding that there are six
20 different air attack bases in the Pacific Northwest.
21 And the Blue Mountain Interagency Dispatch Center is the
22 closest dispatch center to Morgan Lake. And my
23 understanding is it is based out of the La Grande
24 Airport, which is located four miles from --
25 approximately four miles from La Grande and

1 approximately six miles from the Morgan Lake area.

2 And my understanding is the Blue Mountain
3 Interagency Dispatch Center, which I believe is Exhibit
4 D that I provided earlier this week, can dispatch or
5 deploy both fixed-wing and rotary wing aircraft for a
6 fire attack.

7 Q. Do you have any conclusions to offer regarding
8 Mr. Cooper's emphasis on the response times for the
9 La Grande Rural Fire Protection District from
10 Mr. Cooper's surrebuttal testimony?

11 A. While I think Mr. Cooper's assessment of the
12 La Grande Rural Fire Protection District, their response
13 time to the Morgan Lake area is accurate. I believe
14 that a more full picture to paint for a response time to
15 a wildfire in the Morgan Lake area is to include, you
16 know, the other two agencies that have shared
17 responsibilities in that area as well as identify the --
18 the aerial attack opportunities that are located very
19 close by to that area. That, I believe, paints a much
20 more realistic picture of response time to fires within
21 the Morgan Lake area.

22 Q. Next, I'd like to ask you a few questions about
23 Mr. Cooper's surrebuttal testimony regarding water
24 availability near Morgan Lake and Union County's
25 management of wildfire risk.

1 In Mr. Cooper's surrebuttal testimony at page
2 three, he describes your responses regarding
3 Mr. Kreider's testimony about Union County's management
4 of wildfire risk and regarding water availability near
5 Morgan Lake.

6 In your testimony you explained that these
7 concerns did not address project-related impacts to
8 public services but project-related increases in fire
9 risk.

10 Mr. Cooper then explains that your answers are
11 illogical because they raise concerns about Union
12 County's fire response so they will impact firefighting
13 capabilities. And if there are concerns about water
14 availability near Morgan Lake Park, they will also
15 impact firefighting capabilities in that location.

16 How do you respond to Mr. Cooper's statement?

17 A. Well, I think my comments in my rebuttal could
18 use some additional context to them.

19 So if it seems like Mr. Kreider was -- was
20 providing his opinion of the -- of the wildfire risk in
21 preparation of Union County and there was no real
22 evidence for me to comment on with -- with his comments.
23 And so my point being that Boardman to Hemmingway
24 project would not meaningfully increase the wildfire
25 risk in the area as documented in -- in multiple times

1 by Dr. Lautenberger's testimony.

2 I also don't think that the operation and
3 construction of a 500 kV or kilovolt transmission line
4 will impact the existing water resources as water is not
5 a necessary component of operating a transmission line.

6 And so those two points were the points I was
7 attempting to make in -- in my rebuttal testimony.

8 I think, further, it's important to understand
9 that none of the fire districts or agencies that are
10 going to be responding to any wildfires in that area
11 raised any concerns about their ability to -- to fight
12 any wildfires that come on in that area because of the
13 project going through that area.

14 There were two of the wildfire agencies, Union
15 County and -- the other one is slipping my mind -- Pilot
16 Rock, I believe, did comment about the concern about
17 de-energization of the power line if they were going to
18 fight that fire.

19 As I explained in my rebuttal testimony, once
20 contacted, Idaho Power can de-energize that line within
21 a matter of seconds as needed to for any fire response
22 in that area.

23 The other thing I would like to point out, as
24 previously mentioned in my rebuttal, is that Idaho Power
25 provides free training to first responders and -- and

1 that was identified in -- in the application in the
2 wildfire prevention and suppression plan in Section 3.1
3 under "Operations." And it's the last paragraph in
4 that -- in that application.

5 So that's -- I think that's the additional
6 comments that I've got for -- for that.

7 Q. And, Mr. Dockter, do you have any other comments
8 or conclusions to offer regarding Mr. Cooper's statement
9 that your answers were illogical?

10 A. Well, given the evidence that -- that Idaho
11 Power has provided and the measures that we've got in
12 place through the recommended public service conditions,
13 the company's Wildfire Prevention and Suppression Plan
14 and the Wildfire Mitigation Plan, I believe these are
15 reasonable and responsible actions that will -- will
16 mitigate any potential wildfire risk Boardman to
17 Hemingway might have on that area.

18 Q. Mr. Dockter, I would like to ask you a few
19 questions about Sam Myers' surrebuttal testimony.

20 Have you reviewed Sam Myers' surrebuttal
21 testimony?

22 A. Yes, I have.

23 Q. In Mr. Myers' surrebuttal testimony, Mr. Myers
24 notes that Dr. Lautenberger's testimony mentions
25 developing a Public Safety Power Shutoff Plan that will

1 not be completed until the 2022 fire season; however,
2 until a review of said plan exists, Mr. Lautenberger's
3 statement is irrelevant.

4 How do you respond?

5 A. Idaho Power has submitted a -- a Wildfire
6 Mitigation Plan to the Public Utilities Commission of
7 Oregon on December 30th of 2021, and that plan is going
8 to be in place for the 2022 fire season. And that
9 submittal of that plan, the timing of that plan was --
10 was due to a rulemaking from the Public Utilities
11 Commission of Oregon and some legislative activities in
12 Oregon that required us to submit a plan in -- in -- by
13 December 31st of 2021.

14 And the -- I would say the differences between
15 the plan submitted in December compared to the original
16 Wildfire Mitigation Plan Idaho Power had in place
17 previously is there were some minor additions and
18 corrections throughout the plan, but the biggest
19 difference is the -- the inclusion of a Public Safety
20 Power Shutoff or PSPS Plan.

21 And that plan is called out as Exhibit B to our
22 Wildfire Mitigation Plan. That was one of the
23 requirements that Oregon Public Utilities Commission had
24 in the submittal of the document.

25 Q. And, Mr. Dockter, will the PSPS, or Public

1 Safety Power Shutoff Plan, apply to B2H?

2 A. Well, currently, there's no project
3 constructing -- being constructed or operating. So at
4 this point in time, no.

5 However, this plan -- this Wildfire Mitigation
6 Plan is viewed at Idaho Power as a living document and
7 it will be updated periodically. Boardman to Hemingway
8 was analyzed in the document. And it will be as it is
9 continuing forward on this path through construction and
10 operation, it will continue to be analyzed and included
11 just like all of Idaho Power's overhead facilities,
12 either within its service territory or extending beyond
13 its service territory is in both the Wildfire Mitigation
14 Plan and the PSPS Plan.

15 MS. PEASE: Thank you. I have no further
16 questions.

17 JUDGE WEBSTER: All right. Mr. Cooper, do
18 you have some follow-up for Mr. Dockter?

19 MR. COOPER: Yes, I do, Your Honor. Just a
20 couple of questions.

21 C R O S S - E X A M I N A T I O N

22 BY MR. COOPER:

23 Q. Good morning, Mr. Dockter.

24 You mentioned that aerial attack was possible
25 from the La Grande Airport.

1 Would that mean, in your understanding, a
2 helicopter going overhead, scooping water out of a lake,
3 such as Morgan Lake, and dropping it on the fire?

4 A. Good morning, Mr. Cooper.

5 My understanding is that the Blue Mountain
6 Interagency Dispatch Center has access to tens of
7 thousands of gallons of fire retardant.

8 The exhibit that I provided was a 2020 summary
9 of their activities and that exhibit demonstrates the
10 amount of fire retardant they were able to place on to
11 fires.

12 And so I -- while I don't know the specifics
13 of -- if they would be using water from Morgan Lake or
14 not, I do know that they do have access to fire
15 retardant and that is likely the opportunity that they
16 would use to attack any wildfires.

17 Q. So this fire suppression would involve dropping
18 fire retardant -- or possibly water, but fire retardant
19 on a fire.

20 Wouldn't -- would it be correct to say it would
21 be necessary to de-energize the line before dropping a
22 retardant on a fire near the line?

23 A. That, again, would be situational and dependent
24 on the fire activities and how close that fire is to the
25 line. There could be the opportunity for the need to

1 de-energize the line, depending again, upon the fire and
2 its activities.

3 As I stated previously, once notified, Idaho
4 Power can de-energize that line remotely without having
5 to send anybody to the site in a matter of seconds.

6 Q. And who would make the call to Idaho Power in
7 that situation?

8 A. I -- I am not certain who would make the call,
9 Mr. Cooper. My understanding would be whoever would be
10 the incident commander or, perhaps, the personnel on
11 site would do that.

12 But Idaho Power would provide contact
13 information for 24/7 dispatch center to all agencies
14 within the project's boundaries so they would have
15 that contact information available.

16 Q. Okay. Just one more question.

17 You mentioned the document filed December 30th,
18 2021, Exhibit B to the Wildfire Mitigation Plan, you
19 said it doesn't specifically mention B2H; is that
20 correct?

21 A. No. If that's what you heard, I'm sorry. I
22 misspoke.

23 What I said is it does specifically analyze
24 Boardman to Hemingway in its -- in the document and it
25 addresses the -- the potential fire risk zones in --

1 that have been analyzed within that document.

2 MR. COOPER: Okay. I have no further
3 questions, Your Honor.

4 JUDGE WEBSTER: All right. Thank you,
5 Mr. Cooper.

6 Anybody else with standing follow-up? Or
7 follow-up, Ms. Pease?

8 MS. PEASE: I don't have any follow-up.

9 JUDGE WEBSTER: Okay. Anybody else have
10 questions for this witness?

11 All right. Thank you, Mr. Dockter.

12 THE WITNESS: Thank you, Your Honor.

13 JUDGE WEBSTER: Okay. Are we -- do we need
14 a break or ready just to move on to, I guess,
15 Dr. Lautenberger?

16 MS. PEASE: From my perspective, I'm ready
17 to move on.

18 JUDGE WEBSTER: Mr. Cooper, are you?

19 MR. COOPER: Yes. Mine also.

20 JUDGE WEBSTER: All right. Then, Ms. Pease,
21 to identify your witness.

22 MS. PEASE: Thank you. Dr. Lautenberger,
23 could you please turn your camera on.

24 THE WITNESS: Good morning.

25 JUDGE WEBSTER: Good morning. All right.

1 I'll go ahead and swear him in. Is that where we are at
2 this point?

3 All right. Dr. Lautenberger, if you could
4 please raise your right hand.

5
6 CHRISTOPHER W. LAUTENBERGER, witness herein, having
7 been first duly sworn on
8 oath, was examined and
9 testified as follows:

10

11 JUDGE WEBSTER: Thank you.

12 All right, Ms. Pease. Your witness.

13

14 D I R E C T E X A M I N A T I O N

15 BY MS. PEASE:

16 Q. Good morning, Dr. Lautenberger.

17 Could you please state and spell your name for
18 the record?

19 A. Yes. My name is Christopher W. Lautenberger.
20 Spelled C-h-r-i-s-t-o-p-h-e-r. W.
21 L-a-u-t-e-n-b-e-r-g-e-r.

22 Q. Who is your employer?

23 A. My employer is Reax Engineering, Inc.

24 Q. What is your job title?

25 A. My job title is principal engineer.

1 Q. And, Dr. Lautenberger, did you provide direct
2 testimony and supporting exhibits in this proceeding on
3 September 17th, 2021?

4 A. Yes.

5 Q. And did you provide rebuttal testimony and
6 supporting exhibits in this proceeding on November 12th,
7 2021?

8 A. I did, yes.

9 Q. Are you the same Dr. Lautenberger that
10 provided -- my apologies.

11 I'd like to start out by asking you a few
12 questions about Matthew Cooper's surrebuttal testimony.

13 Have you reviewed Matthew Cooper's surrebuttal
14 testimony responding to your rebuttal testimony?

15 A. Yes, I have.

16 Q. Let's begin with a few questions about
17 Mr. Cooper's surrebuttal testimony regarding vegetative
18 fuels.

19 In Mr. Cooper's testimony on page one, he
20 asserts that the discussion in your rebuttal testimony
21 of vegetative fuels near the project site is overly
22 broad and lacks specific details necessary to address
23 Mr. Cooper's concern.

24 Do you recall that testimony?

25 A. I do.

1 Q. And Mr. Cooper specifically questions the
2 statement in your testimony that most of the project
3 passes through Sagebrush Steppe fuels because you admit
4 the line also passes through forested areas in Union
5 County.

6 How do you respond to Mr. Cooper's point that
7 also passes through forested areas in Union County?

8 A. Well, Mr. Cooper is certainly correct that the
9 B2H line will cross through forested areas in Union
10 County near La Grande. There's no disputing that. But
11 I want to focus on the relationship between these fuels
12 and potential structure losses during a wildland fire.

13 In the area of La Grande, canopy fuels are
14 confined largely to the outskirts of the city and they
15 are not interspersed with structures within the city
16 itself and this would affect or improve survivability
17 during a wildland fire; whereas, without this defensible
18 space, survivability would decrease.

19 And as I've shown in Figures 1 and 2 of my
20 rebuttal testimony, canopy cover within Le Grande is
21 distinguishable from canopy cover and defensive space in
22 Paradise, California prior to the campfire where
23 defensible space was lacking and there were large scale
24 canopy fuels interspersed with structures before the
25 campfire occurred.

1 Q. And in his surrebuttal testimony at page 1,
2 Mr. Cooper also testifies that you identified 43.6
3 percent of vegetative fuels near the project site as
4 characteristic of moderate fire spread.

5 How do you respond to that characterization of
6 the vegetative fuels in the project area?

7 A. Mr. Cooper is correct that around 44 percent of
8 the surface fuels near the project site, according to my
9 analysis, are consistent with moderate fire spread
10 rates.

11 And I would also acknowledge that most of the
12 fuels between Morgan Lake and La Grande would also be
13 characterized by moderate fire spread rates.

14 But the thing I want to point out is that none
15 of the problematic fuels that have been involved in
16 several of the large-loss fires in California, including
17 the campfire, things like the Thomas Fire in Southern
18 California, and looking in particular at high look
19 chaparral, none of these are present along the B2H
20 route.

21 So there's a significant difference in fuels
22 along the B2H and sections of California that have
23 experienced devastating large loss fires in recent
24 years.

25 Q. Next, I would like to ask you a few questions

1 about Mr. Cooper's surrebuttal testimony and exhibits
2 regarding topography and the steepness of slopes in the
3 project area.

4 Mr. Cooper testifies that your rebuttal
5 testimony tries to minimize the steepness of the terrain
6 crossed by the route by discussing only the topography
7 for the entire route instead of discussing the steep
8 slopes that Mr. Cooper discussed near La Grande.

9 Is Mr. Cooper's characterization of your
10 testimony accurate?

11 A. No, it's not. I objectively analyzed and
12 summarized data along the entire B2H route. And in
13 doing so, I didn't make any attempt to skew the data one
14 way or the other. I merely analyzed the data and
15 summarized it tabularly.

16 And I want to point out that the purpose of this
17 section in my rebuttal testimony where I discussed the
18 entire route was to provide some general background
19 information regarding Idaho Power's assessment of
20 wildfire risk near the B2H route as a whole.

21 Q. And did you specifically discuss the topography
22 near La Grande in your rebuttal testimony?

23 A. No. And the reason for this is that Mr. Cooper
24 did not raise a concern in his direct testimony
25 regarding topography near La Grande so there was no

1 reason for me to address it in my rebuttal testimony.

2 Q. Is Mr. Cooper correct when he states that the
3 steeper slopes present near La Grande -- is Mr. Cooper
4 correct when he states that there's steeper slopes
5 present near La Grande compared to other locations in
6 the greater project area?

7 A. Yes, he is.

8 The majority of the B2H route traverses largely
9 flat terrain. And I want to provide some specifics
10 focusing on Morgan Lake and the area between Morgan Lake
11 and La Grande, in particular.

12 Morgan Lake is about a mile and a half southwest
13 from the outskirts of La Grande and it sits at an
14 elevation of about 1200 feet above La Grande. So if you
15 divide that rise in elevation by the distance, it works
16 out to a grade or a slope of about 15 to 20 percent;
17 which, if you're more comfortable with degrees, that's
18 about 9 to 11 degrees.

19 This is, of course, a higher grade than most
20 other parts of the project route, because most other
21 parts of the project route traverse largely flat
22 topography outside of the Blue Mountains.

23 Q. And will the comparatively steeper slopes in
24 this area increase the wildfire risk near La Grande?

25 A. No, it will not.

1 As I've explained in my previous testimony, it
2 is statistically unlikely that the 500 kv B2H line will
3 cause a wildfire.

4 Also, an average slope of 15 to 20 percent does
5 not have a major impact on suppression tactics or
6 resistance to control. It is also important to
7 understand that since fire travels faster uphill than
8 downhill and Morgan Lake is higher than La Grande, if a
9 fire were ignited in proximity to the B2H line by Morgan
10 route, this downhill slope would actually reduce the
11 fire spread rate as it moves toward La Grande.

12 Q. And, Dr. Lautenberger, did you review
13 Mr. Cooper's exhibits that were submitted with his
14 surrebuttal testimony?

15 A. Yes.

16 Q. And Mr. Cooper describes in his surrebuttal --
17 Exhibit E, he describes it as a photograph that he took
18 using a tool called a Life-Link topograph, which he
19 asserts is a device used by backcountry skiers and
20 mountaineers to assess slope angles in terms of
21 avalanche danger.

22 He claims that Exhibit E demonstrates that a
23 slope near Glass Hill is approximately 20 to
24 25 percent; is that correct?

25 A. Yes; that's correct. That's how Mr. Cooper has

1 described Exhibit B to his testimony.

2 And I don't dispute his reading of 20 to
3 25 percent slope; although, I haven't attempted to
4 confirm it myself. But it is consistent with my earlier
5 testimony regarding the average slope between Morgan
6 Lake and Le Grande being about 15 to 20 percent.

7 And focusing on the specific area that
8 Mr. Cooper measured a slope in his Exhibit B, this is
9 along the B2H -- the proposed or Millcreek route between
10 Glass Hill Road and Bushnell Lane and it's in a creek
11 drainage. So, of course, the slope there is locally
12 higher than the average grade value that I provided
13 earlier.

14 But it is important to remember that for every
15 area where the slope is locally higher than the average
16 value, there is a corresponding area where the slope is
17 locally lower than the average value.

18 Q. And do you have any other reactions to share
19 with us regarding Mr. Cooper's Surrebuttal Exhibit B and
20 the slopes depicted in that exhibit?

21 A. Yes. That exhibit paints an incomplete picture
22 regarding slope. And one of the things that it doesn't
23 show is land cover. So immediately down slope from the
24 area that Mr. Cooper has identified as a steep slope is
25 a largely grass pasture that is about three quarters of

1 a mile wide. And that separates the area that
2 Mr. Cooper has identified as high slope from structures
3 in La Grande.

4 If you go farther to the east there, there's
5 irrigated farmland. So if a fire were to spread through
6 these areas that are downslope from the area that
7 Mr. Cooper has identified as having a steep slope, they
8 would provide firefighters with an excellent opportunity
9 to slow or stop the fire from encroaching on La Grande.

10 And so this localized 25 percent slope that
11 Mr. Cooper has identified in his Exhibit B doesn't have
12 any real impact on fire risk to La Grande.

13 Q. Now, I'd like to ask you a few questions about
14 Mr. Cooper's surrebuttal testimony regarding weather and
15 winds data.

16 In his surrebuttal testimony at page three,
17 Mr. Cooper addresses your discussion of weather data and
18 asserts that none of the Remote Automatic Weather
19 Stations or RAWS -- that's R-A-W-S -- that you
20 referenced in your testimony is located in the Grande
21 Ronde Valley.

22 How do you respond?

23 A. Well, Mr. Cooper is correct that none of the
24 RAWS stations that I analyzed are located in the Grande
25 Ronde Valley. And there is a simple explanation for

1 that which is that there are no RAWS stations in the
2 Grande Ronde Valley.

3 And I would like to point out that I didn't pick
4 and choose which weather stations to analyze. The
5 stations I selected were determined to be the closest
6 RAWS stations to the project site and the B2H line for
7 the entire B2H line. And I did not omit any sites that
8 were closer.

9 I also wanted to provide some context on how the
10 location of RAWS stations are provided. They are sited
11 by the federal firefighting agencies specifically for
12 the purposes of characterizing fire danger in the area.

13 And although there's no station located
14 specifically -- sorry, no RAWS station located
15 specifically in the Grande Ronde Valley, the seven
16 stations that I analyzed provide an accurate
17 representation of fire weather across the B2H route.

18 Q. And in his surrebuttal testimony at page 3,
19 Mr. Cooper also testifies that it is potentially
20 misleading to include data from a RAWS named Morgan
21 Mountain because that RAWS is not located near Morgan
22 Lake.

23 How do you respond?

24 A. As I just explained, I analyzed data from RAWS
25 stations along the B2H route. I didn't select the name

1 for these RAWS, and I didn't omit any particular
2 stations to skew the analysis. I simply analyzed data
3 from all available stations having relevance to fire
4 weather along the B2H route. And I never represented
5 anywhere that Morgan Mountain RAWS was indicative of
6 local conditions at Morgan Lake.

7 Q. In his surrebuttal testimony, Mr. Cooper also
8 states that it is interesting that you chose to include
9 Meacham in your analysis and that the data from the
10 Meacham RAWS may have skewed the analysis.

11 How do you respond?

12 A. Again, I did not specifically chose Meacham
13 RAWS. I analyzed data from relevant RAWS stations near
14 the project site. Meacham is the closest RAWS station
15 to La Grande and Morgan Lake, so there would be no
16 reason to not include it when discussing fire weather
17 near Morgan Lake or La Grande.

18 Q. In his surrebuttal testimony, Mr. Cooper
19 testifies that your inclusion of data from the Meacham
20 RAWS where elevations are higher and temperatures are
21 known to be colder may have affected your conclusion
22 regarding the average temperatures in Eastern Oregon.
23 Specifically, Mr. Cooper challenges your assertion that
24 average temperatures in Eastern Oregon range from the
25 low 50s to approximately the low 80s during fire season.

1 Mr. Cooper says this should be higher because
2 any resident of the Grande Ronde Valley could tell you
3 that temperatures in the 90s and even above 100 are not
4 uncommon during July and August and cites the
5 record-breaking 106 degree temperature that La Grande
6 experienced earlier during the summer of 2021.

7 How do you respond?

8 A. Well, the statement that I made there is a
9 simple summary of some fairly complicated graphs that
10 immediately preceded that in my testimony, and those
11 graphs in that discussion where I gave that -- that
12 number of low 80s during fire season was talking about
13 averages. And so, I believe, Mr. Cooper is confusing
14 averages with extremes.

15 But just to provide some context to the average
16 numbers that I provided, I would like to call
17 Mr. Cooper's attention to page 49 of the 2016 Union
18 County Wildfire Protection Plan. This has been
19 previously included in the record as Exhibit 5 of his
20 direct evidence.

21 And under the heading "Local Climate," this
22 document states, quote: "Union County enjoys four
23 distinct seasons with wide temperature fluctuations
24 between day and night. Summer temperatures can reach a
25 maximum of more than 100 degrees with averages of 75 to

1 86 degrees from June through August." End quote.

2 And the point of this is the statement from the
3 Union County Wildfire Protection Plan is consistent with
4 my testimony, which indicated average temperatures in
5 the low 80s during fire season. And this wasn't skewed
6 by the inclusion of Meacham RAWS in any way.

7 Q. In his surrebuttal testimony at pages four and
8 five, Mr. Cooper questions the wind rose that you
9 prepared showing prevailing winds measured over a
10 20-year period from the La Grande Airport. Mr. Cooper
11 suggests that localized weather patterns may vary
12 throughout the Grande Ronde Valley.

13 How do you respond?

14 A. Certainly, wind patterns may vary due to
15 accelerations caused by topography. But the Grande
16 Ronde Valley is largely flat. And the wind rose that I
17 included is based on data collected at an airport
18 station. And that will accurately show the prevailing
19 wind trends and the wind patterns in the Grande Ronde
20 Valley.

21 Q. Next, I'd like to ask you a few questions about
22 Mr. Cooper's surrebuttal testimony and exhibits
23 regarding fire history in the project area.

24 In his surrebuttal testimony at page 4,
25 Mr. Cooper also comments that your discussion of fire

1 history only goes back to 1992 and does not include the
2 1973 Rooster Peak fire.

3 How do you respond?

4 A. Our history records have become significantly
5 more comprehensive and complete over the last 30 years
6 as modern Geographic Information System or GIS
7 technology has become more widespread.

8 And when assessing fire history for the entire
9 project site, I analyzed all data that was available to
10 me at the time, including one of the most important
11 pieces of information which is known as the
12 fire-occurrence database.

13 And this database starts in 1992. And since the
14 Rooster Peak fire occurred in 1973, the Rooster Peak
15 fire would not be included in this database, of course.

16 And although I'm aware that the Rooster Peak
17 fire was a lightning fire, it ignited to the west of
18 La Grande, I have not been able to locate and GIS data
19 or a map showing its footprint.

20 If I had access to such data, I certainly would
21 have included it in the maps that were part of my
22 testimony. And, you know, Mr. Cooper's suggestion that
23 I somehow deliberately omitted data is false. I simply
24 analyzed and reported data that were available to me at
25 the time.

1 Q. In his surrebuttal testimony at page 4,
2 Mr. Cooper also comments that your fire history
3 discussion is generalized because the maps cover a very
4 wide area comprising hundreds of square miles.

5 How do you respond?

6 A. The B2H line spans several hundred miles, so any
7 analysis or maps that summarize fire history along that
8 line will necessarily cover hundreds of square miles.

9 Q. In his surrebuttal testimony at page 4,
10 Mr. Cooper also comments about the California Public
11 Utility Commission's 2020 fire incident report and the
12 fact that there were three fires associated with 500 kV
13 transmission lines. Specifically, Mr. Cooper notes that
14 these ended up being small fires less than a hundred
15 acres, but we lack any other information here, such as
16 the type of terrain, remoteness, or proximity to fire
17 crews.

18 How do you respond?

19 A. I agree with Mr. Cooper that there is not much
20 publicly available information regarding these fires.
21 And specifically the terrain, remoteness, or proximity
22 to fire crews. However, this is -- this is because
23 these were small fires that were contained quickly and
24 didn't draw any media attention.

25 Nonetheless, I've attempted to investigate these

1 fires further. One fire that I was able to uncover some
2 information regarding was a fire that occurred in Santa
3 Clara County known as the Silver Fire. This fire was
4 caused by contact from an object and the 500 kV lines
5 operated by PG&E. That object was a balloon. And I
6 assumed that was a metallic Mylar balloon, which is a
7 known way that arcing can occur on power lines. That
8 fire was extinguished at less than 20 acres.

9 The other two fires occurred a few months apart
10 on the same PG&E 500 kV line approximately 25 miles
11 southeast of Redding in a remote part of Northern
12 California. And regarding those two fires, there is no
13 publicly available information that I'm aware of.

14 Idaho Power has attempted to investigate the
15 circumstances of these fires by contacting PG&E, but
16 it's my understanding that PG&E was not willing to
17 publically disclose any of this information.

18 Q. Dr. Lautenberger, Sam Meier also provided
19 surrebuttal testimony responding to your rebuttal
20 testimony. I'd like to ask you a few questions about
21 that next.

22 Have you reviewed Sam Myers' surrebuttal
23 testimony?

24 A. Yes, I have.

25 Q. I would like to ask you a few questions about

1 Mr. Myers' surrebuttal testimony addressing what he
2 refers to as a whirlwind phenomenon as it relates to
3 potential fire risk.

4 In his surrebuttal testimony at page one,
5 Mr. Myers states that you are wrong that there are no
6 high volumes of sandy soil within Morrow County that are
7 comparable to Northern Mexico, Arizona, and Southern
8 Nevada, thus Idaho Power's rebuttal regarding a
9 whirlwind phenomenon is not factual or relevant.

10 In addition, there are sources that claim dust
11 devils can occur not only over sandy soils but also in
12 desert regions.

13 How do you respond?

14 A. To address Mr. Myers' concern, I did two things.
15 The first that I did was -- although Idaho Power does
16 not currently have any infrastructure in Morrow
17 County -- I consulted with Idaho Power engineers and
18 learned that Idaho Power has no record of dust devils
19 causing outages or fires anywhere in its service
20 territory.

21 Q. And, Dr. Lautenberger, you mentioned a second --
22 a second step.

23 Did you perform any additional research into
24 this issue?

25 A. Yeah. The second thing that I did was focus

1 specifically on Morrow County where Mr. Myers' farm was
2 located there. And what I did there was I analyzed data
3 from the Homeland Infrastructure Foundation Level
4 Dataset that has been filed as an exhibit in my direct
5 testimony.

6 And this database shows that there are currently
7 400 miles of transmission lines in Morrow County where
8 transmission lines means 69 kV or greater. And this
9 includes about 90 miles of 500 kV transmission lines.

10 I then cross-referenced the location of these
11 lines with ignition locations from the fire-occurrence
12 database and determined that none of the power line
13 caused fires in Morrow County could have been caused by
14 these transmission lines.

15 And the conclusion of this analysis is that if
16 dust devils do occur in Morrow County in the vicinity of
17 transmission lines, they have not led to any fire
18 ignitions.

19 Q. Finally, I would like to ask you a few questions
20 about Mr. Myers' surrebuttal testimony addressing fire
21 response.

22 In his surrebuttal, Mr. Myers specifically
23 challenges your conclusion that fires are often
24 contained quickly because there has not historically
25 been a 500 kV transmission line on Mr. Myers' farm.

1 How do you respond?

2 A. Well, if I understand Mr. Myers' concern here,
3 it's that the presence of a new 500 kV line would reduce
4 the ability of fire crews to respond to a fire near his
5 line.

6 However, as I just explained, there's already
7 around 400 miles of transmission lines in Morrow County
8 and there's no reason to believe that including an
9 additional transmission line would hinder the ability of
10 first responders to put out a fire. And to the best of
11 my knowledge, there haven't been any large fires in the
12 area of -- of Mr. Myers' farm.

13 Q. Mr. Myers also asserts that recent deadly power
14 line fires were not contained quickly because high winds
15 propelled them further.

16 How do you respond?

17 A. While he's correct, this is an apples-to-oranges
18 comparison for the areas where these large loss power
19 line fires occurred in Union County, or Morrow County
20 for that matter, because those areas -- if you look at
21 those large-loss fires, they occurred almost exclusively
22 under offshore winds, which there's no analog for in
23 Union County. And so for that reason, these large-loss
24 fires are not an accurate predictor or comparison of how
25 a fire would behave near the project site.

1 MS. PEASE: Thank you.

2 Your Honor, I don't have any further
3 questions at this time.

4 JUDGE WEBSTER: Okay. Do we need a short
5 break or, Mr. Cooper, are you ready to proceed?

6 MR. COOPER: I'm ready to proceed, Your
7 Honor.

8 THE COURT: Okay. Then go ahead, please.

9 C R O S S - E X A M I N A T I O N

10 BY MR. COOPER:

11 Q. Good morning, Dr. Lautenberger.

12 A. Good morning, Mr. Cooper.

13 Q. Can I ask, are you alone or is there anyone in
14 the room with you today?

15 A. It's just me in my office here. There might be
16 somebody else at the office. But in this office, it's
17 just me.

18 Q. Okay. How often has Reax Engineering worked for
19 Idaho Power?

20 A. We have been working for Idaho Power for, I
21 would say, about three and a half years at this point.

22 Maybe two and a half years. I might be
23 confusing 2018 with 2019.

24 Q. Do you have other work lined up with Idaho Power
25 in the future?

1 A. If I -- if I do, it may be covered by a
2 nondisclosure agreement, so I wouldn't be comfortable
3 commenting on that publicly here before I confirm that
4 one way or the other.

5 Q. Have you ever visited the vicinity of the route
6 as it travels near La Grande or the Grande Ronde Valley?

7 A. No, I have not.

8 Q. I would like to refer to the wind rose diagram.
9 And I'm sorry, I tried several times to do a share
10 screen and it didn't work due to some preferences menu
11 problem with my Mac laptop.

12 So if anyone would like, perhaps could we --

13 MS. PEASE: Mr. Cooper, do you want to give
14 us the specific page reference. I can ask Mr. Sumner to
15 pull it up.

16 MR. COOPER: Excellent. Yes. This is
17 Figure 15 on page 65 of Mr. Lautenberger's rebuttal --
18 Dr. Lautenberger's rebuttal testimony.

19 BY MR. COOPER:

20 Q. Referring to this diagram, would you agree that
21 this is intended primarily to show average wind speeds
22 in prevailing directions?

23 A. Yes.

24 Q. Would you say that according to this diagram the
25 wind blows most often from the northwest during May

1 through October?

2 A. Yes.

3 Q. What does this diagram tell us about the highest
4 wind speeds reported in this location?

5 A. Well, you have to read the legend in the lower
6 right-hand corner that says "MPH."

7 And I believe if you go from that, it looks like
8 the highest wind speed would be in the high 40 mile per
9 hour range.

10 Q. So I'm reading it correctly. Great.

11 Does this figure tell us anything about the
12 standard deviation from the --

13 A. A wind rose would not be a tool to look at
14 standard deviation or other statistics for a given
15 distribution of wind speeds.

16 Q. Okay. Another related question.

17 Does this tell us how many times the wind would
18 go above, say, 30 miles per hour in a year?

19 A. No, this is not a tool that is intended to -- to
20 do that. That would be the -- the return interval
21 analysis that I provided later in my rebuttal testimony.

22 Q. Right. And I'll get back to that shortly.

23 A. I'm sorry. My surrebuttal testimony -- no. My
24 rebuttal testimony.

25 Q. In your estimation, would it be fair to say that

1 winds can change direction in a given day?

2 A. I would say it's common and expected for winds
3 to change direction during a given day, particularly
4 from the morning and afternoon hours to the
5 overnight/early morning hours.

6 Q. Would it be fair to say that such a change in
7 wind direction could influence the spread of a wildland
8 fire?

9 A. Yes.

10 Q. To your knowledge, has Idaho Power ever
11 attempted to monitor wind speed or directions in the
12 vicinity of the power line at locations such as Morgan
13 Lake?

14 A. To the best of my knowledge, there are no Idaho
15 Power facilities in the vicinity of Morgan Lake, so they
16 would not have the opportunity or ability to measure
17 wind speed in those areas.

18 Q. Do you know how many automated alerts -- can you
19 tell me how many automated alerts from the National
20 Weather Service -- these would be wind advisories or
21 wind warnings -- are issued annually to residents of the
22 Grande Ronde Valley?

23 A. The best I could do is summarize the red flag
24 warning data in my rebuttal report.

25 And I'll try to give you a page number there.

1 If you look on page 41 of my rebuttal report,
2 I've tabulated Pendleton -- the Pendleton National
3 Weather Service red flag warnings between 2015 and '21.
4 And La Grande is in zone Oregon 644.

5 And so if you look at Oregon 644 in Table 10 on
6 page 41, that indicates there were 31 red flag warnings
7 issued between 2015 and 2021.

8 Q. Okay. Although this wind rose shows prevailing
9 wind direction in the Grande Ronde Valley, would you
10 agree that local topography -- peaks, canyons, draws, or
11 hollows -- that collect cold air could creat localized
12 variations in wind speed or direction?

13 A. Yes.

14 Q. Have you ever heard of an effect called down
15 valley or up valley winds; and if so, can you explain
16 them?

17 A. Generally, I would say downslope or upslope
18 winds.

19 But, yes, in the early morning hours as -- as
20 the sun is heating up the upper slopes, wind tends to
21 travel upslope because, essentially, hot air rises and
22 then the opposite happens late in the day.

23 So in the absence of a large scale synoptic --
24 meaning some pressure difference that's driving wind --
25 what I would expect is -- with everything else being

1 equal winds to move generally upslope in the morning and
2 early afternoon and then the pattern reversed in the
3 late evening and into the overnight hours.

4 Q. Can you explain what is meant by microclimates?

5 A. Yeah. Sure. Microclimate can be a variation
6 in -- or is a variation in weather patterns over short
7 distances.

8 One example that I'll give is -- if anybody's
9 been to the San Francisco Bay area, you might be in
10 San Francisco in June and need to put on a winter coat
11 because it's 55 or 60 degrees. And then you drive
12 20 miles away into Contra Costa County through the
13 Caldecott Tunnel and it's a hundred degrees.

14 And so that's a common -- you know, kind of
15 well-known microclimate example where you have large
16 changes in this case in temperature and humidity over a
17 very short distance due to the blocking effect of the
18 Berkeley and Oakland Hills and more generally the East
19 Bay Hills.

20 Q. Can microclimates affect local wind directions?

21 A. I would say it's possible. But as a general
22 rule, not necessarily. If you look at the same
23 microclimate example that I just gave, the predominant
24 flow direction is out of the west or out of the
25 southwest; whether you are on the west side of the East

1 Bay Hills or on the east side of the East Bay Hills.

2 Q. So would you -- would it be fair to say they
3 could influence wind direction somewhat?

4 A. I -- I would say, yeah. A microclimate in a
5 general sense -- you know, as a hypothetical question
6 could affect wind patterns locally.

7 But it's hard to understand that if we're
8 looking at fire weather or thinking about fire weather,
9 often fire weather concerns occur under high winds that
10 are driven by pressure gradients.

11 And if you have a large scale pressure gradient
12 driving wind, speaking specifically about the B2H line,
13 I wouldn't expect much of a difference over distances
14 that, you know, would be associated with microclimates.

15 MR. COOPER: Okay. Could we move on to
16 Table 4 on page 62, if you could please show that?

17 MS. PEASE: Mr. Sumner, please.

18 MR. COOPER: Mr. Sumner.

19 MS. PEASE: And that was in the rebuttal
20 testimony still; is that correct?

21 MR. COOPER: Yes. All of my examples are in
22 the rebuttal testimony.

23 BY MR. COOPER:

24 Q. Okay. I just need a little help reading this to
25 make sure -- to make sure I'm reading this table

1 correctly.

2 How was this data collected? I'm sorry. This
3 is not the right -- I think I have -- I must have made a
4 mistake in my numbering. I'm looking for a table of
5 frequency of wind gusts. Maybe I can find it here.

6 I thought it was Table 4, but I apparently have
7 the wrong one.

8 MALE SPEAKER: Skylar, it's table -- it's on
9 page 62.

10 MR. COOPER: Right page, wrong table number,
11 I guess.

12 JUDGE WEBSTER: It's -- you're correct.
13 It's Table 4.

14 BY MR. COOPER:

15 Q. So how was the information in Table 4 collected?

16 A. The information here is based on accessing
17 individual records, typically hourly, for these two
18 particular weather stations. That's done through an
19 API -- an Application Programming Interface, known as
20 the Synoptic Labs API, which provides access to data
21 that are housed with Meso West, which is the kind of
22 central repository for surface observations, meaning
23 what we would normally think of as a weather station as
24 opposed to upper air observations which are collected
25 with things like an upper air profiler.

1 And that data then goes into a calculation or an
2 analysis that analyzes the frequency of wind gusts over
3 that period of record, which is about 20 years.

4 And what that -- what is done there to distill
5 that to these numbers is to conduct a return interval
6 analysis. So the return interval has a -- kind of an
7 esoteric mathematical definition, but you can think of
8 it as approximately how frequently a given event occurs.

9 And so this table provides the wind gust return
10 interval for these two stations, the La Grande Airport
11 being the one that the wind rose was based on.

12 Q. So you said it's about a 20-year interval.

13 Do you know which years? During which years
14 these were gathered?

15 A. It would be generally the most recent data, so
16 the Meso West data is typically available starting in
17 the late '90s, sometimes the early 2000s, depending on
18 the particular station.

19 But my normal practice would be to analyze from
20 the -- the beginning of the period of record to current
21 day.

22 Q. Would you agree that the definition -- would you
23 agree with this definition of wind gust from
24 weather.gov, I quote: "A rapid fluctuation of wind
25 speed with variations of 10 knots or more between peaks

1 and lulls," end quote?

2 A. That is going to be a different definition than
3 what we're talking about here. I'd be happy to provide
4 what is meant by the wind gust here if it would be
5 helpful.

6 Q. That would be helpful, yes.

7 A. So, typically, when one looks at a sustained
8 wind speed, particularly for RAWS, which these are not.
9 These are not RAWS stations but they are airport or, I
10 guess, transportation stations.

11 But when one speaks about a sustained wind
12 speed, that's usually a 10-minute average. That is, in
13 fact, what a RAWS station reports is the 10-minute
14 average prior to the -- the time at which the
15 observation is reported.

16 For a wind gust it's a little bit different.
17 What stations typically report is the maximum
18 three-second average wind gust in the time interval
19 preceding the reading.

20 So for RAWS -- which, again, these are not --
21 that would be the maximum three-second wind gust that
22 occurred in the one hour preceding the hourly RAWS
23 station reading.

24 Q. Could you repeat that last sentence? Maximum
25 three-second wind gust.

1 A. In the one hour preceding the hourly reading.

2 Q. Okay. Thank you.

3 And nots -- so do we have a wind -- okay. Never
4 mind. Strike that.

5 So in your Table 4, the return rate -- could we
6 say based on this table that 46 mile per hour gusts --
7 and I'm reading the top row, La Grande Airport,
8 left-hand figure -- 46 mile per hour gusts would occur
9 four times a year.

10 A. Correct. Based on the period of record that was
11 analyzed, that's a quarter year or a three-month return
12 interval wind speed is 46 miles per hour.

13 Q. Okay. And every three years we would get a gust
14 of about 56 miles an hour?

15 A. Yes. Based on this return interval analysis,
16 the three-year return interval wind speed is about
17 56 miles per hour, which is consistent with that wind
18 rose that we looked at a while back.

19 Q. Would you agree that in addition to average wind
20 speeds, wind gusts of a magnitude of 46 to 56 miles an
21 hour could accelerate the spread of a wildland fire?

22 A. We generally think of wildland fires as being
23 driven by sustained winds, not gust winds. But there's
24 a correlation between sustained wind and gust wind. Or
25 the wind gust speed.

1 So, in general, I would agree with your
2 contention, just taking it one step further.

3 Q. Okay. I've had to sort of rethink my next few
4 questions, so I apologize if I'm stumbling through this
5 next section a bit.

6 On page 18 of your rebuttal testimony in lines 5
7 through 7 when you're referring to those, you -- at this
8 spot you said -- this is the spot that you were
9 discussing earlier in your sur-surrebuttal where you
10 say, quote: "Average temperatures in Eastern Oregon
11 range from the low 50s to approximately the low 80s
12 during fire season." End quote.

13 So just to get some clarity here, fire season is
14 not just summer, is it?

15 A. Well, fire season doesn't have a uniform
16 definition across the country. So if you look at Texas
17 or Oklahoma, their worst fires are in, generally, March
18 and April. So spring is fire season in other parts of
19 the country.

20 But in this part of the world, fire season, at
21 least as I've defined it here, is roughly May to
22 October, and that's based on the number of fires that
23 have occurred in those months.

24 There are fires in all months of the year, but
25 the majority of fires occurred during -- particularly

1 the majority of large fires occur during those late
2 spring/early summer and early fall months.

3 Q. Okay. So this average temperature, that data
4 has been gathered not only from summer but you say a
5 fair chunk of spring and a fair chunk of fall as well.

6 A. Yeah, this is May 1st through October 31st is
7 the seasonal filter that was applied here. And where I
8 came up with that number, low 50s to high 80s is by
9 reading off of the black line that's in the Figure 7 on
10 the previous page there.

11 Q. And that Figure 7 is the RAWS data from the
12 various RAWS stations; is that correct?

13 A. Correct.

14 Q. So it doesn't tell us anything about extremes,
15 really, does it? That data doesn't, as you stated it?

16 A. As I summarized it on page 18, no, I'm speaking
17 about averages. But if you look at the red line in
18 Figure 7, that is the maximum temperature for that
19 particular day of the year.

20 Q. Excuse me. We have to call that up later.
21 Figure 7, red line.

22 Okay. Talking about fire season. So you
23 defined it for this region as May 1st through
24 October 31st.

25 However, would you agree that it's possible that

1 fire season is becoming longer?

2 A. Yes.

3 Q. Would you agree that it could be even considered
4 to extend all year?

5 A. In a general sense, some parts of the U.S. do
6 experience a year-round fire season. But I'm not aware
7 of any large or damaging fires along the B2H route that
8 would support a year-round fire season.

9 MR. COOPER: Could we, Mr. Sumner, please,
10 move to table 3 on page 14 of the rebuttal testimony?

11 Thank you.

12 BY MR. COOPER:

13 Q. You provided some data on the cumulative total
14 of wildland fires during each month from the period 1992
15 to 2018.

16 Would you agree that although this table shows
17 cumulative totals for a period of about a quarter
18 century, it does not show any changes in the number of
19 wildfires per month?

20 A. No. This table being a sum by month cannot show
21 any trends in the number of wildland fires. And that's
22 not the intent of this table, which is meant to show how
23 we defined fire season for the purposes of this
24 testimony.

25 Q. Okay. The next section I would like to discuss

1 is Figure 5 on page 15. And, again, I'm rethinking my
2 questions here on the fly.

3 Just -- just for clarity, I know you've already
4 gone over this in your sur-surrebuttal, but could we
5 look at that map, Figure 5?

6 MR. COOPER: Mr. Sumner, could we look at
7 the map on page 15? It's Figure 5. Shows the location
8 of the remote automated weather stations in the vicinity
9 of the B2H line. You've talked about the selection of
10 those RAWS.

11 BY MR. COOPER:

12 Q. Using the scale of miles here, can you tell me
13 approximately how many miles there are between the
14 Meacham RAWS and the Flagstaff Hill RAWS?

15 A. I would say it is approximately 75 to 100 miles,
16 just scaling it without getting out any type of
17 measuring device. But somewhere in that vicinity. As
18 the crow flies.

19 Q. Would you agree that the inclusion of weather
20 stations between Flagstaff Hill and Meacham, had they
21 existed, would provide more granular data on weather
22 patterns in the Grande Ronde Valley?

23 A. If those stations had existed, I agree, they
24 could have provided additional information that I
25 certainly have analyzed.

1 But I would like to remind you that I also
2 analyzed data from a -- it wasn't a RAWS station, but it
3 was an airport station in the Grande Ronde Valley.

4 Q. In Figure 5, do you see any cities on this map
5 that are marked?

6 A. I can't read any cities, no.

7 Q. Okay. Do you see any other labeled geographic
8 features such as rivers, mountains, highways, anything
9 like that?

10 A. Not at the resolution that I'm looking at it
11 here, no.

12 Q. Would you agree that to someone unfamiliar with
13 Northeast Oregon, this map might be difficult to
14 interpret?

15 A. I would agree that additional landmarks or place
16 marks would provide some better context to a reader
17 that's not familiar with the B2H route or Eastern
18 Oregon, yes.

19 Q. Okay. On page 10 of your testimony, lines 10
20 through 12 under Part B, titled "Topography near the
21 project site," in answer to the question, "How does
22 topography affect the risk of wildfires?"

23 You stated, quote: "Slope is a significant
24 topographical factor affecting fire spread and control.
25 Steep slopes increase the spread rate if a fire is

1 moving uphill. Additionally, steep slopes increase the
2 resistance to control as it is more difficult for hand
3 crews to access a fire." End quote.

4 Would you still stand by that statement?

5 A. I -- yes, I would -- but would you mind pointing
6 me to the page? I didn't catch it. The page you were
7 reading from there.

8 Q. Page 10, lines 10 through 12.

9 A. Thank you.

10 I'm with you now.

11 Q. Would you still -- would you stand by that
12 statement?

13 A. Yes.

14 Q. And moving to page 13, lines 3 through 5, you
15 say that, quote: "Approximately 10 percent of the land
16 area near the project site has a slope of 20 degrees or
17 higher, corresponding to moderate/high resistance to
18 control and high/very high influence on spread rate."
19 End quote.

20 Would you stand by that statement?

21 A. Yes.

22 Q. Would you agree that the hills west of the
23 Grande Ronde Valley might be part of the 10 percent of
24 the land area that has moderate high resistance to
25 control -- and high -- very high influence of spread

1 rate?

2 A. Well, as I explained in my sur-surrebuttal, the
3 average grade in the hills west of the Grande is between
4 15 and 20 percent. But there may be some areas that
5 have locally higher slope that could fall into those
6 categories, yes.

7 Q. Okay. I'd like to go to sections -- Roman
8 Numeral VI regarding the California Public Utilities
9 2020 Fire Incident Report beginning on page 32.

10 You've already discussed this in your
11 sur-surrebuttal, but I might have missed a few details.
12 So if you wouldn't mind, you talked about some more data
13 on the three fires in 2020 that were ignited by 500
14 kilovolt transmission towers. And I'm sorry, I know
15 this is going to come out in -- in the transcript, but
16 could you remind me what is -- one was near Santa Clara
17 and had Silver in the title.

18 Could you repeat that?

19 A. Yes. One of the fires was in Santa Clara County
20 California. My best recollection is in August of 2020.
21 And it was named the Silver Fire by the responding
22 agencies. And it was extinguished at, I believe,
23 19 acres.

24 Q. Was that the same fire that was --

25 I'm sorry. Go ahead.

1 A. I think I was going to add what you were just
2 about to ask, which is that it was caused by contact
3 from an object which is listed as a balloon. And I
4 interpret that to be a metallic Mylar balloon.

5 Q. Can we refer anything else from the table as to
6 the local conditions of the area, referring to
7 conditions such as topography, fuel loads, relative
8 humidity, that sort of thing?

9 A. Being generally familiar with that area, in
10 August -- and knowing the 2020 fire weather in
11 California, it would be very hot, very dry that was,
12 from best recollection, a few weeks prior to the
13 lightning bust that was largely responsible for the
14 4 million acres burned in California in 2020.

15 That area -- the hills in that area would be
16 characterized by generally oak-woodland-type fuels,
17 which would be short grass, cured at that time of year,
18 with some shrubs intermixed.

19 Q. Can we infer anything else from this -- from
20 Table 8 as to the local conditions regarding response
21 time by local firefighting agencies?

22 A. I -- I'm sorry. I might not be following you.
23 Where is Table 8?

24 Q. I'm sorry. On page 32 -- no. I'm sorry. Table
25 8 is actually on page 33.

1 MR. COOPER: Perhaps, Mr. Sumner, could you
2 bring up Table 8 on page 33?

3 Thank you.

4 BY MR. COOPER:

5 Q. Would you like me to repeat the question?

6 A. If you wouldn't mind, I would appreciate that.
7 Thank you.

8 Q. Okay. Could we infer anything else from this
9 table as to the local conditions in terms of how quickly
10 firefighters could respond?

11 A. No, not from this table. There's no information
12 there. As I stated in my surrebuttal testimony, not
13 much is publicly known about these fires.

14 Q. Regarding these three fires, would you agree
15 that even one wildland fire ignited by a 500 kilovolt
16 line is one too many?

17 A. I wouldn't agree to general hypotheticals like
18 that. I would say if a fire occurs and it doesn't
19 spread and doesn't cause any damage, that it's not one
20 too many.

21 MR. COOPER: Thank you. I have no further
22 questions, Your Honor.

23 JUDGE WEBSTER: All right. Thank you.

24 Ms. Pease, any follow-up?

25 MS. PEASE: If we could take a short break

1 before redirect, I would appreciate it.

2 JUDGE WEBSTER: Okay. It's 10:28 now.

3 Let's take -- do you want 15 minutes or what?

4 MS. PEASE: That would be fine, yes. Thank
5 you.

6 JUDGE WEBSTER: Okay. Let's reconvene at
7 10:45, then. Thanks, everybody.

8 (A break was taken from
9 10:28 a.m. to 10:45 a.m.)

10 JUDGE WEBSTER: All right. Before the
11 break, Mr. Cooper, I just want to confirm that you've
12 concluded your questions for Dr. Lautenberger?

13 MR. COOPER: I have, Your Honor.

14 JUDGE WEBSTER: Okay. So, Ms. Pease.

15 MS. PEASE: Thank you. I have just a few
16 questions for redirect.

17 JUDGE WEBSTER: Okay.

18 R E D I R E C T E X A M I N A T I O N

19 BY MS. PEASE:

20 Q. Dr. Lautenberger, do you recall Mr. Cooper had
21 asked you a few questions about the length of fire
22 season and whether fire season is becoming longer?

23 A. I do, yes.

24 Q. And specifically, Mr. Cooper asked if it might
25 be possible that fire season would become a year-long

1 event.

2 Do you recall those questions?

3 A. Yes.

4 Q. Are you aware of any policy shifts or any
5 statements about fire weather -- sorry, fire season
6 expanding to the entire year for Oregon?

7 A. I've seen no information to that effect.

8 Q. And, Dr. Lautenberger, Mr. Cooper had also asked
9 you about the Remote Automatic Weather Stations and
10 specifically whether more analysis of more weather
11 stations would provide more granular data.

12 Do you recall those questions?

13 A. I do.

14 Q. And do you think that from -- the analysis that
15 you performed in this case that additional weather
16 station data or more granular data was needed to
17 understand the -- the fire weather in the project area?

18 A. No, it was not. The weather stations that were
19 analyzed provide an overall view of fire weather across
20 the B2H route.

21 Q. And, Dr. Lautenberger, I believe you may have
22 touched on this in your sur-surrebuttal, but to remind
23 us again, for the Remote Automatic Weather Stations,
24 what -- what agency selects the locations for those
25 weather stations?

1 A. The -- the -- the Remote Automatic Weather
2 Station or RAWS program is coordinated by the National
3 Wildfire Coordinating Group or NWCG, which is an
4 organization that has several agencies that are under
5 the NWCG umbrella; those would be agencies like the U.S.
6 Forest Service, Bureau of Land Management, National Park
7 Service, Bureau of Indian Affairs. Basically, any
8 land -- federal land management agency with
9 responsibility over wildland fire response.

10 Q. And, Dr. Lautenberger, can you comment on the --
11 the locations for those Remote Automatic Weather
12 Stations as it relates to assessment of fire risk?

13 A. Yes. My understanding is that local knowledge
14 is used to identify locations of RAWS stations that
15 would provide the best information about fire danger in
16 a particular area.

17 And so you tend to see stations sited where
18 winds are higher -- perhaps where temperatures are --
19 are higher and its humidity as lower to then provide
20 input to the National Fire Danger Rating System or
21 NFDRS.

22 Q. And so, Dr. Lautenberger, if these locations for
23 the Remote Automatic Weather Stations were selected
24 to -- to identify those characteristics of the potential
25 for fire risk, do you think that analyzing more data

1 would have meaningfully changed your analysis or your
2 conclusions?

3 A. If additional station data were available, as I
4 stated in my sur-surrebuttal testimony, I certainly
5 would have analyzed it. But I don't think that that
6 would have substantially changed any analysis that I
7 did.

8 MS. PEASE: Thank you. I have no further
9 questions.

10 JUDGE WEBSTER: Okay. Anybody else with
11 standing on this issue that has questions for this
12 witness?

13 All right. Hearing none. Mr. Rowe, any --
14 have you heard back from your witness, Mr. Butler?

15 MR. ROWE: I have not, Your Honor.

16 JUDGE WEBSTER: Okay.

17 MR. ROWE: I have -- I have heard from his
18 colleague. And I'm going to call him once we're done
19 today to see if he might have any -- any insight as to
20 Mr. Butler's availability. But as of now, no, I have
21 not heard from Mr. Butler.

22 JUDGE WEBSTER: Okay. And I don't see that
23 we have Ms. Gilbert on the line today.

24 I think, Ms. Pease, at this point, I'm sort
25 of hesitant to cancel tomorrow. I think that we --

1 well, what's -- what's Idaho Power's position on this?

2 MS. PEASE: If it's Your Honor's preference
3 to proceed with Ms. Taylor's cross-examination tomorrow,
4 we can accommodate that.

5 As I mentioned earlier, it would be our
6 preference that the testimony of Mr. Butler and
7 Ms. Taylor occur on the same day.

8 I also -- I have one additional sort of
9 procedural/logistical issue to raise related to
10 Ms. Taylor's cross-examination. I had held off on
11 raising this earlier with the hope that Ms. Gilbert
12 might join. But it appears that she's not on the line.

13 And I wanted to advise Your Honor that
14 Ms. Taylor has a learning difference that is known as an
15 auditory processing disorder, which can sometimes make
16 it difficult for her to decode information that is
17 received orally and so we are planning to request an
18 accommodation for that and will be requesting that
19 Ms. Gilbert would speak slowly in her cross-examination
20 and that she may be asked to repeat a question one or
21 more times.

22 And alternatively, another option could be
23 for Ms. Gilbert to provide the questions in advance in
24 writing, which would assist in the cross-examination.
25 But we also understand that -- in light of the timing

1 with the cross-examination being potentially tomorrow,
2 that she may not have time for that.

3 And so I -- I wanted to let -- advise Your
4 Honor that we would be making this request. And with
5 Ms. Gilbert not on the line today, we would be following
6 up with her separately via email to alert her to this
7 request.

8 JUDGE WEBSTER: Okay. We're in sort of a
9 pickle here. I appreciate your -- you know, thank you
10 for the heads-up regarding the accommodation for
11 Ms. Taylor.

12 I think -- to me, I'm looking at this as --
13 you know, what's the plan for tomorrow? We're still
14 sort of up in the air.

15 I -- I am really sort of hesitant to just
16 sort of say we're going to continue tomorrow until some
17 point unknown.

18 So at this point, let's reconvene tomorrow
19 morning as scheduled and see where we are. And if -- if
20 we have difficulty, you know, with Ms. Taylor and, you
21 know, the understanding or being able to -- to process
22 the questions, or we need Ms. Gilbert to have them
23 prepared, we can continue with that contingency and
24 maybe we will have some more information about the
25 availability of Mr. Butler.

1 But, Mr. Rowe, what are your thoughts on
2 that approach?

3 MR. ROWE: I think that approach makes
4 sense, Your Honor.

5 JUDGE WEBSTER: Okay. Anything else we can
6 accomplish today? All right. We will -- I think, then,
7 we will go ahead and close for today. We will
8 reconvene.

9 I will address my cats and her obnoxious
10 yowls.

11 We will reconvene tomorrow morning at nine,
12 and we'll see where we are. And hopefully, Mr. Rowe,
13 you'll have some more information about Mr. Butler's
14 availability and we can figure out then what we're going
15 to do. And if we can get everybody to agree, we may
16 just continue until -- and do both Ms. Taylor and
17 Mr. Butler on the same day. But we'll have to -- we'll
18 have to call an audible tomorrow morning. I think.

19 All right. If there's anything else from
20 anybody, if not --

21 MS. PEASE: Nothing further. Thank you.

22 JUDGE WEBSTER: If not, we'll conclude for
23 today at 10:56 a.m.

24 Thank you, everybody.

25 (Hearing adjourned at 10:56 a.m.)

**BEFORE THE OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF OREGON**

for the

OREGON DEPARTMENT OF ENERGY

IN THE MATTER OF:) **CLOSING BRIEF OF Matthew J. Cooper**
) **ON ISSUE PS-4 Fire Protection**
BOARDMAN TO HEMINGWAY)
TRANSMISSION LINE) **OAH Case No. 2019-ABC-02833**

Issue PS-4: Fire Protection: Whether Applicant adequately analyzed the risk of wildfire arising out of operation of the proposed facility and the ability of local firefighting service providers to respond to fires.

This project is in violation of Oregon Administrative Rule 345-022-0110, which requires that the construction and operation of the facilities “are not likely to result in significant adverse impact to the ability of public and private providers within the analysis area described in the project order to provide: sewers and sewage treatment, water, storm water drainage, solid waste management, housing, traffic safety, police and fire protection, health care and schools.”

I. INTRODUCTION:

In my Direct Testimony and Evidence I asked: “Why would the B2H transmission line exacerbate the risk of wildfire in rural areas such as Union County?”

The B2H line travels through a very dry, windy, fire-prone area of Oregon, an area which is also remote and rugged. In fact, all of the five counties through which the line would travel (Union, Umatilla, Morrow, Baker, and Malheur) are rated a Fire Weather Hazard

Factor of “3” (3 being the highest) . . . In particular, both the Idaho Power Original Route and the Morgan Lake Route would travel a short distance south of La Grande, very near Morgan Lake Park. This region was designated the #1 Wildland-Urban Interface in Union County in 2005 . . . with a score of 134.5 out of 150. It has a documented history of wildfire dating back to 1868; as I will show in my research below, news accounts from both the 1868 Banner Gulch fire and the 1973 Rooster Peak fire document the fact that these fires did not merely burn on the outskirts of town, but they actually threatened to burn down the city of La Grande.¹

Idaho Power’s rebuttals and sur-sur-rebuttals in terms of wildfire risk basically boil down to endless variations of the mantra: “don’t worry, it can’t happen here.” In my closing brief, I will show why this line still *does* pose a significant risk of wildfire in terms of wind and weather, steep topography, and vegetation, and why firefighters may indeed have a hard time responding in a timely enough manner to avoid destruction of property and possible loss of life. I will show that 500 kilovolt transmission towers can indeed start fires, and that the only safe way to avoid these risks—if the Mill Creek or Morgan Lake alternative routes are chosen, at least—is to bury it underground in areas which are Wildland-Urban Interfaces or WUI Zones.

Christopher Lautenberger’s Rebuttal² attempts to refute my description of Eastern Oregon as “dry, windy, [and] fire-prone” by broad, generalized data including tables of vegetation types, slope angles, and wind speed/direction. It should be noted that Dr.

¹ Direct Testimony of Matt Cooper on PS-4, Sept 17 2021, at p. 1

² Rebuttal Testimony of Christopher Lautenberger, Nov. 12, 2021.

Lautenberger, a resident of the Bay Area, has *never visited the vicinity of the route* in La Grande or the Grande Ronde Valley.³

Neither Dr. Lautenberger nor Douglas Dockter dispute the facts that all five counties crossed by B2H rate a “3 out of 3” Fire Weather Hazard Factor, nor that the Morgan Lake area was designated as the #1 Wildland-Urban Interface (WUI) in Union County in 2005. Dr. Lautenberger compiled data going back at most 30 years to 1992, and as he admitted during sur-sur-rebuttal this *did not include the Rooster Peak Fire* from 1973,⁴ a fire that was described in a 2005 county planning document as “the largest and most destructive in recent history.”⁵

The Rooster Peak Fire, as I testified based on extensive contemporaneous coverage in the *La Grande Observer*, “burned more than 6,000 acres and destroyed six residences plus several outbuildings. It burned within a quarter mile of the hospital” in addition to burning within a few feet of some residences. News coverage compared it to “a scene from the Vietnam War” and quoted witnesses who described flames “shooting 100-feet in the air.” In addition to calling on trained firefighters, it mobilized 1,500 volunteer city residents, and involved the use of helicopters and two and four-engine bombers dropping fire retardant. The fire chief at the time stated that “without the assistance from the volunteer workers a large section of the city would have been destroyed by fire.”⁶

³ Lautenberger testimony, Cross-Examination Hearing Day 3, Jan. 13 2022 (Tr. Day 3) at p. 47, line 7.

⁴ *Ibid.*, at p. 40, lines 13-15.

⁵ Direct Testimony of Matt Cooper on PS-4 Exhibit 4, Community Wildfire Protection Plan 2005, p. 18.

⁶ Direct Testimony of Matt Cooper on PS-4, at p.3; Cooper Direct Testimony and Evidence Exhibit 2.

The fact remains that dangerous fire conditions do exist in this region. The National Weather Service issues Red Flag Warnings (RFWs) when conditions include “high to extreme fire danger and dry fuels” combined with factors such as thunderstorms, high winds, and low humidity.⁷ As Dr. Lautenberger’s own rebuttal testimony admits, the National Weather Service’s Pendleton office issued 31 “Red Flag Warnings” for Oregon Fire Weather Zone 644, an area comprising Union, Grant, Wheeler, and Umatilla counties—*an average of over five per year--* between 2015 and 2021.⁸

II. Influence of Wind Direction and Speed:

The data presented in Dr. Lautenberger’s rebuttal actually supports my testimony that this region is, in fact, windy. The *Observer* headline from August 17, 1973 reads: “Wind-whipped blaze threatens city.”⁹ And according to Lois Barry, whose home was destroyed in the Rooster Peak fire: “if the high winds had not shifted just then, creating a backfire, despite all the locals endeavoring to help, the fire would have swept across the south west hills of the valley and devastated the town.”¹⁰ Winds are important in considering wildfire risk; as a “Power Line Prevention Field Guide” published in 2001 says: “The very same weather conditions that contribute to power line faults also lead and contribute to the rapid spread of wildfire. The most critical of these is high wind, which is commonly accompanied by high temperatures and low humidity.”¹¹

⁷ Rebuttal Testimony of Christopher Lautenberger, Nov. 12 2021, Fig. 12, at p. 40.

⁸ Lautenberger testimony, Cross Examination Hearing Day 3, Jan. 13 2022 (Tr. Day 3) at p. 50 lines 5-7; Rebuttal Testimony of Christopher Lautenberger, Nov. 12 2021, Table 10 at p. 41.

⁹ Direct Testimony of Matt Cooper on PS-4 at p. 3; Cooper Direct Testimony Exhibit 2.

¹⁰ Lois Barry testimony, Cooper Direct Evidence and Testimony Witness #1 at p. 1.

¹¹ Rebuttal Testimony of Christopher Lautenberger on Issues PS-2, PS-3, PS-4, PS-10, and LU-9, Exhibit F, Power Lines and Catastrophic Wildland Fire in Southern California, at p. 1.

In his rebuttal testimony, Dr. Lautenberger uses a “wind rose” diagram¹² which shows that, during what is typically known as “fire season” in the Northwest (May through October), winds blow primarily out of the northwest¹³ and that they blow as much as “in the high forty mile per hour range.”¹⁴ Dr. Lautenberger asserts optimistically that, since “the predominant wind direction is from West-Northwest to North. . . Winds from these directions would not push the fire into La Grande.”¹⁵ He also claims that “the 17 mph wind speed out of the south that Mr. Cooper uses to ‘demonstrate’ that a fire would reach La Grande before LGRFPD was on scene occurred [only] 8.5% of the time. . .”¹⁶ Calculating this based on the 183 days per year between May 1 and October 31, “8.5% of the time” would equal 15.55 days per year, or *over two weeks a year* when wind in fact *does* blow out of this direction. To wit: it *can* happen here.

In addition, his Table 4¹⁷ tabulates wind gusts, shows that gusts of 46-56 miles per hour are not unheard of; in fact, 46 mph gusts would typically be recorded four times per year.¹⁸ Joseph Mitchell’s research shows that--though admittedly measured in California during the period of Santa Ana winds--wind gusts above 30 mph reach a threshold “above which almost all fires exceeding the effective suppression limit [100 acres] occur. Above the gust speed threshold, there were 16 events larger than the suppression limit out of 83 total events . . .”¹⁹

¹² Rebuttal Testimony of Christopher Lautenberger, Nov. 12 2021, Fig. 15, p. 65.

¹³ Lautenberger testimony, Cross Examination Hearing Day 3, Jan. 13 2021 (Tr. Day 3), at p. 47, line 24—p. 48, line 2.

¹⁴ Ibid. at p. 48, lines 8-9.

¹⁵ Rebuttal Testimony of Christopher Lautenberger, Nov. 12 2021, at p. 64, lines 9—11.

¹⁶ Ibid., at lines 11-13.

¹⁷ Ibid. at p. 62.

¹⁸ Lautenberger testimony, Cross Examination Hearing Day 3, Jan. 13 2021 (Tr. Day 3), at p. 56, lines 9-10.

¹⁹ Rebuttal Testimony of Christopher Lautenberger on Issues PS-2, PS-3, PS-4, PS-10 and LU-9, Exhibit F, Power Lines and Catastrophic Wildland Fire in Southern California, at p. 6.

In fact, the prevailing wind direction has only limited influence on the wind speed and direction in a specific location. Dr. Lautenberger admits that “it’s common and expected for winds to change direction during a given day, particularly from the morning and afternoon hours to the overnight/early morning hours”²⁰; and when asked whether such a wind direction change could influence the spread of a wildfire, he answers in the affirmative.²¹ (Note the testimony above, in which winds shifted—fortuitously, in this case—and changed the course of the Rooster Peak fire.)

Dr. Lautenberger, when asked whether “local topography--peaks, canyons, draws or hollows—that collect cold air could creat [sic] localized variations in wind speed and direction,” he also replied in the affirmative.²² Such features are characteristic of the hills south and west of La Grande, such as Mill Creek Canyon (Morgan Lake Road), Deal Creek Canyon, and Ladd Canyon, and can be easily seen on the southwest corner of the La Grande topographic map.²³ As Joseph W. Mitchell says, “wind velocities tend to vary strongly with elevation, topology, aspect, and geographical location.”²⁴

Dr. Lautenberger also admits the existence of “downslope or upslope winds”²⁵ in which winds “move generally upslope in the morning and early afternoon and then the pattern

²⁰ Lautenberger testimony, Cross Examination Hearing Day 3, Jan. 13 2021 (Tr. Day 3) at p. 49, lines 2—5.

²¹ Ibid., at p. 49, line 9.

²² Lautenberger testimony, Cross Examination Hearing Day 3, Jan. 13 2021 (Tr. Day 3) at p. 50, lines 9-13.

²³ Cooper Sur-Rebuttal Exhibit A, La Grande Quadrangle Map, Dec. 3 2021.

²⁴ Rebuttal Testimony of Christopher Lautenberger Exhibit F, Power Lines and Catastrophic Wildland Fire in Southern California, at p. 5.

²⁵ Lautenberger testimony, Cross Examination Hearing Day 3, Jan. 13 2021 (Tr. Day 3) at p. 50, lines 17-18.

reverse[s] in the late evening and into the overnight hours.”²⁶ When asked whether microclimates, which he defines as “variation[s] in weather patterns over short distances”²⁷ could influence wind direction, he gives a more qualified answer in that they “could affect wind patterns locally,” though the winds affecting wildfire are more commonly driven by “high winds that are driven by pressure gradients.”²⁸

In his sur-sur-rebuttal testimony, Dr. Lautenberger is asked by Ms. Pease, attorney for Idaho Power, whether “localized weather patterns may vary throughout the Grande Ronde Valley,” to which he replies: “Certainly, wind patterns may vary due to accelerations caused by topography. But the Grande Ronde Valley is largely flat.”²⁹ Dr. Lautenberger’s answer is correct, but he was responding to a *misleading question from Ms. Pease*. Of course, the Grande Ronde Valley is largely flat; it is a valley, after all. What my sur-rebuttal actually *said* was: “Thus, this wind data, while useful, cannot be presumed to represent weather patterns *at the mouths of the narrow canyons which drop into the Grande Ronde Valley*.”³⁰ In other words, the localized weather patterns I am referring to occur around the *periphery* of the valley, where the topography rises abruptly in steep hills, cut by ravines and drainages. To use Dr. Lautenberger’s description, it is the very “accelerations [of wind] caused by topography” that is a concern when we assess the risk of wildfire in the hills of southwest of La Grande.

²⁶ Lautenberger testimony, Cross Examination Hearing Day 3, Jan. 13 2021 (Tr. Day 3) at p. 51, lines 1-3.

²⁷ *Ibid.*, lines 6-7.

²⁸ Lautenberger testimony, Cross Examination Hearing Day 3, Jan. 13 2021 (Tr. Day 3) at p. 52, lines 4-10.

²⁹ Lautenberger testimony, Cross Examination Hearing Day 3, Jan. 13 2021 (Tr. Day 3) at p. 39, lines 11-16.

³⁰ Sur-rebuttal Testimony of Matt Cooper, Dec. 3 2021, at p. 5 under item “d”; italics added.

Joseph Mitchell notes that “wind predictions for a given point will be most accurate if they are based on measurements at a station in a proximate location and in a region of similar elevation, slope, and aspect.”³¹ As established in cross examination,³² Idaho Power has never attempted to make wind measurements in the regions of Mill Creek Canyon, which differs in all three of these variables from the monitoring stations at the La Grande Airport.

In relation to wind speed and its effects on the rate of fire spread, Idaho Power attempts to obfuscate when it comes to the application of the 10% wind speed “rule of thumb” which is discussed in Exhibit 16 of my testimony.³³ In Dr. Lautenberger’s rebuttal, Idaho Power asks: “Does this ‘rule of thumb’ suggest an increased fire risk resulting from the Project?” To which Dr. Lautenberger answers: “No. . . the 10% rule of thumb is a first approximation that works best under certain conditions. It is not a guarantee that a fire will spread at 10% of the open wind speed. . . The existence of the ‘rule of thumb’ does not change or increase fire risk from the Project.”³⁴

The question and its answer are both misleading: I never suggested that the presence of a rule of thumb suggested an “increased risk,” but rather *I used it as any “rule of thumb” might be used: to make a rough calculation of the possible rate of spread of wildfire*. This is the point I made in my Direct Testimony. It would be absurd to suggest that it “guaranteed” a fire would spread at a certain rate, nor did I ever do so (in fact, the word “guarantee” does not appear anywhere in my testimony). I merely stated, based on the evidence in Exhibit 16, that such an estimate is a *reliable first approximation*--supported by data from five recent wildfires.³⁵ I did

³¹ Lautenberger Rebuttal Exhibit F, Power Lines and Catastrophic Wildland Fire, at p. 5.

³² Lautenberger Cross Examination, Tr. Day 3, at p. 49, lines 10—17.

³³ Cooper Direct Testimony Exhibit 16, Article on Estimating Rate of Spread for Wildfire.

³⁴ Lautenberger Rebuttal at p. 63, lines 6—10.

³⁵ Cooper Direct Testimony at p. 12.

not state that a rule of thumb by itself would “change or increase risk;” instead, I used it to demonstrate that *under certain conditions, wildfire could quickly spread* from the site of the Project to the edge of La Grande.

To summarize, Idaho Power’s own data show that this region is indeed windy, with winds reaching the high 40 mile per hour range several times yearly and gusts in the 50 mile per hour range. Idaho Power asserts that if a fire started in the Morgan Lake area, we would not have to worry, because “the *predominant wind direction* is from West-Northwest to North. . . Winds *from these directions* would not push the fire into La Grande.”³⁶ While winds blow *most often* from the northwest during May through October, winds do not *always* blow from that direction, and they can--and do--change direction. Topography (draws, ravines, canyons), downslope and upslope winds, and possibly even microclimates all affect wind behavior. Since winds drive the spread of fire, these are significant factors when assessing fire risk in areas surrounding the Grande Ronde Valley—areas such as the Mill Creek canyon (the 1800s’ “Banner Gulch”).

III. History of Fire in the Region and “Fire Season” in the West:

As I pointed out in my Direct Testimony and Evidence, a fire in the Mill Creek Canyon (then known only as “the gulch above the Banner Mill”) occurred in 1868. According to the *Blue Mountain Times* on Aug. 22, 1868, this fire was eerily similar to the Rooster Peak fire in that it began in August, “nearly reached the town, via the gulch above the Banner Mill, and had to be fought for several hours by some of our citizens to keep it out of town.”³⁷ While there is

³⁶ Rebuttal Testimony of Christopher Lautenberger, Nov. 12 2021, at p. 64, lines 9—11; italics added.

³⁷ Direct Testimony of Matt Cooper on Issue PS-4, Sept. 17 2021, at p. 2; Cooper Testimony Exhibit 25 at p. 2.

admittedly only anecdotal evidence of fires burning between 1868 and 1973 in this region,³⁸ the presence of major fires at approximately 100-year intervals suggests that a) Dr. Lautenberger's compilation of data from the past 30 years is inherently inadequate, and b) even leaving aside questions of exacerbation by drought or climate change, dangerous fires can be expected to recur periodically in this region. As shown by news accounts from both fires, they can spread at least to the edge of the city of La Grande.

Dr. Lautenberger uses a definition of fire season in this region as May 1 through October 31: “. . . in this part of the world, fire season, at least as I have defined it here, is roughly May through October . . .”³⁹ As he explains, he chose this definition because “the majority of large fires occur during those late spring/early summer and early fall months”⁴⁰ but he allows that “[t]here are fires in all months of the year.”⁴¹ It should be judicially noted that, as evidenced by the Colorado wildfire incident of Dec. 30, 2021 (which destroyed 1,000 structures and forced over 35,000 people to evacuate), significant wildland fires are occurring outside of the traditional “fire season.” In such a scenario, exposure of local residents to wildfire only increases; perhaps wind speed and direction during November through April should be taken into account as well. Mr. Lautenberger's wind rose diagram provides no data on these other months.

IV. Influence of Topography on Fire Spread:

³⁸ “When we moved to our place on the hills west of La Grande, it was surrounded by a dense forest of mature trees, many over 100” [sic] tall. Of course we were concerned about forest fires, but long-time local residents told us not to worry: ‘There hasn't been a fire around here for 50 years.’” (Cooper Direct Testimony and Evidence, Witness Testimony #1 Lois Barry, p.1/2) Ms. Barry's account implies that she heard this anecdote between 1965 and 1972.

³⁹ Lautenberger testimony, Cross Examination Hearing Day 3, Jan. 13 2022 (Tr. Day 3) at p. 57, lines 20-22.

⁴⁰ Ibid., at p. 58, lines 1-2.

⁴¹ Ibid., at p. 57, line 24.

In Dr. Lautenberger's rebuttal he explains: "Slope is a significant topographical factor affecting fire spread and control. Steep slopes increase the spread rate if a fire is moving uphill. Additionally, steep slopes increase the resistance to control as it is more difficult for hand crews to access a fire."⁴² This statement is indisputably correct; however, as I pointed out in my sur-rebuttal, the rebuttal then goes on to gloss over the steepness of the terrain crossed by the route in critical areas such as the Morgan Lake or Glass Hill regions by presenting "average slope angles"⁴³ In fairness, Dr. Lautenberger's pointed out in his sur-sur-rebuttal that his intent was only to "provide some general background information" in a tabular format.⁴⁴ However, average slope angles as presented in Table 2 are irrelevant; in terms of PS-4 and Fire Protection, *the only relevant slope angles are the ones in the area where a fire may be ignited and fought.*

When asked if "there's steeper slopes present near La Grande compared to other locations in the greater project area," Dr. Lautenberger answers in the affirmative⁴⁵ and then goes on to calculate a slope angle of 15 to 20 percent between the outskirts of La Grande and Morgan Lake.⁴⁶ This is consistent with my Exhibit 1, where one of the plethora of road signs at the entrance to Morgan Lake Road states "Steep Hill 17%."⁴⁷

When asked whether the hills west of the Grande Ronde Valley might be considered as part of the 10% of the analysis area that would have "moderate[ly] high resistance to control and high—very high—influence of spread rate," he reiterates the 15-20% figure but then admits

⁴² Rebuttal Testimony of Christopher Lautenberger, Nov. 12 2021, at p. 10, lines 11-13.

⁴³ Ibid., at p. 12, Table 2, lines 9-10.

⁴⁴ Lautenberger testimony, Cross Examination Hearing Day 3, Jan. 13 2021 (Tr. Day 3), at p. 31, lines 16-20.

⁴⁵ Lautenberger testimony, Cross Examination Hearing Day 3, Jan. 13 2021 (Tr. Day 3) at p. 32, lines 2-7.

⁴⁶ Ibid., at p. 32, line 16.

⁴⁷ Cooper Testimony Exhibit 1.

“there may be some areas that have locally higher slope that could fall into those categories, yes.”⁴⁸

Elsewhere, tiny maps covering huge areas and omitting any familiar reference points give the reader who has never visited this area a false sense of scale; Fig. 3, judging by the map’s scale of miles, appears to cover about 50,000 square miles.⁴⁹ In Fig. 3, the Wallowa Mountain range, home of Oregon’s largest wilderness area (the Eagle Cap Wilderness) and of many of its highest peaks, is visible as a blotch in the upper right; the higher peaks of the Elkhorns are similarly visible, but the lower-elevation and forested Blue Mountains--where the line travels—are all but invisible. In the guise of providing information through such maps--and tables of “average slope angle” over the entire length of the line--Idaho Power over-generalizes, obfuscates and attempts to distract the reader from the on-the-ground reality in specific locations where wildland fire is a legitimate concern. When questioned about Fig. 5⁵⁰ Dr. Lautenberger admits that there are no cities, marked rivers or mountains, or highways, and agrees that “additional landmarks or place marks that would provide some better context to a reader that’s not familiar with the B2H route or Eastern Oregon, yes.”⁵¹

A more useful illustration of the local topography, at least in the areas in question in Issue PS-4, can be seen by simply looking at a USGS (U.S. Geographical Survey) topographical map.⁵² One can easily note the closeness of the contour lines in the hills to the south and west of the valley. Using a device called a Life-Link Topo-Graf, I also demonstrated the presence of

⁴⁸ Lautenberger testimony, Cross Examination Hearing Day 3, Jan. 13 2021 (Tr. Day 3) at p. 62 line 22—p. 63 line 6.

⁴⁹ Rebuttal Testimony of Christopher Lautenberger, Nov. 12, 2021, Figs. 3 and 4, pp. 10—11.

⁵⁰ Rebuttal Testimony of Christopher Lautenberger, Nov. 12, 2021, at p. 15.

⁵¹ Lautenberger Testimony, Cross Examination Hearing Day 3, Jan. 13 2021 (Tr. Day 3), at p. 61 lines 4—18.

⁵² Cooper Sur-rebuttal Exhibit A, La Grande Quadrangle Map, Dec. 3 2021.

grades of 20-25 percent in the region near the power line⁵³; in sur-sur-rebuttal, Dr. Lautenberger, while unable to confirm it, did not dispute those readings.⁵⁴ Focusing on this specific example⁵⁵ (Cooper Sur-Rebuttal Exhibit B), he says:

. . . this is along the B2H—the proposed or Millcreek Route between Glass Hill Road and Bushnell Lane and it’s in a creek drainage. So, of course, the slope there is locally higher than the average grade value that I provided earlier.

But it is important to remember that for every area where the slope is locally higher than the average value, there is a corresponding area where the slope is locally lower than the average value.⁵⁶

To turn this formula on its head, Idaho Power provides only “average” slope values in its tables, which have the effect of flattening out the numbers and the terrain. Locally, steeper slopes (as well as flatter ones) exist, and it is this steeper terrain—the “locally higher than the average grade value”—which contributes to risk of fire spread, and makes fire protection more difficult.

To summarize, local topography is steep enough to be at least “moderately” risky. “Average” topography has no real relevance to the specific topography in the regions near La Grande and Morgan Lake including Mill Creek Canyon/Morgan Lake road and west hills of La Grande.

V. Influence of Vegetation on Fire Spread:

⁵³ Sur-rebuttal Testimony of Matt Cooper, Dec. 3 2021, at pp. 2—3, under item #2.

⁵⁴ Lautenberger Testimony, Cross Examination Hearing Day 3, Jan. 13 2021 (Tr. Day 3), at p. 34, lines 2—4.

⁵⁵ Cooper Sur-rebuttal Exhibit B, Topo-Graf and Contour Lines, Dec. 3 2021.

⁵⁶ Lautenberger Testimony, Cross Examination Hearing Day 3, Jan. 13 2021 (Tr. Day 3) at p. 34, lines 8—17.

When asked on sur-sur-rebuttal whether he agreed with my statements in my Direct Testimony, Dr. Lautenberger said:

Mr. Cooper is correct in that around 44 percent of the surface fuels near the project site, according to my analysis, are characterized by moderate spread rates.

And I would also acknowledge that most of the fuels between Morgan Lake and La Grande would also be consistent with moderate spread rates.⁵⁷

These are part of the “forested areas of the Blue Mountains.”⁵⁸ However, Dr. Lautenberger’s rebuttal bends over backwards to make a case that conditions are different between this region and the area of Paradise, California—understandably, since the Paradise and Camp fires were catastrophic. He makes a strenuous attempt to differentiate between the vegetation types near Paradise, California and La Grande, Oregon: yet another variation on Idaho Power’s theme of “it can’t happen here.” Yet, as Joseph Mitchell says: “While California has a significant exposure to catastrophic power line fires, *it is not unique in this regard*. Lessons learned here will have global applicability in all environments where wind-driven wildland fires are a concern.”⁵⁹ In other words: it *can* happen here.

Elsewhere he says “Mr. Cooper is certainly correct that the B2H line will cross through forested areas in Union County near La Grande. There’s no disputing that.”⁶⁰ But then, apparently, we are to take comfort from the following: “In the area of La Grande, canopy fuels are confined largely to the outskirts of the city and they are not interspersed with structures

⁵⁷ Lautenberger Testimony, Cross Examination Hearing Day 3, Jan. 13 2021 (Tr. Day 3) at p. 30, lines 7—13.

⁵⁸ Rebuttal Testimony of Christopher Lautenberger, Nov. 12, 2021, at p. 6, line 7.

⁵⁹ Lautenberger Rebuttal Exhibit F, Power Lines and Catastrophic Wildland Fire, at p. 12; italics added.

⁶⁰ Lautenberger Testimony, Cross Examination Hearing Day 3, Jan. 13 2021 (Tr. Day 3) at p. 29, lines 8—10.

within the city itself and *this would affect or improve survivability* during a wildland fire; whereas, without this defensible space, *survivability would decrease.*”⁶¹ In other words, our *odds of survival* are better due to the vegetation types in town versus out of town. This is indeed cold comfort for those of us living near the edge of town--and no comfort for those “in the outskirts” of the city, such as the approximately 40 households on Morgan Lake Road, Skyline, Marvin Rd., Glass Hill Road and other such locations. These unlucky souls, apparently, would not benefit from this “improve[d] survivability.”

It’s as if Idaho Power would like us to think that a wildfire would magically stop at the city limits, due to the presence of fewer canopy fuels; however, accounts from the 1973 Rooster Peak fire show how close fires can come to residential areas, and how only a narrow margin separates safety from disaster.

VI. Response Times of Local Fire Agencies:

Response times, as admitted by Dockter’s sur-sur-rebuttal, are significantly longer than the 4-8 minutes⁶² IPC originally stated, and long enough to increase the difficulty of fighting fire. Douglas Dockter, in his sur-sur-rebuttal, was asked whether he agreed with my testimony and evidence, based on the deposition of La Grande Rural Fire Chief Craig Kretschmer, that “the response time for the La Grande Rural Fire Protection District, at the top of Morgan Lake Road,

⁶¹ Ibid., lines 13—18; italics added.

⁶² Table PS-9 (Exhibit 14, ODOE - B2HAPPD0c3 DPO Draft Proposed Order_Combined w Attachments 2019-05-22. Page 515 of 2689) as well as Attachment U, Table U-10 (ODOE - B2HAPPD0c3-38 ASC 21_Exhibit U_PublicServices_ASC 2018-09-28. Page 21 of 143)

could be a *minimum of 17 minutes or as long as 23 minutes.*” His answer was “I do agree with Mr. Cooper’s summary of the response time.”⁶³

This 17-23 minute response time estimate includes 5 to 7 minutes for LGRFPD, which has only one paid employee, to muster a crew. Although Mr. Dockter “agree[s] that there are situations in which it could take 5 to 7 minutes to muster a crew,” he goes on to say that this may not be the case “because they hire seasonal employees to help out with fire response.” Therefore, “if the call comes in to respond to a fire during the time that Chief Kretschmer and the seasonal employee are at the facilities, then they could get into a brush truck immediately. . . .”⁶⁴ Based on this, his assessment is that “5 to 7 minutes could be dropped off the . . . response time.”⁶⁵ Thus:

So to more accurately described [sic] the La Grande Rural Fire Protection District’s response time to the top of Morgan Lake Road, it could be stated that it could be anywhere from 12 to 23 minutes. ⁶⁶

While Mr. Dockter’s reasoning is basically sound, Chief Kretschmer actually said in his deposition: “Well, we put summer help on in the summer, so *there's a chance* that myself and our summer help can jump on a brush truck and go out the door right away. It's kind of going to depend on the type of call that's coming in and what we're, you know, receiving from dispatch.”⁶⁷

⁶³ Douglas Dockter testimony, Cross Examination Hearing Day 3, Jan. 13 2022 (Tr. Day 3) at p. 14, lines 5—12; italics added.

⁶⁴ Ibid., p. 15, lines 1—6.

⁶⁵ Ibid., lines 11-12.

⁶⁶ Ibid., lines 11-17.

⁶⁷ Testimony of Craig Kretschmer in Cooper Direct Testimony Exhibit 6, May 13 2021, p. 16, lines 7—12; italics added.

Chief Kretschmer also says that the 5 to 7 minute estimate to muster a larger crew would be “kind of in the summer in the day.”⁶⁸ (Note: “Summer in the day” seems like exactly the time where one might expect a wildfire.) Elsewhere he says that the time needed to mobilize a crew “totally depends on multiple, multiple factors”.⁶⁹ “It’s just one of those—just depends on who’s working and who’s not. Weekends, we could get, you know, probably quite a few more people there quicker ‘cause, you know, leaving from jobs and stuff like that.”⁷⁰

Based on the uncertainty surrounding the extra staffing during the summer and the presence of “multiple, multiple factors,” it is uncertain that the 5 to 7 minutes should be dropped off the total response time. While a time as low as 12 minutes is certainly possible, given that it depends on “who’s working and who’s not” *a safer estimate would be 17 to 23 minutes*. Since safety—of property, livestock and human life—is at stake, this conservative estimate would be more prudent.

Mr. Dockter correctly notes the mutual aid agreements between LGRFPD, La Grande City Fire Department, and Oregon Department of Forestry and notes that, even if La Grande Rural takes some time to get to the scene, La Grande’s fire department will “likely will be able to respond more rapidly” than LGRFPD. This is presumably based on Chief Kretschmer’s statement regarding the city fire department in which he says there’s “*a really good chance* they’re going to have an engineer there before us.”⁷¹

An additional concern is that Morgan Lake Road is effectively the only way into or out of Morgan Lake Park; in the event of a wildfire could complicate both firefighting and evacuation. As stated in my testimony: “It should be noted that Morgan Lake Road is the only road suitable

⁶⁸ Ibid., p. 15, line 13.

⁶⁹ Ibid., p. 15 line 25—p. 16 line 1.

⁷⁰ Ibid., p. 17, lines 2—6.

⁷¹ Ibid., at p. 16 lines 20-22; italics added.

for passenger vehicles in or out of this area . . . In the event of a fire, emergency vehicles would be traveling up the steep road while neighbors and city park users would be attempting to flee downhill. The road is precipitous, winding, narrow, and frequently washboarded. (See Exhibit 1/1 for a photograph of the entrance to the Morgan Lake road, with its numerous warning signs.)”⁷²

Jim Kreider, a 40-year resident of this neighborhood, testified as to the current state of Morgan Lake Road in terms of emergency egress:

Morgan Lake road used to be passable to Highway 244 to the west but several bridges are out and egress impossible. Marvin and Wood Roads years ago were able to use an old Clark dairy 4 WD roads to access Deal Canyon Road or other 4 WD roads to the east down the slopes into town. They have all grown over are impassable and egress not possible. *There is only one vehicle egress from this area.*⁷³

Or as Chief Kretschmer put it: “It is a dead-end road depending on where the fire is, but there is other ways out if there's fire lower down, you know, out through Glass Hill, some of that kind of thing. Now, *not everybody's vehicle can go that way.*”⁷⁴ In other words, these other routes are “high-clearance” and thus not suitable for passenger vehicles:

But that wouldn't get you any more different routes out. I was more specifically talking about Glass Hill Road. There is a way out going that way and coming out around Ladd Canyon. Now, that is not -- although, if you're local, you probably know that route. *It is*

⁷² Cooper Direct Testimony and Evidence, Sept. 17 2021, at p. 14; Cooper Direct Testimony, Exhibit 1.

⁷³ Testimony of Jim Kreider, Direct Testimony of Matt Cooper on PS-4, Sept. 17, 2021, Witness Testimony #6 at p. 1; italics added.

⁷⁴ Testimony of Craig Kretschmer in Cooper Direct Testimony Exhibit 6, May 13 2021, at p. 21, lines 15-19; italics added.

not a passenger car route, per se, but it is a route in and out of there if there is a fire lower down towards, say, the City of La Grande on that.⁷⁵

VII. Similar problems in other counties: Umatilla, Baker, Morrow

Though my focus has been on the area I am most familiar with (South/Southwest La Grande, Morgan Lake and Glass Hill area, etc.) local governments and fire agencies both east and west of La Grande have expressed similar concerns. From Morrow County:

Much of the proposed transmission line route in Morrow County, while not in forested areas, is still remote with a high risk for fire impacts. The distance from main fire stations within Heppner or Boardman could still require a significant period of time for either fire or emergency response to arrive on scene of an incident. . . Morrow County would request that Conditions requiring the staging of fire response be applied to also address remote areas more generally.⁷⁶

From Baker County Planning Director Holly Kerns:

Lines 2-8 on page 508 [of the Draft Proposed Order] state that lands within the fire district will be covered by mutual aid. While that may be true under ideal circumstances, in areas outside of a fire district or association, there is no guarantee of fire response. The assumptions made in the ASC are therefore not accurate, and cannot be utilized to demonstrate compliance with the public services standard because they do not accurately

⁷⁵ Ibid., p. 48, lines 4-12; italics added.

⁷⁶ ODOE – B2HAPDoc5-1 All DPO Comments Combined-Rec'd 2019-05-22 to 08-22. Page 105 of 6396.

account for the project's impact or the reality of fire response in the project area. Baker County disagrees with the statement that the project will not have significant impacts on fire protection services. . . . As we know from the past few summers, fire risk is already elevated in eastern Oregon even without introducing fire hazards into remote areas. Given the high fire risk and the minimal available public services, IPC needs a more robust Fire Prevention and Suppression Plan.⁷⁷

From Assistant Chief of Baker Rural Fire District, Dan Weitz:

The proposed line represents a clear threat to the ignition of wild land fires along the route whether through mechanical failure or lightning strikes. . .

The Oregon Trail Interpretive Center and surrounding lands are protected by Baker Rural Fire District, a small volunteer fire department that operates 3 stations and 12 fire apparatus on less money than 1 paid firefighter receives as a salary from Baker City. The closest station to the Oregon Trail Interpretive Center has 2 bays which house 2 fire engines, 1 a 1968 Dodge pumper that has no off road capabilities and no enough power to carry its load of water up the hill to the Interpretive Center, the other can make it up the hill but only carries 500 gallons of water and has no off road capabilities. . . . The Interpretive Center . . . hydrants designed to supply water to fight fires were placed underneath the center rendering them useless. The design of the center itself gave no preference to fire prevention or fire suppression . . . If the proposed transmission line is built and we have an event along the path of the B2H line of the magnitude of the Oregon

⁷⁷ ODOE – B2HAPPDoc5-1 All DPO Comments Combined-Rec'd 2019-05-22 to 08-22. Page 94 of 6396

Trail fire we have no hope of suppressing it with old fire apparatus and unmanned station before it consumes the Interpretive Center.⁷⁸

From Scott Stanton, Fire Chief at Umatilla County Fire District #1 in Hermiston:

Looking at the map of the proposed line our average response to the transmission line either on HWY 207 or Buttercreek road would be approx. 25 minutes in good weather and roads. So, their 5-6 minutes is obviously way off.

. . . **We have no specialized training in fighting transmission fires.**

. . . No equipment for transmission line fires.

Our dozer could navigate most lands except for severely steep topography. The small type 5/6 brush engines are ok for some off road to an extent but are limited. The problems these engines face are steep terrain, sandy ground, deep ditches and getting flat tires on severe rocky grounds. . . While I have generally the equipment to get to most areas of the proposed line in Umatilla County its [sic] personnel which is the problem. Not enough paid or volunteers to fight large fires.⁷⁹

VIII. 500 kV Power Lines and Fire Ignition:

Dr. Lautenberger's testimony and rebuttal insists that 500 kV lines are unlikely to ignite a fire, due to "stricter engineering requirements, higher tower heights, and wider rights-of-way."⁸⁰

⁷⁸ 2020-08-28-B2HAPP-Contested-Case-Petitions, page 192-196.

⁷⁹ Stacia Webster, Amended Response to Discovery Request on Issue PS-10, Aug. 31, 2021, Exhibit 13.

⁸⁰ Rebuttal Testimony of Christopher Lautenberger, Nov. 12, 2021 at p. 75, lines 14-15.

As proof, he offers the fact that “500 kV transmission lines were implicated in only one *large* fire (Ramsay Canyon) . . .”⁸¹ “The Ramsey Canyon fire burned in southern Oregon—near the town of Eagle Point—in August 2018. The fire eventually reached approximately 1,888 acres, prompted evacuation warnings, and destroyed one outbuilding.” “The fire ignited near the base of a tower that was part of PacifiCorp’s Dixonville-to-Meridian 500 kV transmission line. PacifiCorp did not concede that the transmission line caused the fire but agreed to pay \$3.4 million to settle the allegations from the investigation.”⁸²

Elsewhere, he reports that *three* smaller fires were started by 500 kV lines in California in about a six-month period of 2020. Pacific Gas & Electric (PG&E) reported three 500 kV ignitions in a period of roughly six months between June 4 and November 11, 2020.⁸³ Two of the fires were reportedly caused by equipment failure and one by “Contact by Object;” that object later turned out to be a balloon, presumably “a metallic Mylar balloon, which is a known way arcing can occur on power lines.”⁸⁴

In the rebuttal, he was asked “Why was this information not included in your direct testimony?” and answered: “At the time my direct testimony was filed, *fire incident data were only available from 2014-2019*. The 2020 data were released after my direct testimony was filed.”⁸⁵

The obvious question arises: if fire incident data was also available from California Public Utilities Report for 2014-19--which like the report from 2020 would have included data on fires ignited by any sort of power lines including 500 kV--*why was it not included?* If it was not

⁸¹ Ibid., at p. 63, line 19; italics added.

⁸² Lautenberger Rebuttal, at p. 31, lines 11-18.

⁸³ Ibid., at p. 32, line 8—p. 33, line 1.

⁸⁴ Lautenberger testimony, Tr. Day 3, at p. 42 lines 5—7.

⁸⁵ Lautenberger Rebuttal at p. 34, lines 2—4; italics added.

included anywhere in the B2H Case Record, *why* not? What other fires may have been ignited by 500kV lines in California prior to 2020, and why is this data being withheld by Idaho Power in its Application?

Searching further, we find yet another fire ignited by a 500 kV lines in Dr. Lautenberger’s testimony on issues PS-8 and PS-9: “The 2015 Snow Creek Fire, which was ignited when a skyline from a Southern California Edison (“SCE”) 500 kV line broke and fell to the ground south of Highway 111 near Palm Springs. Aerial and ground resources were dispatched and the fire was contained at approximately 25 acres.”⁸⁶

What, then, do we know of the potential of 500 kV transmission lines to ignite fires? We can say for certain that we have three fires started by PG&E lines in California from 2020; one California fire started by SCE lines in 2015; and one fire implicated in Oregon by PacifiCorps in 2018. We apparently do not have the California Public Utilities Report from prior to 2020 (which could tell us of other fires besides the 2015 fire). The applicant has provided some data from Oregon and California (none from other states). But this data alone show that high voltage transmission lines have ignited at least 4-5 fires in the last seven years. Nonetheless, Idaho Power reassures us that such fires are “unlikely.”

IX. Response to ODOE’s Rebuttal and Response to Proposed Site Certificate

Conditions:

I AGREE with the Oregon Department of Energy position wherein the applicants should be “required to conduct a preconstruction evaluation of the information presented in ASC Exhibit U Table U-10 for the La Grande Rural Fire Protection District (“LGRFPC”) and obtain updated information from LGRFPD to inform the type and amount of necessary onsite fire-

⁸⁶ Direct Testimony of Christopher Lautenberger on Issues PS-8 and PS-9, Sept. 17, 2021, at p. 51, lines 15—18.

fighting equipment during construction and operation; whether mutual service agreement or [sic] needed; and whether additional restrictions are needed given resource or response time limitations, during high risk seasonal conditions (*e.g.*, high temperatures, drought and high winds) in Union County.”⁸⁷

I DISAGREE with ODOE’s statement which reads: “Mr. Cooper does not explain how an interface score from a community plan, developed in 2005 - over 15 years ago - to support the evaluation of wildfire risk and rural and urban development in Union County, is relevant to the present evaluation of potential wildfire risk associated with the proposed facility.”⁸⁸ In the cycle of forest ecology and wildland fire, 15 years is a very short time. While some things may have improved (“several pieces of equipment” have been obtained through a MOU with the Forest Service, and programs such as FIREWISE may have contributed to an “increase [in] public awareness and responsibility”), other gains seem more modest--a “loss of funding may jeopardize the [county’s co-op prevention] program”—or non-committal: “efforts are being made to build upon rural fire department training needs. . .”⁸⁹ Meanwhile, the basic underlying conditions remain—and with drought and climate change, may have actually become more risky --in the past 15 years. There are the same access barriers, the same vegetation types, similar slow response issues, and the same danger to homes, people and livestock—only now there are more homes and more people. Thus, it still seems significant to me that this region was declared the #1 WUI in Union County in 2005.

⁸⁷ ODOE Rebuttal to Direct Testimony, Evidence and Response to Proposed Site Certificate Conditions, Nov. 12, 2021, at p. 78.

⁸⁸ ODOE Rebuttal at p. 79.

⁸⁹ ODOE Rebuttal at pp.79-80.

Examining other portions of the Case Record, it seems contradictory that ODOE would object to my use of a 2005 planning document above or in addition to a 2016 one. In the Idaho Power's rebuttal on Issue R-4, we find the following:

In her testimony, Ms. [Lois] Barry asserts that Idaho Power's methodology for assessing visual impacts was flawed *because the Company applied the 1974 Visual Management System instead of the more recent USFS methodology, the 1995 VMS. Q. Is Idaho Power required to apply the 1995 SMS? A. No.* EFSC does not require any specific methodology for assessing visual impacts. In fact, the Hearing Officer has already issued a ruling concluding that Idaho Power's decision not to apply all aspects of the USFS SMS does not invalidate the Company's visual impacts assessments.⁹⁰

I disagree with ODOE's statement that "Mr. Cooper did not submit Exhibit 16 and therefore it is not possible to evaluate the merits of the purported fact re: rate of wildfire spread."⁹¹ Although I experienced some technical problems with sending Exhibits on Sept. 17, 2021, I did find the email in which I at least attempted to send Exhibit 16. I also submitted a response to IPC's objections on Oct. 6, 2021 along with what I believed to be any missing exhibits. If I am in error, I apologize. I do not remember any party filing objections based on missing evidence in regard to Exhibit 16, and in fact this Exhibit—a journal article addressing the "rule of thumb" of the rate of fire spread being roughly 10% of wind speed—is acknowledged and discussed at length in Dr. Lautenberger's rebuttal (see Part II above).⁹²

⁹⁰ Rebuttal Testimony of Louise Kling on Issues SR-2, SR-3, SR-7, R-1, R-2, R-3, and R-4, Nov. 12, 2021, at page 128; italics added.

⁹¹ ODOE Rebuttal at p. 84.

⁹² Lautenberger Rebuttal to Issues PS-2, PS-3, PS-4, PS-10 and LU-9, at p. 62 line 16—p. 64 line 17.

I AGREE with ODOE's Recommendation to Amend Public Services Condition 6 as follows:

Identify specific seasonal work restrictions, onsite fire-fighting equipment and necessary fire protection resources based on: 1) documented evaluation of reasonably available sources related to wildfire risk and sensitive seasonal conditions such as high temperatures, drought and high winds; and, 2) updated information obtained from the LGRFPD on the number of full-time and volunteer employees, number and type of equipment/vehicles, and response times to the facility. Response time must consider LGRFPD crew mobilization time and access limitations (e.g., road condition, level of service and impact of multi-users from Morgan Lake Park, residents and emergency services).⁹³

X. Site Certificate Conditions:

I originally proposed the following conditions:

If the B2H line is ever built, it would be foolish to build it using the Morgan Lake route or the Mill Creek Alternative. However, if this were to be the case, I request that a Site Condition be added of locating the line underground. The line should be undergrounded through all five counties in Oregon, since they are categorized as Fire Weather Hazard 3. Any part of the line that travels through a WUI or a WUIZ (WUI Zone) in Union County, or any of the other four counties, should definitely be buried underground; in fact, undergrounding of existing powerlines has already been recommended in the 2014 Northeast Oregon Natural Hazard Mitigation Plan, but not implemented (Exhibit 17 at p.

⁹³ ODOE Rebuttal, p. 84.

B-10). Or as expert witness Joann Harris Rode says: “Powerline fires are challenge and the only way to avoid them is to bury the transmission lines in the ground.” (Joann Harris Rode, Expert Witness #3 Testimony, pp. 2 of 3)⁹⁴

ODOE rebutted as follows:

Mr. Cooper’s proposed condition is unnecessary and unsupported by his testimony, facts and evidence. While his testimony and facts are supportive of wildfire risk within Union County and from transmission line operations, none of his testimony, facts or evidence are specific to undergrounding. The design, construction, operation and decommissioning of an underground route options has not been proposed or evaluated by the applicant in the ASC, or by the Department and therefore is not available as a potential mitigation option.⁹⁵

XI. Closing Statement on Site Conditions:

In addition to agreeing with ODOE in their imposing conditions in Part VIII above, I also still strongly believe that the B2H line, if it is built, should follow the BLM Preferred Route. The Morgan Lake and Mill Creek alternatives should NOT be approved. However, if either of these routes ARE approved, I stand by my convictions that undergrounding should be used in any fire-prone areas.

Regarding undergrounding, Dennis Johnson’s rebuttal says: “. . . Mr. Cooper proposes undergrounding the Project throughout all five Oregon counties that the Project would cross. Extrapolating the \$55-\$112 million per mile costs from the Class 4 estimate, undergrounding the

⁹⁴ Direct Testimony of Matt Cooper at p. 16.

⁹⁵ ODOE Rebuttal, p. 85.

entire 296.6-mile length of the Project would cost approximately \$16.3-33.2 billion.”⁹⁶ I agree with the Applicant that this figure is astronomical, but that actually supports my argument to either 1) cancel the project completely and find other alternatives, such as fire-hardening and re-conductoring power lines running through existing rights-of-way; or 2) build the B2H line on the BLM Preferred Route.

As an additional site condition, I would also request the following, based on a proposal originally made in 2010 by the Baker County Fire Defense Board: that if the line is built, the Applicant fully fund a Multi-Agency Fire and Emergency Response Station to be located at the Baker City Municipal Airport. “This station was proposed in the comments and the NEPA Study to provide space for apparatus, training, temporary housing for fire crews, and coordinating space for the fire districts, US Forest Service, Bureau of Land Management, and those contractors providing helicopter and single engine air tanker (SEAT) services to the region.”⁹⁷

XII. CONCLUSION:

Given the fact that this route travels through steep, rugged, and often difficult-to-access terrain, and that this region experiences winds which can be unpredictable and drive a fire at high speed; given that there is already a history of fire in this immediate area as evidenced by fires in 1868 and 1973, both of which burned very near to La Grande; given that local firefighting agencies may not be able to reach the site for as much as 20 minutes; given that even 500 kV steel towers do come with some degree of fire risk (several documented ignitions in the last two decades in Oregon and California, including one by a Mylar balloon), I conclude that the Applicant has not adequately analyzed the wildfire risk or the capacity of firefighting protection

⁹⁶ Rebuttal Testimony of Dennis Johnson, Nov. 12, 2021, at p. 38, lines 2—5.

⁹⁷ 2020-08-28-B2HAPP-Contested-Case-Petitions, page 192-196.

associated with this Project. Thus, the Project poses a significant adverse impact to the providers of fire protection, and it would be in violation of OAR 345-022-0110.

CERTIFICATE OF MAILING

On Feb. 28, 2022, I certify that I filed the foregoing **Closing Brief** with the Hearings Coordinator via electronic mail, and with each party entitled to service, as noted below.

/s/

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Matthew J. Cooper, Pro Se Petitioner

**BEFORE THE OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF OREGON**

for the

OREGON DEPARTMENT OF ENERGY

IN THE MATTER OF:) **RESPONSE BRIEF OF Matthew J. Cooper**
)
BOARDMAN TO HEMINGWAY) **ON ISSUE PS-4 Fire Protection**
TRANSMISSION LINE)
)
OAH Case No. 2019-ABC-02833

Issue PS-4: Fire Protection: *Whether Applicant adequately analyzed the risk of wildfire arising out of operation of the proposed facility and the ability of local firefighting service providers to respond to fires.*

This project is in violation of Oregon Administrative Rule 345-022-0110, which requires that the construction and operation of the facilities “are not likely to result in significant adverse impact to the ability of public and private providers within the analysis area described in the project order to provide: sewers and sewage treatment, water, storm water drainage, solid waste management, housing, traffic safety, police and *fire protection*, health care and schools.”

I. INTRODUCTION:

After reviewing the Closing Arguments of IPC (and/or ODOE), Matt Cooper respectfully submits the following response brief. Mr. Cooper’s evidence is persuasive, and therefore demonstrates and meets the preponderance of evidence burden on this issue. The ASC and proposed site conditions—as modified in the Oregon Department of Energy’s (“ODOE”)

Proposed Order—do not satisfy the Council’s siting standards. ALJ Greene-Webster should recommend denial of the site certificate.

II. RESPONSE TO APPLICANT’S CLOSING BRIEF

a. The Applicant has failed to provide a preponderance of evidence that the Project will not increase the risk of wildfire.

In the Applicant’s Closing Argument, they state that 500-kV transmission lines are “very unlikely” to cause fires.¹ Yet, they admit that in a 2008 ruling, the California Public Utilities Commission (CPUC) documented one such fire, and they admit to five confirmed instances and one other possible but unconfirmed instance according to their own analysis.² Despite their risk assessment of “very unlikely,” such fires *have* been documented; thus, it stands to reason that the introduction of such a 500-kV line *would indeed increase the risk of wildfire*. Their assertion that the risk is “less than significant”³ is unpersuasive, since they provide no mathematical or statistical definition of what “significance” means in this context.

b. The Applicant has *not* adequately analyzed the risk of wildfire in Union County.

As I pointed out in my Closing Brief,⁴ the Applicant’s “more thorough analysis” of local fire history only goes back 30 years, and it significantly omits the 1973 Rooster Peak fire, which has been called “the largest and most destructive in recent history.”⁵ As documented in newspaper accounts, the fire burned in Southwest La Grande--near the proposed route of the

¹ Applicant Idaho Power Company’s Closing Arguments for Contested Case Issues PS-2, PS-3, PS-4, PS-5, PS-8, PS-9, and PS-10, at p. 21, line 2.

² *Ibid.*, at p. 22, lines 7—14.

³ *Ibid.*, at p. 23, line 7.

⁴ Closing Brief of Pro Se Petitioner Matt Cooper on PS-4, at p. 3.

⁵ Cooper Direct Testimony and Evidence Exhibit 4, Union County Community Wildfire Protection Plan 2005, at p. 18.

Project--destroyed homes and other structures along Morgan Lake Road, and burned close to the hospital and residences within the city limits.⁶ The Applicant asserts that “Any Fire Occurring Within the County Would Likely Be Contained at a Small Size,”⁷ and yet the Rooster Peak fire burned 6,000 acres. It burned for days, despite being fought by professional firefighters, bombers and helicopter crews, and 1,500 volunteers.⁸

The Applicant’s Closing Brief makes the conclusory statement that “a large fire is less likely to occur now than it was 50 years ago.”⁹ Since the data they gathered only goes back to 1992,¹⁰ there is no foundation whatsoever to this statement. In fact, under Cross-Examination, Dr. Lautenberger, when asked if he would agree that Table 3 *does not show any changes in the number of wildfires per month*, replies: “No. This table being a sum by month *cannot show any trends* in the number of wildland fires.”¹¹

Indeed, such a statement flies in the face of the realities we are all now facing, such as global climate change and prolonged drought in the Western United States. It should be judicially noted that two recent wildland fires in Colorado--the NCAR fire, which burned 19,000 acres on March 26, 2022, or the Marshall Fire on Dec. 30, 2021--offer continued evidence of this. Climate change and prolonged drought are two factors which the Applicant made no attempt whatsoever to include in their “thorough analysis.”

⁶ Cooper Direct Testimony and Evidence Exhibits 2 and 3 (Observer Rooster Peak, Recalling the Fire of 1973 La Grande Observer).

⁷ Idaho Power Closing Arguments, at p. 23, lines 11-12.

⁸ Cooper Closing Brief on PS-4, p. 3.

⁹ Idaho Power Closing Arguments, at p. 24, line 10.

¹⁰ Idaho Power/Rebuttal Testimony of Christopher Lautenberger/Issues PS-2, PS-3, PS-4, PS-10 and LU-9, Table 3 (Cumulative number of fires by month between 1992 and 2018), at p. 14.

¹¹ Christopher Lautenberger Testimony, Cross Examination Day 3 (Tr. Day 3), Jan. 13 2022, at p. 59, lines 16-21; italics added.

c. The Applicant’s Response to Concerns about Steep Topography in the Vicinity of the Project Is Unpersuasive.

In their Closing Brief, the Applicant claims that in the Morgan Lake region, the steep slopes near the city “would actually *decrease* the speed of a fire spreading from the Project toward the City.”¹² First, they claim that “steep slopes increase the spread rate of a fire *only* if the fire is moving uphill.”¹³ *The word “only” does not appear in the citation by their expert witness, whose actual statement was the following: “Slope is a significant topographical factor affecting fire spread and control. Steep slopes increase the spread rate if a fire is moving uphill. Additionally, steep slopes increase the resistance to control as it is more difficult for hand crews to access a fire.”*¹⁴

To bolster their claim that the power line’s siting in a higher elevation than the city would “actually decrease the speed of a fire,” the applicant then cites Sur-Sur-Rebuttal testimony from the Cross-Examination of Mr. Lautenberger, where Dr. Lautenberger states that “since fire travels faster uphill than downhill and Morgan Lake is higher than La Grande, if a fire were ignited in proximity to the B2H line by Morgan route, this downhill slope would actually reduce the fire spread rate as it moves toward La Grande.”¹⁵ He cites no evidence to support this, nor does he mention other possible factors such as down-slope winds. Tellingly, he does *not* say that fires *only* travel uphill—he merely asserts that the slope angle would “reduce the fire spread rate *as it moves toward La Grande.*” Implicit in this statement is the possibility that a fire *would be* moving toward La Grande--whether or not at a “reduced” rate. One should bear in mind that

¹² Ibid., at p. 26, lines 10—11.

¹³ Ibid., at lines 8-9; italics added.

¹⁴ Idaho Power/Rebuttal Testimony of Christopher Lautenberger/Issues PS-2, PS-3, PS-4, PS-10 and LU-9 at p. 10, lines 11-13.

¹⁵ Christopher Lautenberger Testimony, Cross Examination Day 3 (Tr. Day 3), Jan. 13 2022, at p. 33, lines 7—11.

Morgan Lake is *only about 2 miles* from the La Grande city limits, and that there are approximately 40 residences in this region, *outside* the city limits.

d. The Applicant’s Analysis of Wind Speed and Fire Risk Is Unpersuasive.

Mr. Cooper addressed the issue of the prevailing wind direction at length, and he discussed the various other factors which can influence wind speed and direction, in his Closing Brief. He continues to stand by his testimony and closing arguments.¹⁶

e. The Applicant Has Not Adequately Analyzed the Time Actually Required for De-Energization of the Line in Event of Fire.

The Applicant claims that “in the event a fire occurs near the Project, Idaho Power can de-energize the transmission line remotely in a matter of seconds to facilitate fire response, which will minimize the risk of arcing.”¹⁷ While it may indeed be true that the line could be de-energized “in a matter of seconds,” the record shows that those seconds only begin *after* the power company is notified: “If the transmission line does need to be de-energized for firefighting efforts or other safety reasons such as equipment that could contact the conductors, *once contacted* the operator can perform this action in a matter of seconds.”¹⁸

How long the process of notification might take, or how much the fire might advance during the time this takes, is still unclear. In his deposition, La Grande Rural Fire Protection District (LGRFPD) Chief Craig Kretschmer was asked about notifying a utility to request de-

¹⁶ Cooper Closing Brief on PS-4, at pp. 4—9 (Section II).

¹⁷ Idaho Power Closing Arguments at p. 29, lines 3—5.

¹⁸ Idaho Power Rebuttal Testimony of Douglas J. Dockter, Issues PS-4, PS-10, and LU-11 at p. 13, lines 6—8; italics added.

energization of a line. He was unable to give any estimate about the time required to notify the utility:

Q . . . Let's talk about procedures that you might be aware of for notifying a utility, say Idaho Power in this case, to deenergize a line so that you can safely (indiscernible) fire.

A So that's going to go through our dispatch center. Any -- any time that we're dealing with a power company, gas company, they're the ones making the contact to line them up to get things shut down.

Q So the -- the call would have to come from Idaho Power to say that we have a fire here and --

A No, our dispatch center.

Q Okay.

A So 9-1-1, when people call it in --

Q Yeah.

A -- and I say, "Can you notify the power company?" And they'll be able to call those or we could go through Oregon Emergency Management, that type of thing.

Q Can you estimate how long it would take to deenergize a line from the time that the power company was called by dispatch or OEM to the time crews could safely (indiscernible) fire?

*A I cannot speak to the amount of time. That's totally company line dependent, where it's at, why there was a fire, you know, that type of thing.*¹⁹

¹⁹ PRO SE PETITIONER MATTHEW COOPER, ISSUE PS-4, DIRECT EVIDENCE, EXHIBIT 6: Deposition of Fire Chief Craig Kretschmer, taken May 13, 2021, at p. 18 line 22— p. 19 line 21. Italics added.

Elsewhere in the same transcript, under follow-up questioning from Pro Se Petitioner Stacia Webster, Chief Kretschmer was again reluctant to give any estimate of the time required for notification:

Q So I wanted to start by following up the question that you were asked about deenergizing a transmission line and how long that may take. I --and I don't think I -- I got your answer on that one. Did -- did you have an estimate for how long that might take after you notify the power company?

A I do not, mainly because it depends on the type of, you know, fire, the type of agency you're dealing with. Are you dealing with a -- you know, 'cause transmission line's a pretty broad -- you know, we have local companies that could be at work that day that it could be five minutes. *I have never dealt with a fire that I personally have had to shut down major transmission lines through our area, so I do not have a good estimate on that.*²⁰

f. The Applicant's Assessment of Response Capabilities of Fire Response Organizations is Flawed.

The Applicant still appears to stand by its original claims that the original response times of "4 to 8 minutes" given by (now retired) LGRFPD Chief Larry Wooldridge were correct: ". . . the limited parties' challenges to that estimated response time must fail for two reasons." Mr. Cooper continues to stand by his stated position that LGRFPD *cannot* respond in the stated "4 to 8 minutes," for the following three reasons:

²⁰ Kretschmer Deposition, at p. 34 line 19—p. 35 line 9; italics added.

First, even the Applicant's own expert witness, Douglas Dockter, agreed with Mr. Cooper's analysis of response times to a fire in the Morgan Lake area.²¹ (This analysis estimates a response time of 17 to 23 minutes—not 4 to 8 minutes--from LGRFPD).

Second, Mr. Cooper provided data of actual emergency response times²² which showed that, averaging the response times of a variety of vehicles (using the available, and unfortunately somewhat limited data), the average was 10 minutes 21 seconds.

Third, the current LGRFPD Chief, Craig Kretschmer, testified under oath to the effect that the response times in that location from the La Grande Rural fire station would be significantly higher than the 4 to 8 minute estimate; even a brush tender (also known as a "brush truck," "brush engine," or "brush rig"--essentially a Ford F-550 pickup truck) would take 12 to 16 minutes.²³

The Applicant's "second reason," that the area has a mutual aid agreement and that City of La Grande or Oregon Department of Forestry (ODF) crews may be on the scene of a fire before LGRFPD, has somewhat more merit. However, it is not as crystal-clear as it is represented by the Applicant; note that the City of La Grande typically protects the *actual Morgan Lake Park* (which, in an unusual circumstance, is city-owned yet *outside* the city limits). As Chief Kretschmer put it: "*The park, itself*, is dual protected with Oregon Department

²¹ Cooper Closing Brief on PS-4, pp. 15-16; Douglas Dockter testimony, Cross Examination Hearing Day 3, Jan. 13 2022 (Tr. Day 3) at p. 14, lines 5—12.

²² Direct Testimony of Matt Cooper on PS-4, at p.13/20; Cooper Direct Testimony and Evidence Exhibit 8.

²³ Direct Testimony of Matt Cooper on PS-4, at p.13/20; Kretschmer Deposition, pp. 9-10. For Kretschmer's description of a "brush truck" ("a brush truck is just an -- essentially, a 550 pickup, so, you know, we're not talking, you know, great, big, wide loads"), Kretschmer Deposition, p. 11, lines 18-20.

of Forestry. And it is owned by La Grande Fire or the City of La Grande, so La Grande Fire and Oregon Department of Forestry fire (indiscernible).”²⁴ Or as Kretschmer says elsewhere:

So Morgan Lake and Morgan Lake Park, the surrounding areas around it are owned by the City of La Grande. Therefore, La Grande Fire is the -- is one of the primary agencies. Now, it's dual protected with the Oregon Department of Forestry. And so how that usually works is, you know, on the wildland side, they're going to take the lead on that. So, you know, if it's a trailer fire up there, that'll be, like, you know, if somebody's camping there type thing or a vehicle fire, that'll be more on the -- the La Grande Fire side.²⁵

Conclusion

The ALJ should grant Mr. Cooper’s petition for issue #PS-4 and recommend that EFSC deny the site certificate. However, if a site certificate is granted, the site conditions must be as robust as possible to protect the citizens of the State of Oregon. The ODOE Closing Brief identifies amendments to Public Services Condition 6, yet these do not go far enough to protect the public:

Identify specific seasonal work restrictions, onsite fire-fighting equipment and necessary fire protection resources based on: 1) documented evaluation of reasonably available sources related to wildfire risk and sensitive seasonal conditions such as high temperatures, drought and high winds; and, 2) updated information obtained from the LGRFPD on the number of full-time and volunteer employees, number and type of equipment/vehicles, and response times to the facility. Response time must consider LGRFPD crew mobilization

²⁴ Kretschmer Deposition, at p. 8, lines 2—6; italics added.

²⁵ Kretschmer Deposition, at p. 12, line 13—p. 13 line 5.

time and access limitations (e.g., road condition, level of service and impact of multi-users from Morgan Lake Park, residents and emergency services).²⁶

In conclusion, the ALJ should recommend that EFSC deny the site certificate. Barring that, any portion of the line crossing the Morgan Lake WUI or other similarly-sensitive areas should be buried underground.

²⁶ ODOE Closing Brief, Feb. 28, 2022, at p. 127/222.

CERTIFICATE OF MAILING

On March 30, 2022, I certify that I filed the foregoing RESPONSE BRIEF with the Hearings Coordinator via electronic mail, and with each party entitled to service, as noted below.

_____/s/_____

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Matthew J. Cooper, Pro Se Petitioner

EXHIBIT 202

**Stop B2H Coalition Direct Testimony, Fuji Kreider
Exhibit 10, Declaration Gilbert**

OAH Case No. 2019-ABC-02833

Date: September 17, 2021

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

IN THE MATTER OF:) **Declaration of Irene Gilbert on ISSUES**
) **NC-2 and NC-3.**
BOARDMAN TO HEMINGWAY)
TRANSMISSION LINE) OAH Case No. 2019-ABC-02833
)

My name is Irene Gilbert and I live at 2310 Adams Avenue, La Grande, Oregon. On July 30, 2020 I drove with Mary McCracken (La Grande resident and friend) to observe the site where monitoring results were taken and applied to multiple additional locations as base noise measurements.

I met Mr. Rod Ritchie residing at this noise monitoring post 11 (MP11). The location is right next to a paved road that was the highway between Pendleton and La Grande prior to the freeway going in. There is a dirt road taking off from the main road at the noise measurement location that had ATV traffic on it which could be heard at the location. In addition, approximately 100 yards from the house there is a 4 wheel drive or ATV road coming down from the transmission line and entering the paved highway.

I asked the owner of the property, Mr. Ritchie if he was familiar with Morgan Lake Park. He said yes. I asked how he felt the noise level at his home compared to the park. He stated that it was way noisier at his house. I asked if he would be willing to write a statement to that effect. He said if I would write it, he would sign it. I did that and he signed it (see below the photographs, included to this declaration.)

I then took four or five pictures: one of the paved road in front of his house, one of the dirt road that takes off at this location which had ATV's using it, one showing other cabins near the house, one taken in the direction of the railroad tracks. I then took a video for a little over a minute to record the sound of the trains. The owner said when it is really quiet, they get maybe 5 trains a day. When they are busy, there can be 14, 15 or more.

The photographs I took on that day follow. The video with sound recording is linked here: <https://drive.google.com/file/d/1JLrEajrEByYnTMKwK7jL-jJmpxfvk7my/view?usp=sharing>
I have no other way to send the file to you. I hope the video works. Please listen to the end of the clip to hear Mr. Ritchie speak.



Photo toward railroad tracks from the house.



Photo of the back of the house looking toward the railroad tracks.

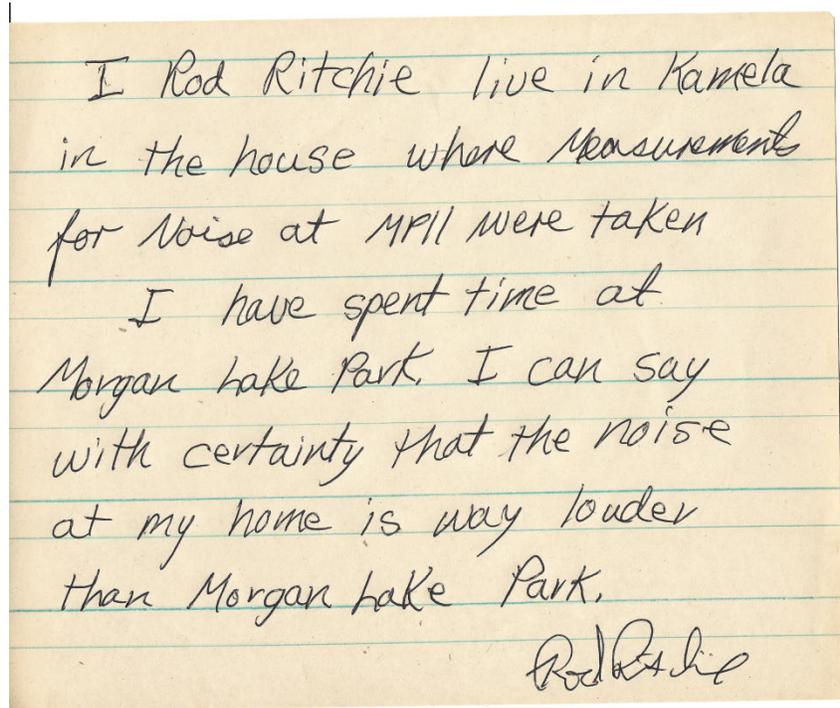


Photo of the dirt road with ATV track



Photo of main road in front of the house

Mr. Rod Ritchie's statement:



I Rod Ritchie live in Kamela
in the house where measurements
for noise at M11 were taken
I have spent time at
Morgan Lake Park. I can say
with certainty that the noise
at my home is way louder
than Morgan Lake Park.
Rod Ritchie

I hereby declare that the above statements are true to the best of my knowledge and belief, and that I understand they are made for use as evidence in administrative and court proceedings and are subject to penalty for perjury.

Dated this 17th day of September, 2021.

/s/ Irene Gilbert
Irene Gilbert

EXHIBIT 203

**Attachment X-4. Revised Tabulated Summary of Acoustic Modeling Results
by Receptor Location**

**APPLICATION FOR SITE CERTIFICATE
REVISED MARCH 30, 2022**

Final Order, EFSC, Attachment X-4

**ATTACHMENT X-4
TABULATED SUMMARY OF ACOUSTIC MODELING RESULTS BY
RECEPTOR LOCATION**

Attachment X-4. Revised Tabulated Summary of Acoustic Modeling Results by Receptor Location

NSR Sequential Number	Receptor ID	Receptor Status	Distance from Receptor to the Transmission Line (ft)	Project Transmission Line Milepost	County	UTM Coordinates (m)		Associated Monitoring Position	Late Night Baseline Sound Pressure Level (dBA)	Predicted Sound Level (dBA)		Foul Weather Increase over Late Night Baseline (dBA)
						Easting	Northing			Fair Weather*	Foul Weather	
1	1008	Residence	1,673	1	Morrow	296,829	5,078,967	MP39	50	10	35	-
2	1009	Residence	1,148	1	Morrow	296,681	5,079,106	MP39	50	12	37	-
3	new	Residence	1,837	17.9	Morrow	295,456	5,052,088	MP05	27	10	35	+8
4	new	Residence	3,232	27.9	Morrow	311,219	5,050,286	MP05	27	8	33	+6
5	new	Residence	3,556	28.1	Morrow	311,442	5,050,316	MP05	27	8	33	+6
6	1176	Residence	2,657	33.2	Morrow	318,872	5,046,093	MP05	27	9	34	+7
7	New-1	Residence	2,884	49.7	Umatilla	335,681	5,030,287	MP06	25	9	34	+10
8	New-2	Residence	2,139	58.9	Umatilla	350,487	5,030,937	MP06	25	11	36	+11
5000	5000	Residence	2267	58.9	Umatilla	350,515	5,030,973	MP06	25	10	35	+10
5001	5001	Residence	2352	58.9	Umatilla	350,544	5,031,003	MP06	25	10	35	+10
5002	5002	Residence	2,067	58.9	Umatilla	350,575	5,030,912	MP06	25	11	36	+11
9	New-3	Residence	1,834	59.6	Umatilla	351,608	5,029,688	MP06	25	11	36	+12
10	New-4	Residence	1,834	59.6	Umatilla	351,608	5,029,688	MP06	25	11	36	+12
11	New-5	Residence	1,398	59.7	Umatilla	351,805	5,030,667	MP06	25	13	38	+13
12	new	Residence	2,684	64	Umatilla	358,711	5,030,227	MP28	30	9	34	+6
13	new	Residence	2,221	64.2	Umatilla	358,940	5,030,005	MP28	30	10	35	+6
14	New-6	Residence	1,096	64.7	Umatilla	359,251	5,029,655	MP28	30	14	39	+9
15	new	Residence	2,428	64.8	Umatilla	360,178	5,029,105	MP28	30	10	35	+6
16	new	Residence	4,032	67.2	Umatilla	363,067	5,029,396	MP28	30	9	34	+5
17	new	Residence	2,569	75.7	Umatilla	374,908	5,035,471	MP08	41	10	35	-
18	123	Residence	919	78.5	Umatilla	377,967	5,038,280	MP09	35	16	41	+7
19	128	Residence	2,192	79.8	Umatilla	379,730	5,039,276	MP09	35	12	37	+4
20	118	Residence	1,483	82.9	Umatilla	384,896	5,038,241	MP09	35	14	39	+5
21	108	Residence	2,116	88.8	Union	390,861	5,032,259	MP11	32	13	38	+6
22	111	Residence	2,218	88.9	Union	390,956	5,032,288	MP11	32	12	37	+6
23	107	Residence	1,785	89	Union	391,084	5,032,153	MP11	32	14	39	+7
24	266	Residence	1,555	89	Union	391,099	5,032,083	MP11	32	14	39	+8
25	106	Residence	1,883	90.9	Union	393,171	5,029,402	MP11	32	13	38	+7
26	265	Cabin	1,260	91.6	Union	393,869	5,029,058	MP11	32	15	40	+8
29	257	School/Correctional Facility	1,867	99.1	Union	402,712	5,021,145	MP 100	31	12	37	+7
36	blank	Residence	1,175	105	Union	411,360	5,018,085	MP 101	36	15	40	+6

Attachment X-4. Revised Tabulated Summary of Acoustic Modeling Results by Receptor Location

NSR Sequential Number	Receptor ID	Receptor Status	Distance from Receptor to the Transmission Line (ft)	Project Transmission Line Milepost	County	UTM Coordinates (m)		Associated Monitoring Position	Late Night Baseline Sound Pressure Level (dBA)	Predicted Sound Level (dBA)		Foul Weather Increase over Late Night Baseline (dBA)
						Easting	Northing			Fair Weather*	Foul Weather	
37	blank	Residence	2,733	105.3	Union	411,775	5,017,526	MP 101	36	11	36	+3
38	blank	Residence	1,962	105.8	Union	413,069	5,018,465	MP 102	32	12	37	+6
39	blank	Residence	1,339	105.8	Union	412,939	5,018,324	MP 102	32	14	39	+7
40	blank	Residence	2,402	105.9	Union	413,382	5,018,048	MP 102	32	11	36	+5
5003	5003	Residence	1225	105.9	Union	413,012	5,018,123	MP 102	32	15	40	+8
41	blank	Residence	1,650	106	Union	413,170	5,017,950	MP 102	32	16	41	+9
42	blank	Residence	2,949	106.1	Union	411,871	5,017,363	MP 101	36	14	39	+5
43	blank	Residence	1,978	106.1	Union	413,329	5,017,731	MP 102	32	15	40	+8
44	blank	Residence	1,627	106.1	Union	413,205	5,017,785	MP 102	32	16	41	+9
45	blank	Residence	2,024	106.2	Union	412,192	5,017,242	MP 101	36	16	41	+6
46	blank	Residence	991	106.2	Union	413,066	5,017,539	MP 102	32	18	43	+11
47	blank	Residence	1,345	106.3	Union	412,401	5,017,259	MP 101	36	18	43	+8
48	blank	Residence	2,152	106.3	Union	412,204	5,017,039	MP 101	36	15	40	+6
49	blank	Residence	1,247	106.3	Union	413,179	5,017,410	MP 102	32	17	42	+10
50	blank	Residence	1,791	106.3	Union	413,355	5,017,402	MP 102	32	15	40	+9
51	blank	Residence	3,130	106.4	Union	412,104	5,016,572	MP 100	31	13	38	+8
52	blank	Residence	2,461	106.4	Union	412,287	5,016,666	MP 101	36	15	40	+5
53	blank	Residence	1,759	106.4	Union	412,342	5,016,992	MP 101	36	16	41	+7
54	blank	Residence	1,900	106.4	Union	412,352	5,016,874	MP 101	36	16	41	+6
55	blank	Residence	3,041	106.6	Union	412,252	5,016,409	MP 100	31	14	39	+8
5004**	5004	Residence	338	106.7	Union	413,027	5,016,731	MP 101	36	21	46	+11
537	537	Residence	3,436	107.5	Union	414,796	5,016,231	MP 102	32	10	35	+4
56	blank	Residence	3,035	107.8	Union	413,460	5,014,689	MP 100	31	14	39	+8
5005	5005	Residence	3219	107.9	Union	413,341	5,014,758	MP 100	31	10	35	+5
57	blank	Residence	1,939	110.3	Union	417,831	5,013,289	MP 103	43	12	37	-
58	blank	Residence	1,306	110.9	Union	418,035	5,012,267	MP 103	43	14	39	+1
59	blank	Residence	1,581	111.7	Union	418,564	5,011,176	MP 103	43	13	38	+1
60	blank	Residence	2,349	111.7	Union	418,791	5,011,237	MP 103	43	11	36	-
61	blank	Residence	2,858	111.9	Union	419,051	5,011,007	MP 103	43	10	35	-
62	blank	Residence	3,035	112.6	Union	419,517	5,009,994	MP 103	43	9	34	-
63	blank	Residence	958	112.6	Union	418,948	5,009,711	MP 103	43	15	40	+2

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NSR Sequential Number	Receptor ID	Receptor Status	Distance from Receptor to the Transmission Line (ft)	Project Transmission Line Milepost	County	UTM Coordinates (m)		Associated Monitoring Position	Late Night Baseline Sound Pressure Level (dBA)	Predicted Sound Level (dBA)		Foul Weather Increase over Late Night Baseline (dBA)
						Easting	Northing			Fair Weather*	Foul Weather	
64	blank	Residence	1,106	115.4	Union	420,229	5,005,549	MP13	48	15	40	-
65	blank	Residence	1,854	119.4	Union	423,413	4,999,692	MP13	48	12	37	-
66	91	Residence	2,106	120.5	Union	424,119	4,998,514	MP13	48	12	37	-
67	blank	Residence	997	123.7	Union	428,499	4,995,702	MP14	33	16	41	+8
68	85	Residence	2,083	124.1	Union	428,330	4,994,572	MP14	33	12	37	+5
69	83	Residence	1,467	142.6	Baker	439,860	4,968,035	MP15	27	14	39	+12
70	82	Residence	1,053	142.7	Baker	439,993	4,967,946	MP15	27	15	40	+14
71***	-1	Residence	1,335	144.3	Baker	440,661	4,965,581	MP15	27	14	39	+13
72	80	Residence	3,320	144.3	Baker	440,057	4,965,541	MP15	27	10	35	+9
73	78	Residence	2,923	145.2	Baker	440,273	4,963,747	MP15	27	10	35	+9
5012***	5012	Residence	1552	147.1	Baker	439,939	4,961,807	MP15	27	14	39	+12
74	1262	Residence	2,582	153.7	Baker	439,029	4,951,743	MP16	41	11	36	+1
75	523	Residence	1,591	153.8	Baker	439,265	4,951,957	MP16	41	13	38	+2
76	blank	Residence	2,323	154.1	Baker	439,590	4,951,522	MP16	41	12	37	+1
77	1266	Residence	2,707	154.4	Baker	439,982	4,951,168	MP16	41	11	36	+1
78	72	Residence	1,371	154.9	Baker	440,872	4,951,166	MP16	41	14	39	+2
79	71	Residence	860	155.2	Baker	441,403	4,951,092	MP16	41	17	42	+4
80	1269	Residence	3,058	155.6	Baker	441,686	4,950,225	MP16	41	11	36	+1
81	blank	Residence	2,431	156	Baker	442,416	4,950,110	MP16	41	12	37	+1
82	227	Residence	2,182	159.9	Baker	448,178	4,948,130	MP17	41	12	37	+1
83	68	Residence	2,205	162.3	Baker	452,311	4,947,967	MP09	35	12	37	+4
84	1714	Residence	2,881	166.2	Baker	455,371	4,943,302	MP17	41	10	35	+1
5010	5010	Residence	1,170	174.2	Baker	459,026	4,932,158	MP35	24	16	41	+17
85	36	Residence	1,473	185.2	Baker	473,610	4,921,457	MP25	46	13	38	-
86	34	Residence	1,578	185.3	Baker	473,678	4,921,255	MP25	46	12	37	-
88	873	Residence	705	198.5	Malheur	482,540	4,903,638	MP32	41	19	44	+5
89	876	Residence	443	198.7	Malheur	482,856	4,903,318	MP32	41	21	46	+7
90	877	Residence	505	199.1	Malheur	483,155	4,902,774	MP32	41	21	46	+6
91	936	Residence	2,375	199.8	Malheur	482,565	4,901,562	MP33	34	10	35	+3
92	887	Residence	2,434	215.2	Malheur	478,340	4,879,805	MP35	24	10	35	+12
93	888	Residence	2,283	216	Malheur	477,194	4,879,669	MP34	24	10	35	+11

Attachment X-4. Revised Tabulated Summary of Acoustic Modeling Results by Receptor Location

NSR Sequential Number	Receptor ID	Receptor Status	Distance from Receptor to the Transmission Line (ft)	Project Transmission Line Milepost	County	UTM Coordinates (m)		Associated Monitoring Position	Late Night Baseline Sound Pressure Level (dBA)	Predicted Sound Level (dBA)		Foul Weather Increase over Late Night Baseline (dBA)
						Easting	Northing			Fair Weather*	Foul Weather	
94	891	Residence	1,801	216.2	Malheur	476,768	4,879,627	MP34	24	12	37	+12
95	890	Residence	2,070	216.3	Malheur	476,735	4,879,525	MP34	24	11	36	+12
518	518	Residence	2734	216.4	Malheur	296,829	5,078,967	MP34	24	10	35	+11
96	892	Residence	1,470	216.5	Malheur	476,299	4,879,547	MP34	24	13	38	+13
97	929	Residence	1,693	216.5	Malheur	475,893	4,880,423	MP34	24	12	37	+13
98	925	Residence	1,102	216.8	Malheur	475,509	4,880,072	MP35	24	14	39	+15
99	895	Residence	1,768	216.9	Malheur	475,678	4,879,196	MP35	24	12	37	+13
100	896	Residence	2,119	217	Malheur	475,620	4,879,057	MP35	24	11	36	+12
101	899	Residence	673	217	Malheur	475,459	4,879,468	MP34	24	17	42	+17
102	924	Residence	607	217.3	Malheur	474,932	4,879,676	MP35	24	17	42	+18
103	915	Residence	2,575	217.4	Malheur	474,051	4,879,545	MP35	24	10	35	+11
104	916	Residence	1,598	217.4	Malheur	474,382	4,879,621	MP35	24	12	37	+14
105	919	Residence	745	217.4	Malheur	474,630	4,879,540	MP35	24	16	41	+17
106	904	Residence	2,621	217.7	Malheur	475,377	4,878,437	MP35	24	10	35	+11
107	905	Residence	2,474	217.9	Malheur	474,640	4,878,052	MP35	24	10	35	+12
108	911	Residence	2,119	218.1	Malheur	474,307	4,878,073	MP35	24	11	36	+12
109	913	Residence	2,595	218.1	Malheur	473,894	4,879,450	MP35	24	10	35	+11
110	914	Residence	2,648	218.1	Malheur	473,920	4,879,474	MP35	24	10	35	+11
5011	5011	Residence	780	227.1	Malheur	460,787	4,874,759	MP35	24	17	42	+18
111	1415	Residence	2,746	253.5	Malheur	484,633	4,844,659	MP35	24	10	35	+11
5008	5008	Residence	1,340	254.7	Malheur	485,767	4,843,757	MP35	24	13	38	+14
5009	5009	Residence	2,060	254.7	Malheur	485,808	4,843,997	MP35	24	11	36	+12
112	1420	Residence	1,732	254.9	Malheur	486,262	4,843,852	MP35	24	12	37	+13
133	133	Residence	890	255.4	Malheur	486,617	4,842,858	MP35	24	15	40	+16
113	1422	Residence	3,087	263.7	Malheur	492,765	4,831,089	MP35	24	9	34	+11

Attachment X-4. Revised Tabulated Summary of Acoustic Modeling Results by Receptor Location

Morgan Lake Alternative

NSR Sequential Number	Receptor ID	Receptor Status	Distance from Receptor to the Transmission Line (ft)	Project Transmission Line Milepost	County	UTM Coordinates (m)		Associated Monitoring Position	Late Night Baseline Sound Pressure Level (dBA)	Predicted Sound Level (dBA)		Foul Weather Increase over Late Night Baseline (dBA)
						Easting	Northing			Fair Weather*	Foul Weather	
114	blank	Residence	3,031	1.9	Union	403,831	5,018,094	MP 100	31	10	35	+5
115	blank	Residence	659	6.1	Union	410,100	5,016,605	MP 100	31	21	46	+15
116	blank	Residence	2,989	6.7	Union	411,682	5,016,649	MP 100	31	14	39	+8
117	98	Cabin	2,549	6.7	Union	410,416	5,015,531	MP 100	31	15	40	+9
118	100	Residence	1,499	6.7	Union	410,654	5,015,745	MP 100	31	17	42	+11
119	blank	Structure, Multi-purpose shed	935	6.8	Union	410,895	5,015,727	MP 100	31	20	45	+14
120	blank	Residence	2,897	6.8	Union	411,725	5,016,555	MP 100	31	14	39	+8
121	1237	Structure, General-purpose building	1,079	6.9	Union	410,912	5,015,638	MP 100	31	19	44	+13
122	blank	Residence	2,579	7.1	Union	412,010	5,016,071	MP 100	31	15	40	+9
123	blank	Residence	2,618	7.1	Union	411,979	5,016,127	MP 100	31	14	39	+9
124	blank	Residence	2,953	7.1	Union	412,025	5,016,230	MP 100	31	14	39	+8
125	blank	Residence	1,378	7.4	Union	411,384	5,014,946	MP 100	31	18	43	+12
126	blank	Residence	3,081	8.3	Union	413,366	5,014,719	MP 100	31	14	39	+8
127	blank	Residence	2,077	9.1	Union	413,861	5,013,840	MP 100	31	13	38	+7
128	blank	Residence	1,926	9.1	Union	413,858	5,013,792	MP 100	31	13	38	+8
129	blank	Residence	1,936	9.1	Union	413,823	5,013,810	MP 100	31	13	38	+8
130	blank	Residence	2,297	9.2	Union	413,986	5,013,859	MP 100	31	12	37	+7
131	blank	Residence	3,071	11	Union	414,566	5,010,723	MP 100	31	12	37	+7
132	blank	Residence	1,060	12.3	Union	416,014	5,008,955	MP 100	31	17	42	+11
535	535	Residence	2,249	9.7	Union	413,762	5,012,340	MP 100	31	13	38	+7
536	536	Residence	3,160	7.7	Union	412,811	5,015,417	MP 100	31	10	35	+6
538	538	Residence	3,195	7.1	Union	412,241	5,016,101	MP 100	31	10	35	+6
133	133C	Campsite	2,758	6.1	Union	410,853	5,017,342	MP 100	31	15	40	+9
134	134C	Campsite	2,711	6.1	Union	410,859	5,017,318	MP 100	31	15	40	+9
135	135C	Campsite	1,681	6.1	Union	410,675	5,017,062	MP 100	31	17	42	+11
136	136C	Campsite	2,614	6.1	Union	410,861	5,017,277	MP 100	31	15	40	+9
137	137C	Campsite	2,517	6.1	Union	410,853	5,017,245	MP 100	31	15	40	+9
138	138C	Campsite	2,403	6.1	Union	410,842	5,017,209	MP 100	31	15	40	+9
139	139C	Campsite	2,180	6.1	Union	410,808	5,017,149	MP 100	31	16	41	+10
140	140C	Campsite	2,116	6.1	Union	410,792	5,017,137	MP 100	31	16	41	+10

Attachment X-4. Revised Tabulated Summary of Acoustic Modeling Results by Receptor Location

Morgan Lake Alternative

NSR Sequential Number	Receptor ID	Receptor Status	Distance from Receptor to the Transmission Line (ft)	Project Transmission Line Milepost	County	UTM Coordinates (m)		Associated Monitoring Position	Late Night Baseline Sound Pressure Level (dBA)	Predicted Sound Level (dBA)		Foul Weather Increase over Late Night Baseline (dBA)
						Easting	Northing			Fair Weather*	Foul Weather	
141	141C	Campsite	2,243	6.1	Union	410,820	5,017,164	MP 100	31	16	41	+10
142	142	Recreation Area	1,015	6.4	Union	410,852	5,016,644	MP 100	31	19	44	+13
143	143	Recreation Area	934	6.4	Union	410,898	5,016,569	MP 100	31	20	45	+14
144	144	Recreation Area	1,681	6.5	Union	411,108	5,016,684	MP 100	31	17	42	+11
145	145	Recreation Area	1,899	6.5	Union	411,150	5,016,736	MP 100	31	16	41	+11
146	146	Recreation Area	1,999	6.5	Union	411,184	5,016,746	MP 100	31	16	41	+10
147	147	Recreation Area	1,075	6.3	Union	410,707	5,016,794	MP 100	31	19	44	+13
148	148	Recreation Area	1,058	6.4	Union	410,843	5,016,671	MP 100	31	19	44	+13
149	149	Recreation Area	1,280	6.2	Union	410,626	5,016,944	MP 100	31	18	43	+12
150	150	Recreation Area	1,204	6.2	Union	410,674	5,016,878	MP 100	31	19	44	+13
151	151	Recreation Area	804	6.3	Union	410,658	5,016,726	MP 100	31	21	46	+15
152	152	Recreation Area	900	6.4	Union	410,819	5,016,630	MP 100	31	20	45	+14
153	153	Recreation Area	400	6.4	Union	410,670	5,016,554	MP 100	31	24	49	+18
154	154	Recreation Area	1,272	6.4	Union	410,985	5,016,628	MP 100	31	18	43	+12
155	155	Recreation Area	2,130	6.5	Union	411,171	5,016,807	MP 100	31	16	41	+10
156	156	Recreation Area	1,465	6.1	Union	410,572	5,017,065	MP 100	31	18	43	+12
157	157	Recreation Area	1,611	5.9	Union	410,373	5,017,328	MP 100	31	17	42	+11

Notes:

Receptor IDs are provided for ease in cross-referencing older documentation. An incremental increase presented as (-) signifies that the future increase as a result of the Project is predicted to be less than 1 dBA when considered cumulatively with the baseline condition. The incremental increase is obtained by first logarithmically adding the Predicted Foul Weather Sound Level to the Late Night Baseline Sound Pressure Level. The Late Night Baseline Sound Pressure Level is then arithmetically subtracted from this total to quantify the incremental increase. Note that sound pressure levels cannot be added together linearly. For example, a baseline sound pressure level of 25 dBA plus a received sound pressure level of 33 dBA does not equal 58 dBA; rather, using logarithmic addition, the resultant sound pressure level would be 34 dBA. Sound levels in this table are reported in whole decibels.

* Predicted fair weather sound levels are 25 dBA below predicted foul weather sound levels. Fair weather values in Attachment X-4 have been corrected where applicable.

** IPC's review of Google Earth imagery could not confirm that NSR-5004 is a residence. Nevertheless, as a conservative measure, IPC has designated NSR-5004 as a residence and as an exceedance for the purposes of this review.

***When considered in isolation, IPC's modeling shows NSR-71 is expected to have an estimated noise increase of +13 A-weighted decibels (dBA). However, there is an existing transmission line located between NSR-71 and the Project, and after taking into account the predicted foul weather corona noise from the existing line, the Project does not result in an exceedance at NSR-71. Similarly, when considered in isolation, NSR-5012 is expected to have an increase of +12 dBA; but when the noise from the nearby existing 230-kV line is considered as part of the baseline, the Project does not result in an exceedance at NSR-5012. Therefore, NSR-71 and NSR-5012 are not expected to result in exceedances after the noise from the existing transmission lines is taken into account.

Grey font indicates receptors that *are not* NSRs for purposes of determining compliance with ODEQ's Ambient Antidegradation Standard. See OAR 340-035-0035(1)(b)(B)(i) (the Ambient Antidegradation Standard); OAR 340-035-0015(38) (definition of "noise sensitive property").

Red font indicates foul weather increase for residence over late night baseline of or greater than 11 dBA.

dBA = A-weighted decibel

ft = feet

ID = identification

m = meter

MP = milepost

NSR = noise sensitive receptor

ODEQ = Oregon Department of Environmental Quality

UTM = Universal Transverse Mercator

EXHIBIT 204

Stop B2H Coalition Surrebuttal Testimony of Fuji Kreider
On Issues NC-2, NC-3, NC-4
And
Exhibits B, C, and D

OAH Case No. 2019-ABC-02833
Date: March 19, 2023

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

IN THE MATTER OF:)
) **SURREBUTTAL TESTIMONY OF FUJI**
BOARDMAN TO HEMINGWAY) **KREIDER ON ISSUES NC-2, NC-3, NC-4**
)
TRANSMISSION LINE) OAH Case No. 2019-ABC-02833
)

The purpose of this testimony is to address new information introduced by Idaho Power Company (IPC) and the Oregon Department of Energy (ODOE), their witnesses, and my evidence to the contrary. The following testimony is limited to newly introduced information.

IPC's consultant Mark Bastasch conducted supplemental noise monitoring at four Union County locations, in what seems to be an attempt to compare conditions at several different locations to Monitoring Position (MP) 11. These new locations hereafter referred to as:

- MP 100: Lester Property near Morgan Lake
- MP 101: Beaver Creek water pipeline off of Marvin Rd.
- MP 102: City Reservoir off of Skyline Drive
- MP 103: Stowell - Exit 268 I-84

As described by our acoustical expert's report (Exhibit A, Kerrie Standlee Rebuttal Testimony Review) it is important to gather qualitative observations of sounds and locations, in addition to the equipment data collection. I wanted to provide observations and take photos per best practices; however IPC kept that information confidential until we could agree to conditions which I described below and Exhibit B, in reference to Lisa Rackner's declaration. On November 9, 2021 Jim Kreider and I set out to find the equipment locations and make observations of their surroundings: visual, photographs and video. These are our observations and/or commonly known information about the MP locations. I also saw a person pick up the equipment on Marvin Rd on Saturday, Nov. 13, 2021 and I went to examine the area further, as I knew it was a wildlife corridor. I took more photos and those are attached below as well.

MP 100: Is the only MP that is near the Morgan Lake Alternative, contrary to the experts' statements, the other three are closer to the proposed route (Mill Creek). It is an exceptionally windy location with no residents living there, although there is a utility shed on the property. It rests at the top of the ridge above the City of La Grande and the top of Morgan Lake Road. As the photos show, the equipment was located near the base of a clump of trees. While not a very densely treed area, the trees to the east of this location are dense and the notorious wind creates excessive noise. It should be

mentioned that the NSR's (campsites) at Morgan Lake Park are not visible from this location because the lake is downhill and nestled in a less windy area than at the crest of the hill at MP 100.





MP 101: I am familiar with this sight most intimately because it is 135 feet off of my road (Marvin, not Wood Rd, as stated by Mr. Bastasch), about 320 feet from my neighbors' house, and approx 400 feet from Morgan Lake Road. This MP would have certainly been better placed had Idaho Power been a little more patient and asked permission from landowners on Marvin Road as we suggested.

At this site, we observed a number of things, primarily:

- the proximity to the two roads (stated above),
- the equipment is surrounded by brush and many trees,
- the solar panel attached to the equipment was partially in the brush and as the wind blew it was striking the panel,
- it was sitting directly over the Beaver Creek water pipeline where we have heard water flowing during heavy rains and when the city is conducting tests and pushing water through it. We didn't hear any water flow on that day.
- finally, it was directly in the wildlife path which gets heavy use year round but especially in the fall while elk are in rut. (These last 2 photos were taken after the equipment was removed, when we better surveyed the area, along with the neighbor.)



Brush near panel and tripod legs



MP101 Approching the monitor from road.



Deer path looking west; taken from the MP equipment location after it was removed.



Deer path looking east; Marvin Rd below; taken after equipment was removed.

MP102: This is the site of one of the city’s water reservoirs. It has a big water tank and a maintenance building. While it is situated among the pine forested area and likely impacted by winds, the equipment itself was set up in a gravel parking area near the building and no brush.

We wondered about the water tank and maintenance building and if there were any sounds coming from it at specified times which could affect the data. We contacted the city (see attached Exhibit C: an email exchange with Public Works Director, Kyle Carpenter, mayor and city manager of City of La Grande. We learned that there were some days/times during the monitoring period that sounds were present. This site was not well chosen if it is intended to be representative of other NSRs in the area. This is why, without observations of the monitored area, the reliability of the data becomes suspect.



City water tank and one side of the maintenance building



Parking area with equipment

MP103: It is not clear why this monitoring position was used. Mr. Bastasch’s testimony claims: “MP 103 was established to represent the NSRs located in the La Grande valley and those that may be closer to major transportation corridors, such as Interstate 84.” (p 65/70 @2-4). However, the MP 103 location is nearly at the I-84 Foothill Road exit/on-ramp and not near the residences on Foothill Road that would be impacted by the B2H. The NSR residences on the valley floor on Foothill Road are about a mile from the interstate, as compared with MP 103 which is 1,600 feet (.3 miles) from the on ramp. Either way, my concern is that if the sounds from these Foothill Road residences or at MP 103 are being averaged into the data, this would be an inappropriate.

I did not get close to the equipment at MP 103 because it’s on private property and the people were not home. The images below as well as the video show the proximity to the Interstate, whereas the B2H proposed route would be in the foothills.



The declaration of IPC attorney Lisa Rackner, includes an Exhibit with a series of emails between herself and the Stop B2H attorney Karl Anuta in an attempt to acquire permission to do supplemental noise monitoring (mentioned above) at Mr. Greg Larkin's home, then at my home. Saving the full and drawn out story, suffice to say it took about a week for us to secure permission and agree to technical monitoring conditions. However, in the meantime, IPC chose other locations described above. See additional information in Exhibit B, attached.

In the department's testimony of Mr. Kosky, p. 13, A#27, regarding corona noise under humid conditions. I would like to add my direct observation about corona noise in this sworn statement, because similar to Kerrie Standlee's observation, I also have direct observation of the buzz and crackle of transmission, right here in Union County, from my home.

For four years, from 1987 to 1991, I lived at 2204 Gekeler Lane in La Grande, with the 230 kV line in our back pasture. This line hummed often but especially at dawn and dusk when the dew point was changing, but more so in the morning hours as evening condensation was burning off. I feel that there is a total

disregard for rural lifestyles. Can you imagine all the ranchers and farmers getting up and feeding livestock or doing other chores that they tend to do every morning? Now, those that live near the line will be joined by industrial sounds. While we may not have a lot of rain in eastern Oregon, we have plenty of dew, fog and moisture, especially in the morning hours.

Attached:

Exhibit A – Report from Kerrie Standlee to Stop B2H Coalition.

Exhibit B – Supplemental Information on new MP locations

Exhibit C – Email exchanges with the City of La Grande and Jim/Fuji Kreider

Exhibit D – Video of MP 103.

I hereby declare that the above statements are true to the best of my knowledge and belief, and that I understand they are made for use as evidence in administrative and court proceedings and are subject to penalty for perjury.

Dated this 3rd day of December, 2021.

/s/ Fuji Kreider
Fuji Kreider

CERTIFICATE OF MAILING

On December 3, 2021, I certify that I filed the foregoing SUREBUTTAL TESTIMONY OF FUJI KREIDER with the Hearings Coordinator via electronic mail, and with each party entitled to service, as noted below.

/s/ Mike J. Sargetakis
Mike J. Sargetakis
Attorney for STOP B2H Coalition

By: Hand Delivery:

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

By: Electronic Mail:

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EXHIBIT B:

Supplemental information regarding the sound monitoring requests of IPC and selection of locations.

Sometime during the first week of October, I was informed about IPC's request to conduct supplemental sound monitoring at Greg Larkin's place. When that was delayed or pending, an alternative request was made for monitoring at my home. I was very overwhelmed at the time as Jim and I were hosting a big celebration of life on the 23rd with 20 out-of-town campers; and in preparation, had scheduled major septic, electrical, and chain-saw work to take place in the next two weeks—the exact times that IPC requested access to our property.

Jim and I attempted to assist with the situation and did the following:

- 1) I offered to contact neighbors, close to the two Union County routes and my home, to see if they would be willing to allow monitoring.
- 2) Jim offered to go to Greg Larkin's home and directly discuss the monitoring request in attempt to gain permission for IPC.

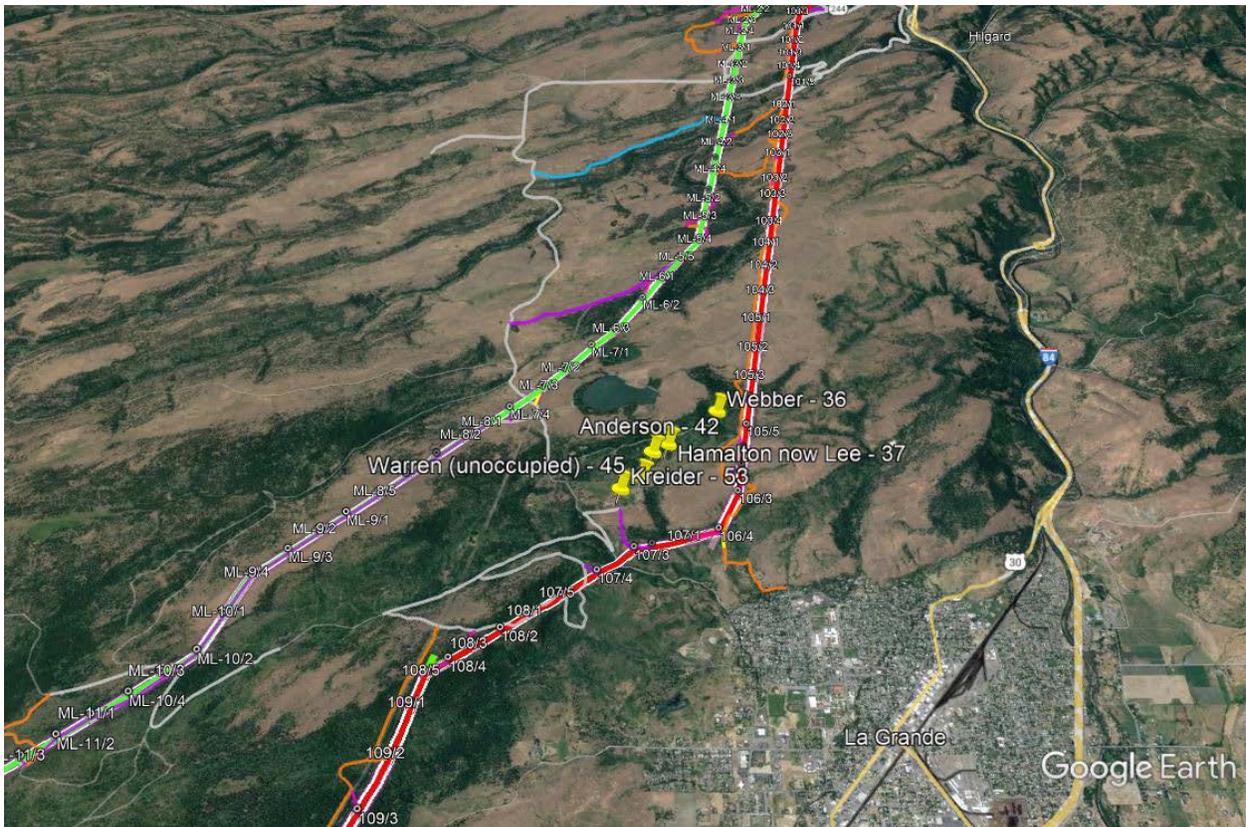
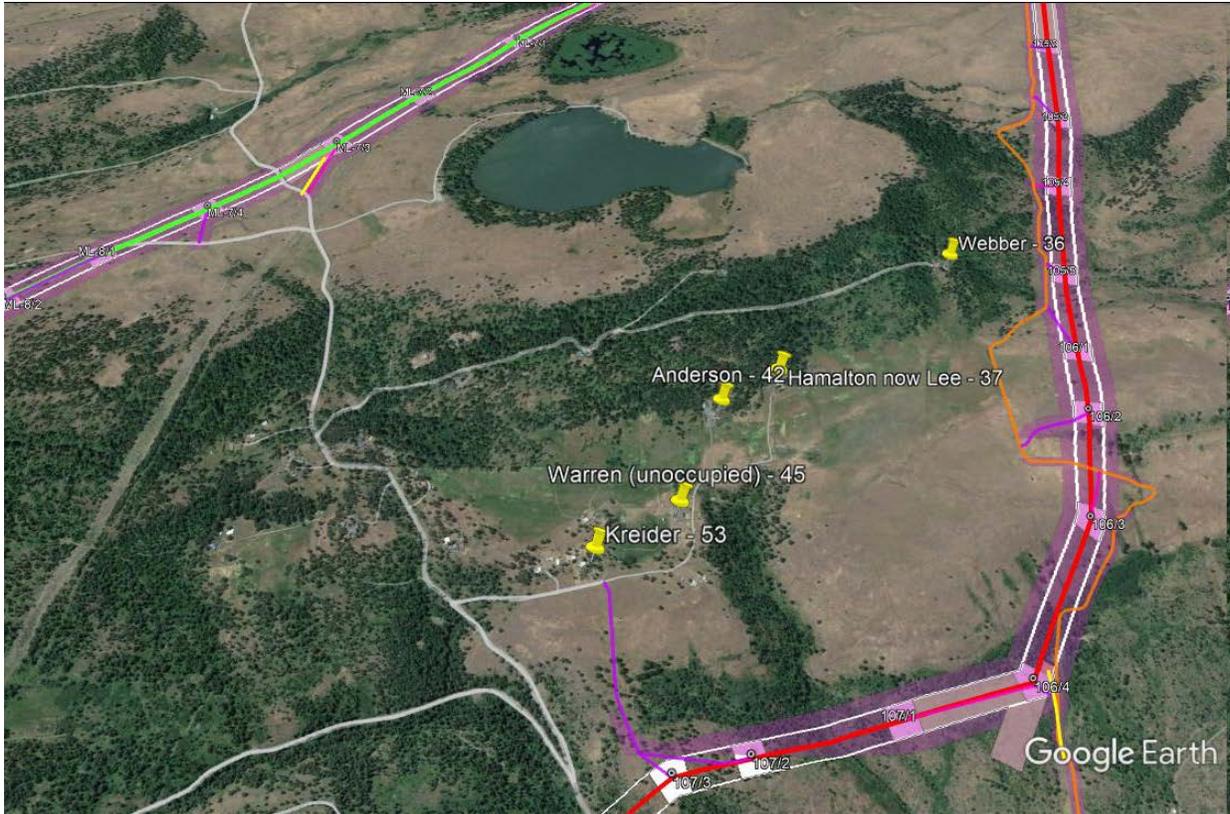
Below are the names of the homeowners I suggested and their corresponding number. I've also placed them on a google earth screen shot.

Weber - 36

Hamilton now Lee - 37

Anderson - 42

Warren - 45 - vacant at the time



By Thursday 10/7, Jim Kreider got Greg Larkin to agree to have the monitoring at his home, but apparently it was not quick enough for IPC or they changed their minds. See Lisa Rackner's declaration Exhibit A email exchange.

Fast forward to November 8th, after back and forth communications among attorneys, an agreement about disclosure of the confidential locations was reached. We were given the coordinates of the supplemental monitoring locations, so observations could be made as I described in my Surebuttal testimony.

I engaged Jim Kreider to assist me with GPS and finding the locations to do the observations. We plotted the new MP locations on google earth and got the names of the owners from a hunting app. My first glance was that they've moved them closer to town to monitor for the Mill Creek route and to pick up the city, interstate, and railroad background noise. We did not contact any owners at this point as we were under the confidentiality agreement. Below are google earth maps with the MP sites marked. The maps also have Greg Larkin and the MP11 (Kamela) locations marked for reference. I tried to give a couple of views.

Big picture image 1. Upper left is Kamela and MP 11 on the Richie property next to the train tracks and road -- image 2a/b. Image 3 is a cluster of 4 properties. Greg Larkin noise sensitive property and MP 100 Lester on the southeast side of Morgan Lake Road are both on the Morgan Lake route. The easterly properties are MP 101 just off of Marvin Rd, on the city's Beaver Creek water pipeline right of way. MP 102 is a city covered reservoir.

Image 1-Big Picture

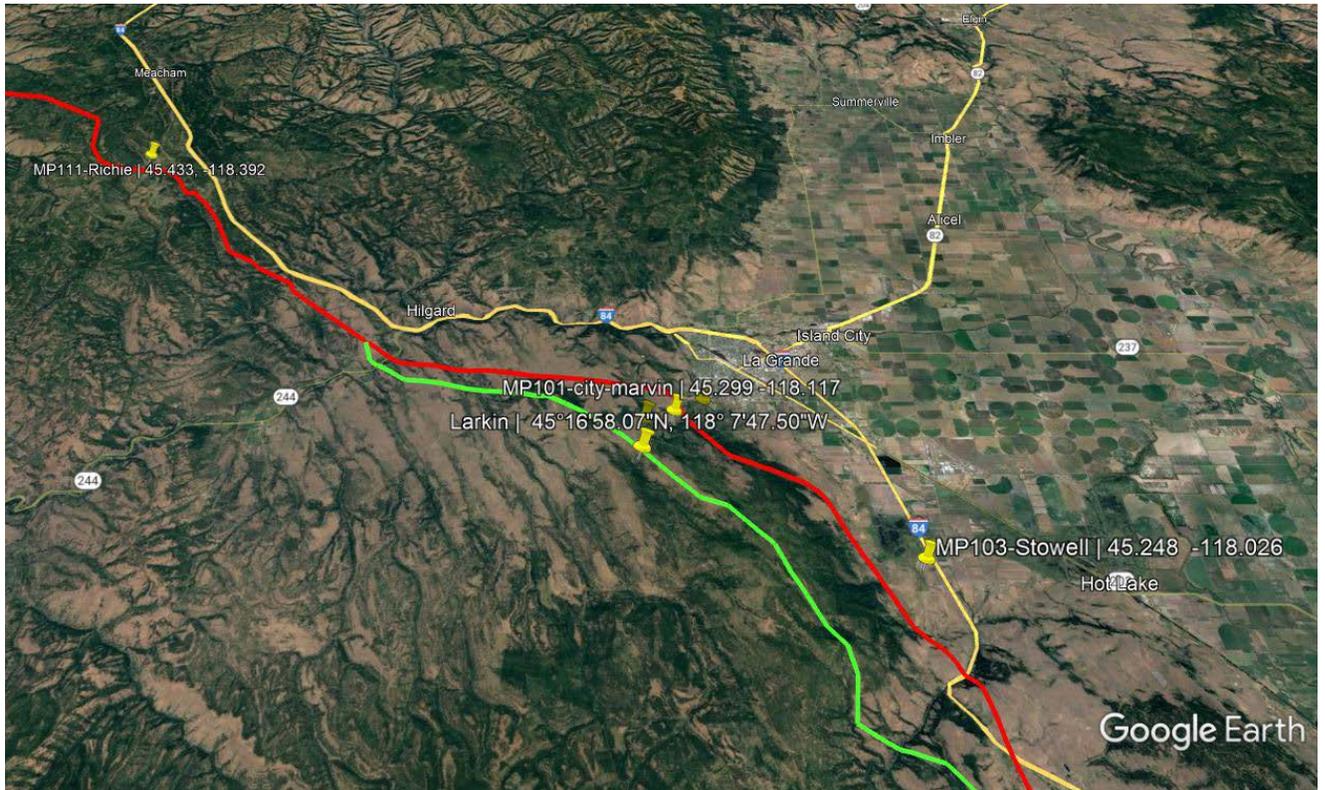


Image 2a-the red line of the B2H, black train tracks, local road, and the yellow I-84

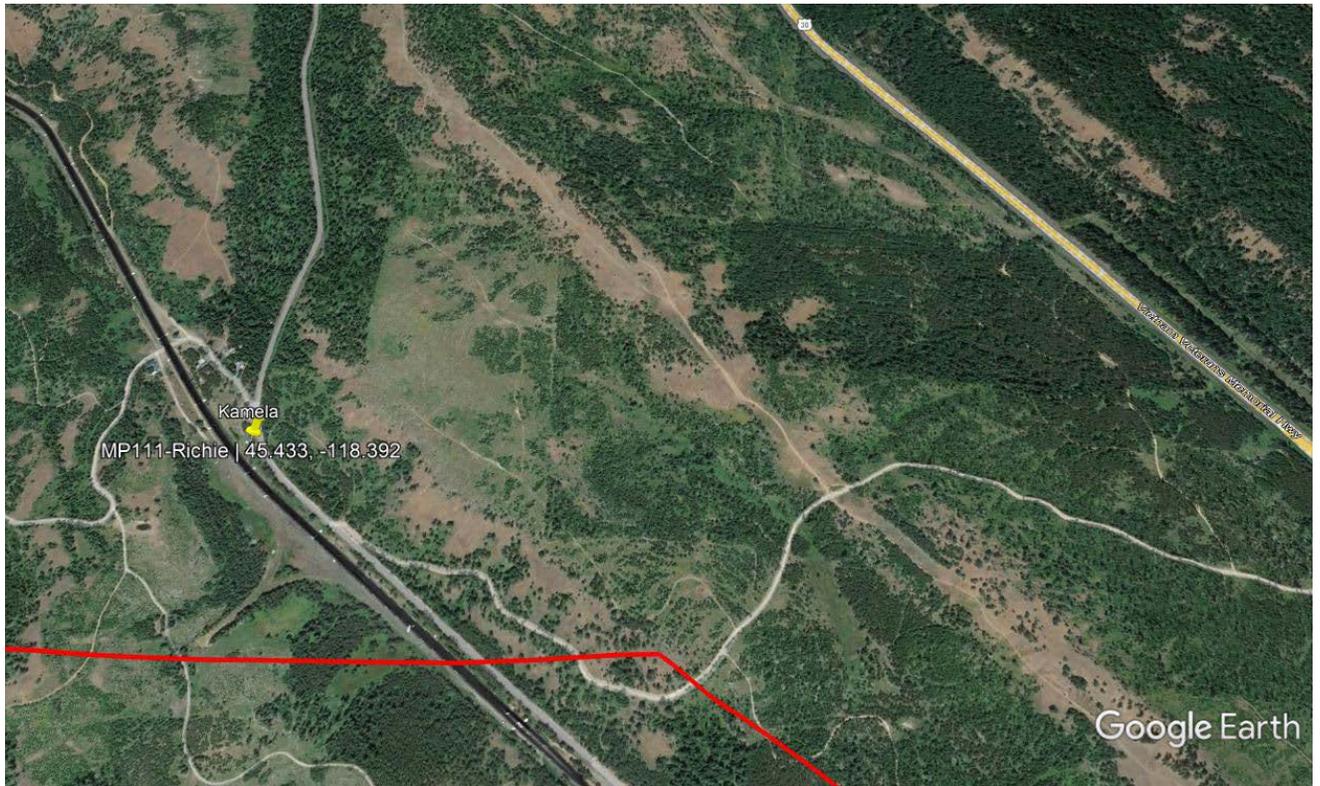


Image 2b

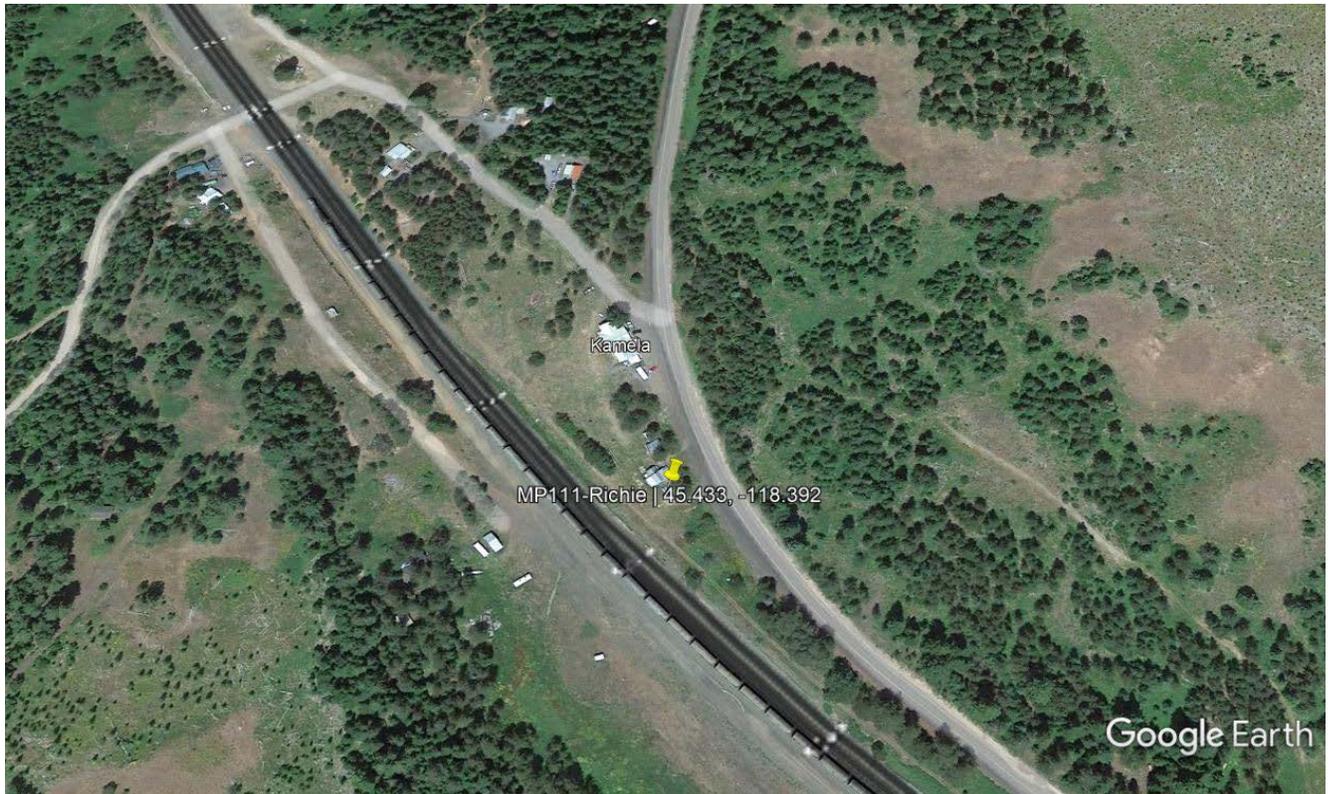


Image 3a – the cluster of 4. Greg Larkin lower left, M100 Lester to the North by the lake and the green line is Morgan Lake route. MP101 is city on the Beaver Creek right of way off of Marvin Rd and MP 102 a next to a city reservoir.

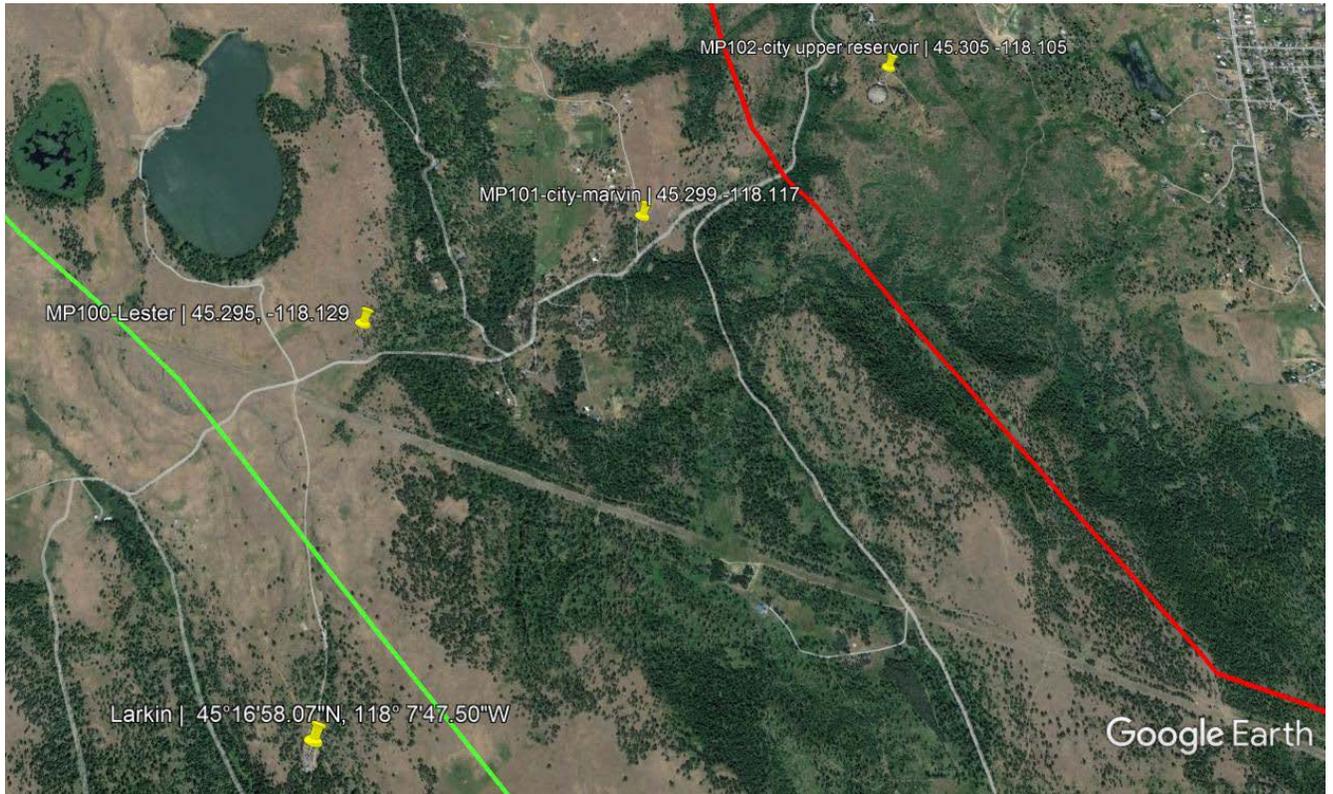


Image 3b



Image 4 is another view of the cluster of 4 and the southeast most site, MP 103-Stowell property by I-84 and Ladd Marsh. The pink area is a work zone/laydown area with new road to get to the red Mill Creek

route up the hill

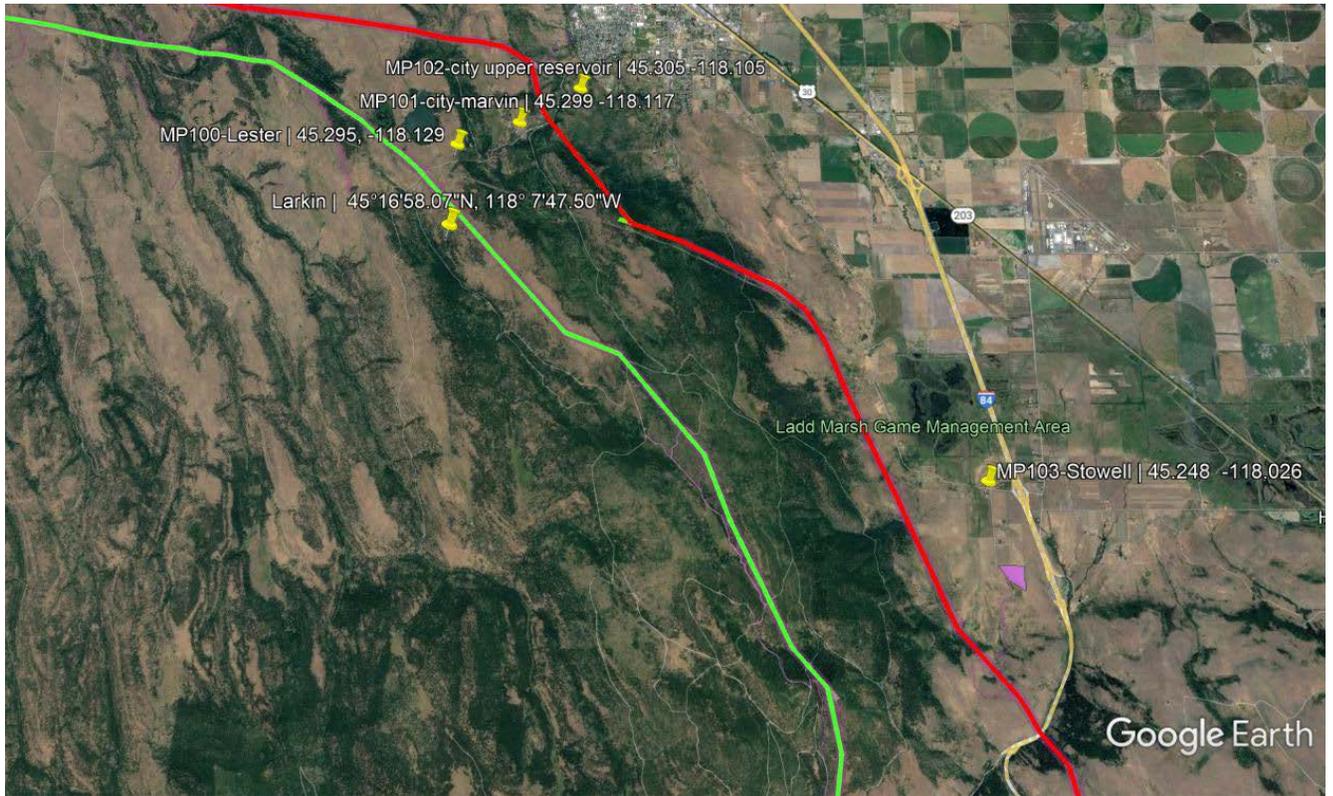


EXHIBIT C

Email Exchange between Jim Kreider and City of La Grande Officials, Nov 30 – Dec 1, 2021, regarding Noise Monitoring Sites on City Property

From: Kyle Carpenter [KCarpenter@cityoflagrande.org]
Sent: Wednesday, December 1, 2021 2:16 PM
To: jim kreider
Cc: Fuji Kreider
Subject: RE: Idaho Power Sound Testing

Jim & Fuji-

Here is what I could find out so far, which we believe to be a pretty inclusive list of the conditions that would be at the sites:

Marvin Road:

1. We were not running water from Beaver Creek through the water mainline at any point during the sound testing.

Upper Reservoir Site:

1. We generally boost water every one to two weeks depending on consumption. During the testing period, we boosted on October 15th, 16th, 25th and November 5th and 6th.
2. When not boosting water into the reservoir, the site feeds the upper zone of town. This means that water is either going into the reservoir or exiting the reservoir to come into town through a single pipe at all times. In summary, the pipeline to the reservoir (leaving the north side of the reservoir) is running at all times.
3. Our crews would have visited the site multiple times during the testing period. We do not keep logs of when the site is visited, but do know that we tested the on-site heaters for the building during this time.
4. As you also likely know there is a residence located a few hundred yards away that is currently occupied.

Please let us know if we can be of any further assistance on this matter. If you would like to visit the site let me know and I can have it arranged. Talk to you soon.

Kyle Carpenter, PE
Public Works Director
City of La Grande

PH: (541) 962-1325

From: jim kreider [<mailto:jkreider@campblackdog.org>]
Sent: Wednesday, December 1, 2021 8:53 AM
To: Kyle Carpenter
Cc: Fuji Kreider
Subject: Re: Idaho Power Sound Testing

STOP and VERIFY - This message came from outside of the City of La Grande.

Thanks for the informative call this morning Kyle. Here is the full email thread thus far. I share the gps coordinates in items 1-4 with a brief description of the location. Any information about the pump or water cycles that could have created background noise to change baseline ambient noise background would be helpful.

Plz call if you have any questions. -- jim

----- Forwarded Message -----

Subject:Re: Idaho Power noise monitoring on city property or right of way
Date:Tue, 30 Nov 2021 19:51:56 +0000
From:Gary Lillard <GLillard@cityoflagrande.org>
To:Stephen Clements <SClements@cityoflagrande.org>, jim kreider <jkreider@campblackdog.org>, Robert Strobe <RStrobe@cityoflagrande.org>
CC:Fuji Kreider <fkreider@campblackdog.org>

Robert,

I'm very interested, also, in what you find out about these issues. Thanks!

Gary Lillard
Mayor Pro Tem
City of La Grande

From: Stephen Clements
Sent: Tuesday, November 30, 2021 10:25:06 AM
To: jim kreider; Robert Strobe; Gary Lillard
Cc: Fuji Kreider
Subject: Re: Idaho Power noise monitoring on city property or right of way

Jim:

See my blue colored responses below:

Greetings all,

I hope the Thanksgiving holiday gave you time to recharge as we move to close out 2021. It's been another long one.

I'm writing about my least favorite topic ;-) Idaho Power and the B2H transmission line. There are 2 items: one old and another new that I would like to discuss.

The new ...

We, the STOP B2H Coalition, hired a noise consultant to evaluate Idaho Power's ambient baseline noise data, in particular the site along the train tracks at Kamela [MP 11-Richie Property | 45.433, -118.392]. They are using these background noise levels in their application as representative for the entire Hwy 244, Whiskey Creek, Sheep Creek, Cowboy Ridge, Morgan Lake, Glass Hill and Ladd Creek areas. We do not believe MP11 is ~~not~~ representative of the ambient background noise levels in this area.

Our noise consultant gathered data on Greg Larkin's property | 45.28280, -118.12986 by Moran Lake and had significantly lower baseline results. Idaho Power quickly hired a noise consultant to challenge our results. The battle of the experts and the data has begun.

The Idaho Power consultant used city land and/or rights of way for 2 of the 4 new monitoring sites. These are the 4 sites (first two appearing to be on city property) with some questions about them:

1. City Reservoir off of Skyline Drive
There were unusual noise levels at times. Our question is: Are there pumps, water valves, water or air pressure noises that could be occurring at this site thus increasing background noise? **I believe there is machinery at the reservoir, but defer to Kyle Carpenter on the details.**
45.30489, -118.10511
2. Beaver Creek water pipeline between the Winters' and Lyons' property off of Marvin Rd.
There was a 90 dBA reading at 1400 one night. Elk rut in the area and their equipment was in the middle of a deer path, but some of the sound readings are not intuitive for the area. Does water flow through the pipes still, especially after rains? **This is another place where Kyle would have the answer, but my initial thought is that there shouldn't be water moving through that pipeline.**
45.29904, -118.11747
3. Lester Property on Morgan Lake
45.29500, -118.12900 Extremely windy at the top of the hill.
4. Stowell - Exit 268 I-84
45.248 -118.026 Constant freeway noise.

These are the new baseline noise points Idaho Power will be using on the cross examination phase of the contested case at ODOE that we are now entering. Did the city give permission to Idaho Power to monitor noise at these locations? **Not to my knowledge.** Are there any noises (constant or intermittent) at these sites (particularly at the reservoir) to raise the ambient background noise? **Possibly.**

[bolded “Possibly” should have also been blue text. It’s from Steve Clements, Mayor of La Grande. –FK]

FYI/context: Idaho Power is looking for a blanket, 300 mile, “variance” to the state (DEQ) noise standard, which allows for a 10 dBA increase over ambient background for residential and recreation areas. They also have applied for a 10 dBA increase “exception” for over 30 properties (mainly in Union and Malheur counties.) All total, it means an allowance of 20 dBA over background noise. For perspective, 10 dBA is the equivalent of doubling the sound.

The older...

[I OMITTED THE REST OF THE EMAIL – NOT RELATED TO NOISE CONTROL. – FK]

On 12/1/2021 8:27 AM, Kyle Carpenter wrote:

Jim-

Here is my City email account to forward the email to. I will get some information on the questions you have asked from our Water Superintendent and get back to you later today. Thanks for reaching out to us on this issue.

Kyle Carpenter, PE
Public Works Director
City of La Grande
Public Works
Ph: (541) 962-1325
Fax: (541) 963-4844

EXHIBIT D

Video of Supplemental Monitoring Position (MP) 103

“MP 103: Stowell - Exit 268 I-84”



MP103-video.mp4

<https://drive.google.com/file/d/1qHLbOm3INxIGFIrPI1xZX-l5h60yfaJ/view?usp=sharing>

Tuesday November 9, 2021