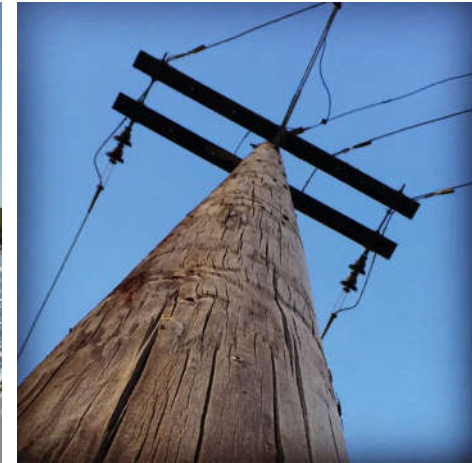


Oregon Department of **ENERGY**

July 17, 2023 @5:30 pm
Best Western Sunridge
Conference Room
Baker City, Oregon

June 18, 2023 @4:00 pm
Oxford Inn Suites
Conference Room
Pendleton, Oregon

June 19, 2023 @8:30 pm
Oxford Inn Suites
Conference Room
Pendleton, Oregon



Opening Items:

- Call to Order
- Roll Call
- Announcements



Announcements:

- Reminder that this meeting is being held in-person and via teleconference and webinar.
- Reminder to Council and to anyone addressing the Council to please remember to state your full name clearly, and do not use the speakerphone feature, as it will create feedback.
- You may sign up for email notices by clicking the link on the agenda or the Council webpage.
- You are also welcome to access the online mapping tool and any documents by visiting our website.



Announcements continued:

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- Please use the “Raise Your Hand” feature in Webex to speak during the public comment period, or press *3 to raise your hand if you are participating by telephone.
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Agenda Item A1 (Information Item and Hearing)

Boardman to Hemingway Transmission Line Public Hearing on Draft Proposed Order for Request for Amendment 1 of Site Certificate

July 17-19, 2023

**Informational Presentation – Kellen Tardaewether, Senior Siting Analyst, Oregon Department of Energy
Presiding Officer – Kent Howe, Vice Chair, EFSC**



Boardman to Hemingway Transmission Line Request for Amendment 1: Public Hearing on Draft Proposed Order Overview

- 1. Facility Overview:** Department overview of the siting process, approved facility components and location, the amendment request, and Draft Proposed Order.
- 2. Public Hearing Overview:** Presiding Officer will explain the legal requirements for providing comments on the record and will facilitate the hearing.
- 3. Public Hearing:**
 - a. The certificate holder will be provided an opportunity to provide/present on anything in the Draft Proposed Order and/or may submit additional information/evidence to supplement the record.
 - b. Members of the public will be provided an opportunity to comment on the Draft Proposed Order and/or the Request for Amendment 1.
 - c. Council will be provided an opportunity to make comments about any concerns they have related to the Draft Proposed Order and/or the Request for Amendment 1.
 - d. The certificate holder will be provided an opportunity to respond to any comments; may request that the presiding officer extend the record.

Energy Facility Siting Council (EFSC) Review



- Consolidated review and oversight of most large-scale energy facilities and infrastructure in Oregon

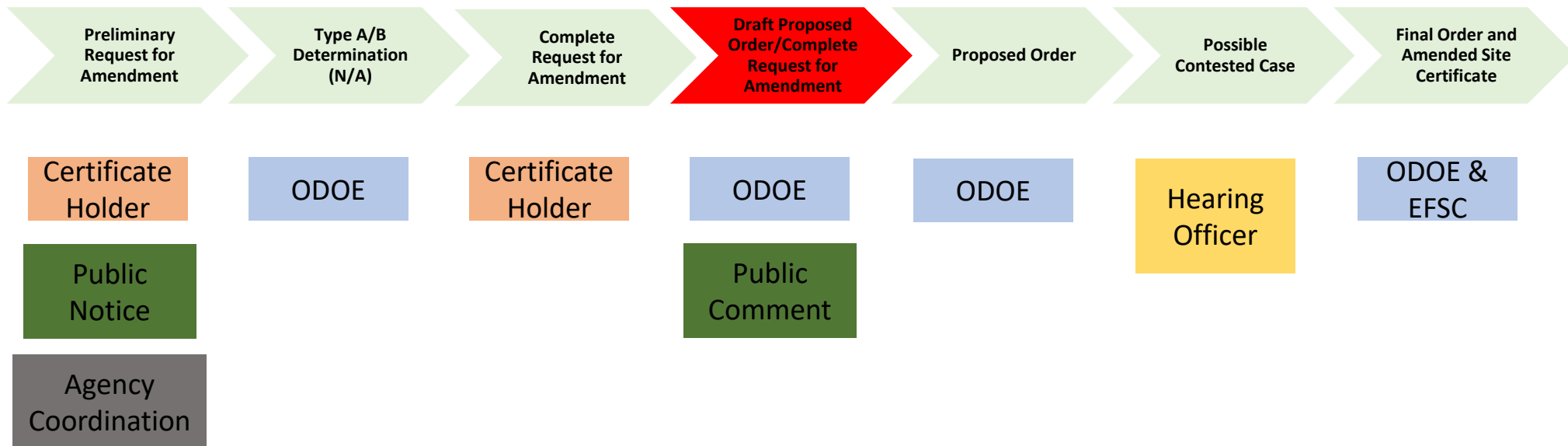


- 7 Members of EFSC
 - Governor appointed, Senate confirmed – Volunteers from around the State



- ODOE's Siting Division is staff to EFSC

Energy Facility Siting Amendment Process

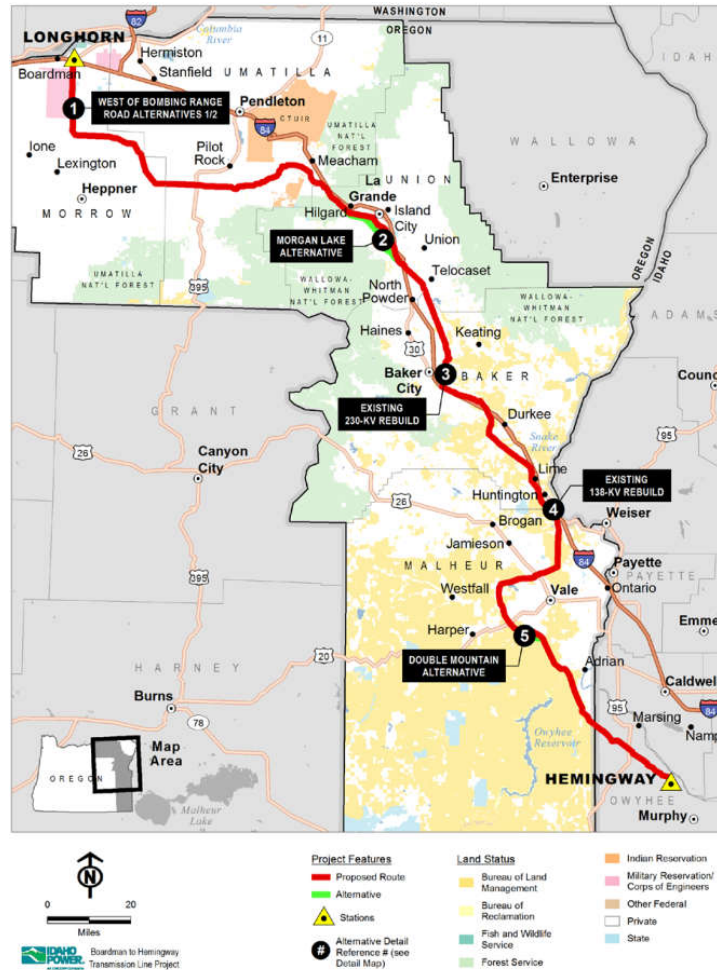


Boardman to Hemingway Transmission Line Overview

Certificate Holder
Idaho Power Company

Approved Facility
Approximately 273 miles of
predominantly 550 kV
transmission line, includes
related or supporting facilities

Facility Location:
Morrow, Umatilla, Union, Baker
and Malheur Counties

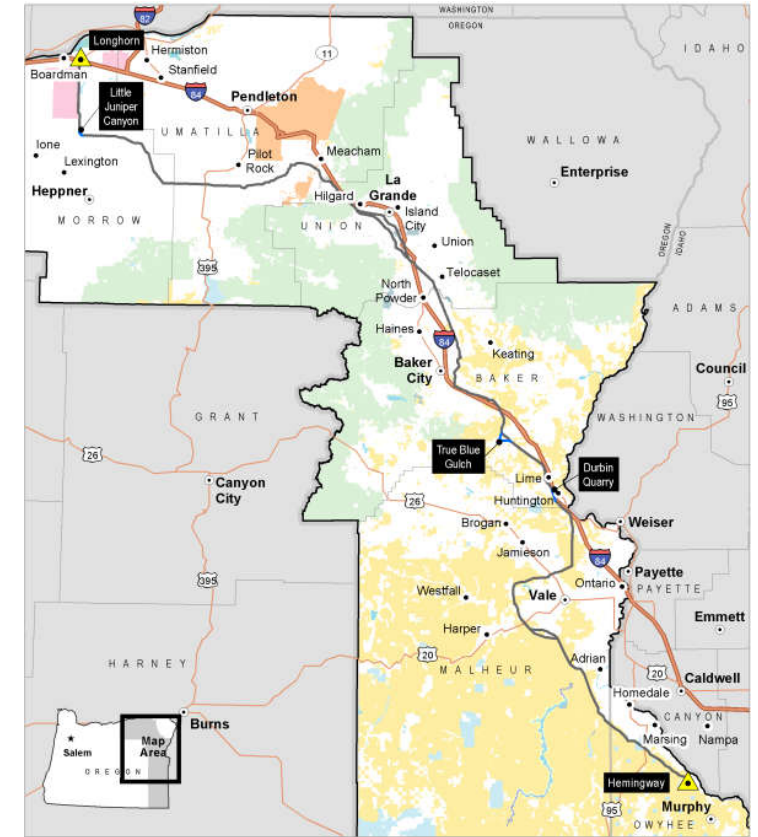
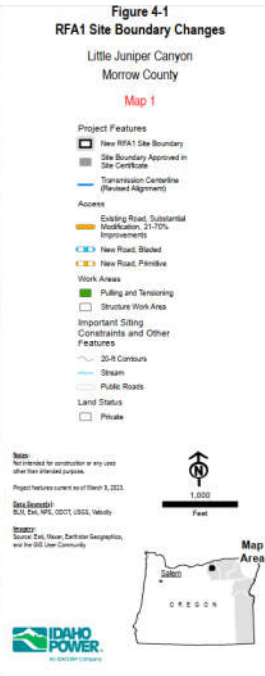
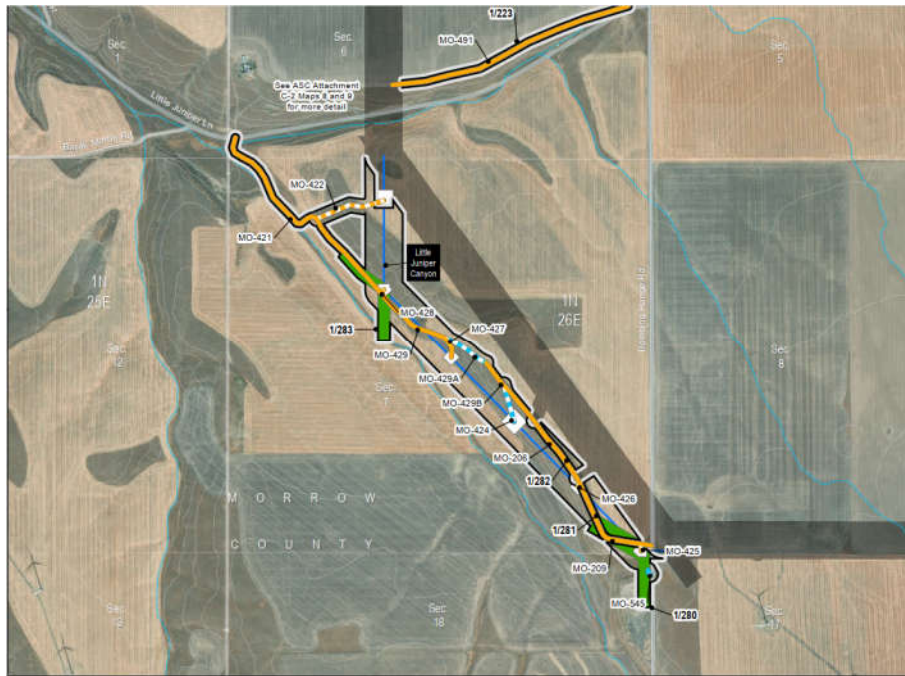


Boardman to Hemingway Transmission Line: Request for Amendment 1

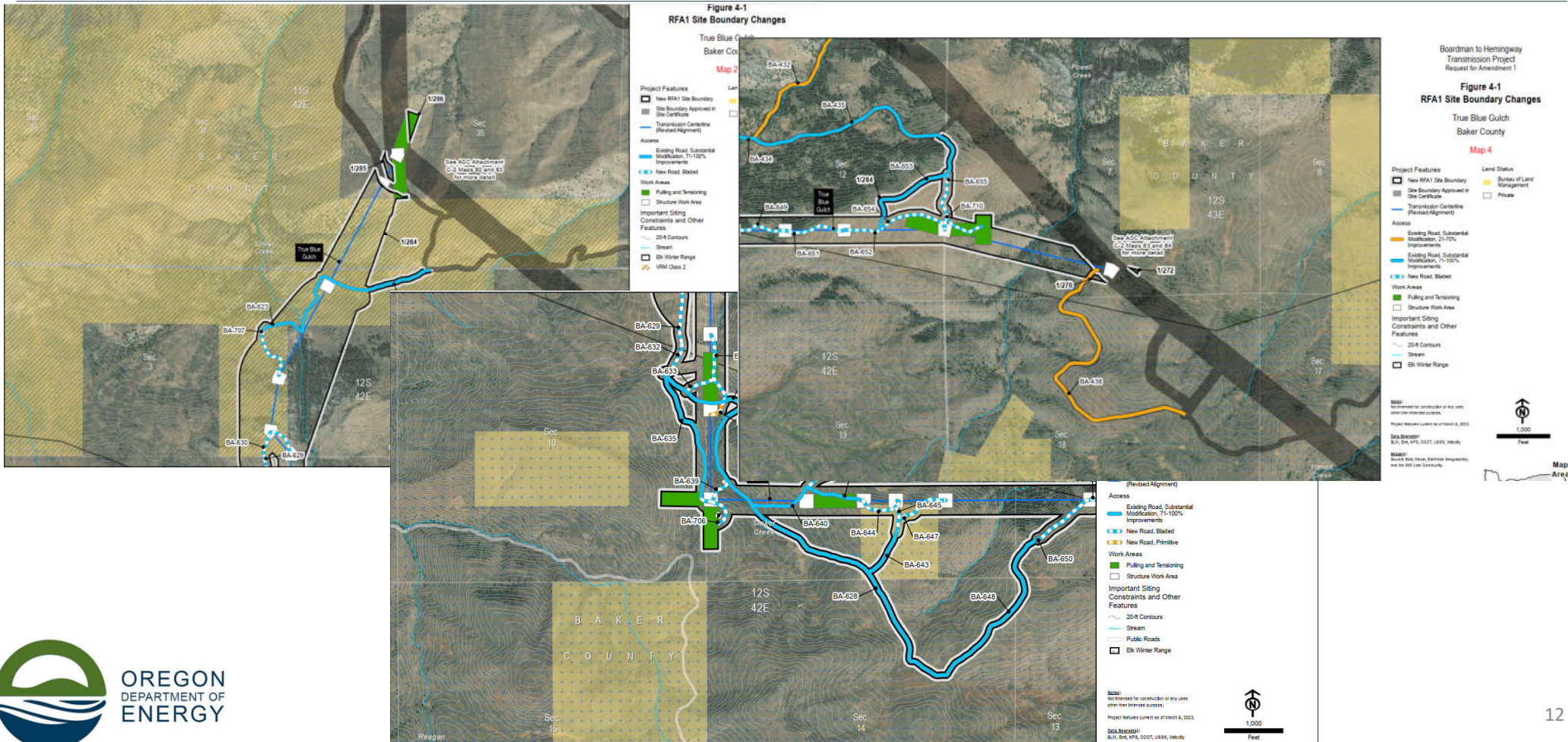
Request for Amendment 1 (RFA1) seeks approval from EFSC for the following changes:

- **To add area to the site boundary to allow siting of previously approved facility components in new locations. This includes using the proposed new site boundary area to site approximately 8.8 miles of 500-kV transmission line and 45.9 miles of new or substantially modified access roads.**
- **Amend site certificate language to support implementation and interpretation.**

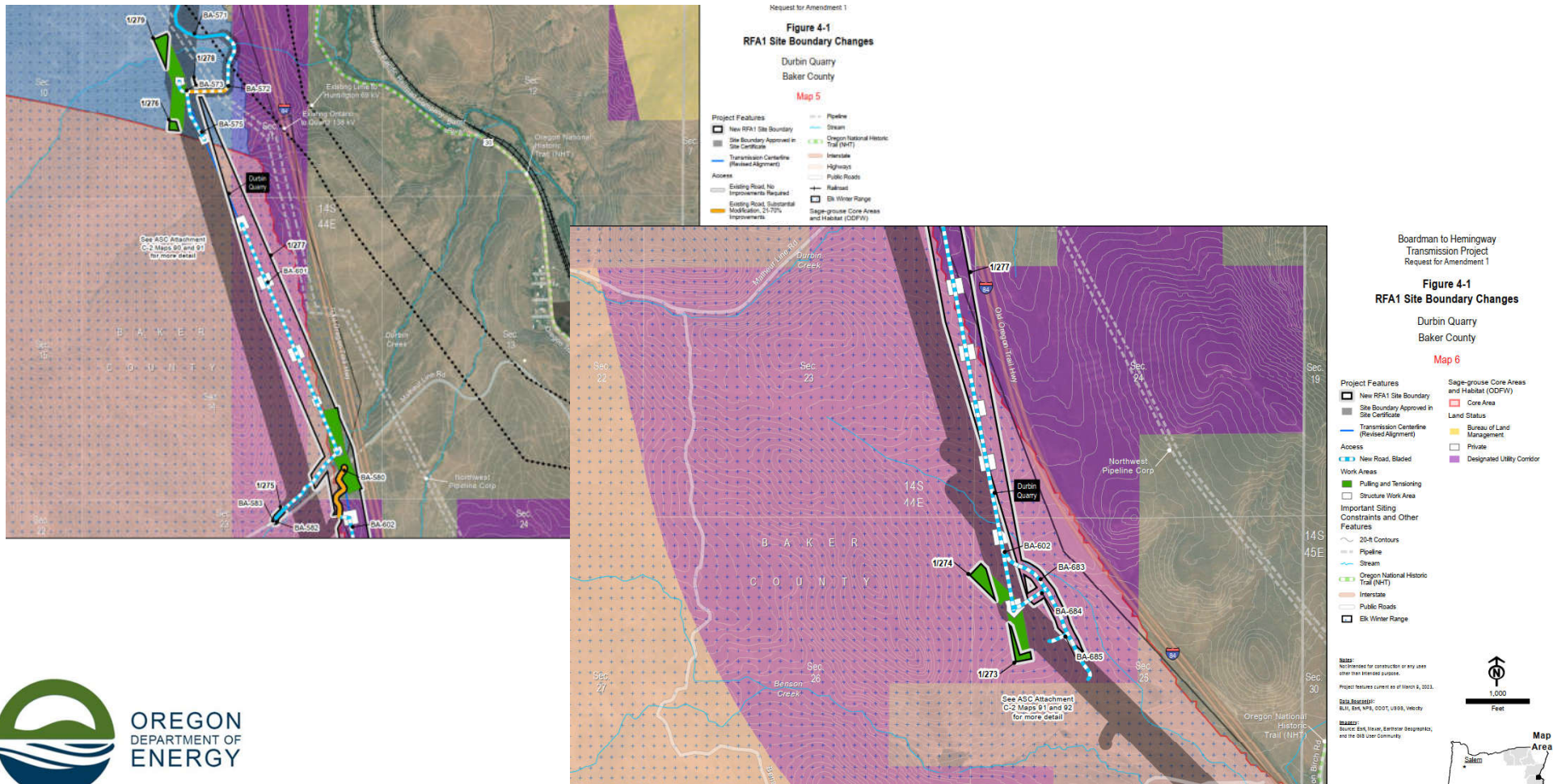
Boardman to Hemingway Transmission Line: Request for Amendment 1



Boardman to Hemingway Transmission Line: Request for Amendment 1



Boardman to Hemingway Transmission Line: Request for Amendment 1



Boardman to Hemingway Transmission Line RFA1- Scope of Council Review

- OAR 345-027-0375 – Scope of Council’s Review for Adding Areas to the Site Boundary

1. That the portion of the facility within the area added to the site boundary by the amendment complies with all laws and Council standards applicable to an original site certificate application; and

2. The amount of the bond or letter of credit required under OAR 345-022-0050 is adequate.

Boardman to Hemingway: RFA1 Procedural History

Milestone	Responsible Party	Date
Preliminary RFA1 under Type A Review	Cert Holder	Dec 7, 2022
Complete RFA1	ODOE	June 8, 2023
Draft Proposed Order	ODOE	June 14, 2023
Draft Proposed Order Public Hearing(s)	EFSC	July 17-18, 2023
EFSC Review of DPO and Public Comments*	EFSC	July 19, 2023
Proposed Order**	ODOE	TBD
Final Decision	EFSC	TBD



* Pending the close of the record of the DPO hearing

**Pending review of petitions for contested case, if applicable

Public Participation at DPO Phase

- The issuance of the DPO notice initiates the opportunity for public comment on the requested amendment;
- Notice opens comment period and provides details on public hearing;
- The public may submit comments by:
 - Mail, email, public comment portal, hand-delivery, or fax during the comment period;
 - Providing oral or written comments at the in-person, webinar/call-in DPO public hearing.



Public Participation at DPO Phase (cont'd)

- The Council will not accept comments on the Request for Amendment 1 or on the DPO after the close of the record at the end of the public hearing on July 18, 2023*;
- Persons commenting on DPO during the comment timeframe are eligible to request a contested case proceeding, which is not an automatic part of the amendment process;
- For consideration in the contested case, issues must:
 - Be submitted within the comment timeframe.
 - Be within the jurisdiction of the Council
 - Include sufficient specificity with facts so that the Council, the Department, and the certificate holder understand the issue raised and are afforded an opportunity to respond to the issue;

*Unless otherwise held open by Council.



Public Participation at DPO Phase (cont'd)

- Threshold for a contested case for a Type A Amendment:
 - Council must find that the request raises a significant issue of fact or law that is reasonably likely to affect the Council's determination whether the facility, with the change proposed by the amendment, meets the applicable laws and Council standards included in chapter 345 divisions 22, 23 and 24. And Council must determine whether the preponderance of evidence on the record supports that the portions of the facility within the area added to the site boundary by the amendment complies with all laws and Council standards.
 - A ten minute video describing the Type A Amendment Contested Case threshold is available on YouTube and the link was included in the Public Notice:
- Council Options on Requests for a Contested Case:
 - Hold a contested case –properly raised issue(s) could affect the Council's determination
 - Remand Proposed Order to Department - properly raised issue(s) could be addressed through new findings and/or conditions
 - Deny – request does not include properly raised issue(s)

Agenda Item A1 (Information Item and Hearing)

Boardman to Hemingway Transmission Line Public Hearing on Draft Proposed Order for Request for Amendment 1 of Site Certificate

July 17-19, 2023

Presiding Officer – Kent Howe, Vice Chair, EFSC



Boardman to Hemingway Transmission Line RFA1 Draft Proposed Order: Public Hearing

Order of Oral Testimony and Comments for this Public Hearing:

1. Certificate Holder (testimony or additions to record)
 - Members of Council may ask clarifying questions.
2. Members of the Public (will be called on in the following order):
 - Oral in-person testimony
 - Oral testimony via WebEx
 - Oral testimony via phone
3. Members of Council
4. Certificate Holder's Responses to Comments (optional)



Boardman to Hemingway Transmission Line RFA1 Draft Proposed Order: Public Hearing

A person who intends to raise any issue that may be the basis for a contested case must raise the issue:

- ➔ in person at the hearing or in a written comment submitted to the Department of Energy before the deadline stated in the notice of the public hearings (**July 18, 2023**).
- ➔ with sufficient specificity to afford the Council, the Department of Energy and the certificate holder an adequate opportunity to respond, including a statement of facts that support the person's position on the issue.



Boardman to Hemingway Transmission Line RFA1
DPO: Public Hearing
Consideration of Issues in a Possible Contested Case

To raise an issue eligible to be in a contested case proceeding, the issue must be:

- within the jurisdiction of the Council;
- raised in person or in writing before the deadline stated in the notice of the public hearing; and
- raised with sufficient specificity to afford the Council, the Department of Energy, and the applicant an adequate opportunity to respond.

To raise an issue with sufficient specificity, a person must present facts that support the person's position on the issue.



Boardman to Hemingway Transmission Line RFA1

DPO: Public Hearing

Testimony

Prior to Testifying, state the following:

- Full name with spelling
- Name of organization or group if you are representing one
- Physical mail or email address if you wish to receive notice of the Proposed Order which includes a description of how to submit a request for contested case

Please Note: If you do not wish to provide your mailing or email address in this format, you may email it to the Department at Kellen.tardaewether@energy.oregon.gov or call the following number and provide the information, including spelling, in a voicemail: 503-586-6551.



Boardman to Hemingway Transmission Line RFA1 DPO: Public Hearing

Certificate Holder

The certificate holder may provide/present on anything in the Draft Proposed Order and/or may submit additional information/evidence to supplement the record.

Presiding Officer or Council Members may ask clarifying questions.

Boardman to Hemingway Transmission Line RFA1 DPO: Public Hearing

Public

Members of the public may comment on the Draft Proposed Order and/or the Request for Amendment 1.



How to Raise Your Hand in Webex:

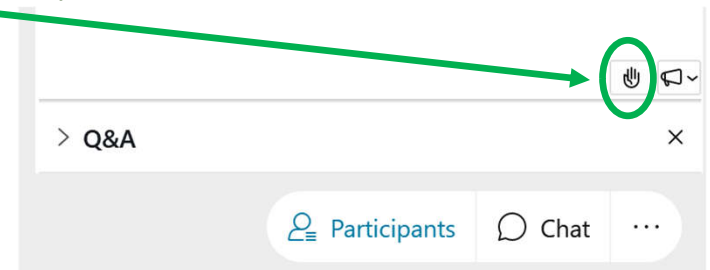
Webinar Participants

The bottom right of the main window is a set of icons:

Click on “Participants”

The bottom right of the participant window is a hand icon, click on the hand:

Clicking on it again will lower your hand.



Phone Participants

Press *3 on your telephone keypad to raise your hand.

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Boardman to Hemingway Transmission Line RFA1 DPO: Public Hearing **Testimony**

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Boardman to Hemingway Transmission Line RFA1 DPO: Public Hearing

Council

Council may comment about any concerns they have related to the Draft Proposed Order and/or the Request for Amendment 1.

Boardman to Hemingway Transmission Line RFA1 DPO: Public Hearing

Certificate Holder's Response to Comments

The certificate holder may respond to any comments by:

- Providing oral responses
- Submitting additional information/evidence to supplement the record
- Requesting that the Presiding Officer extend the record to submit additional information/evidence to supplement the record

Boardman to Hemingway Transmission Line RFA1 DPO: Public Hearing

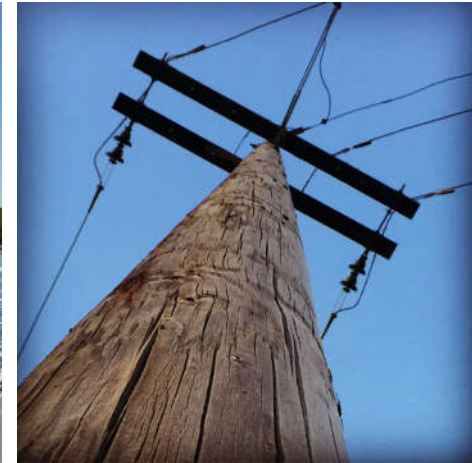
Close of the July 17, 2023 Public Hearing



Oregon Department of **ENERGY**

Boardman to
Hemingway Request for
Amendment 1
Draft Proposed Order
Hearings

June 18, 2023 @4:00 pm
Oxford Inn Suites
Conference Room
Pendleton, Oregon



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Agenda Item B (Action Item & Information Item)

Consent Calendar

July 17-19, 2023

- June 1 & June 23 Council Meeting Minutes
 - Council Secretary Report

Agenda Item C (Information Item)

Final Legislative Update

July 17-19, 2023

Christy Splitt, Government Relations Coordinator, ODOE

(Slides to be included at a later date)



Agenda Item D (Action and Information Item)

Request for Appointment of Consultant for HCA Resources Standard

July 17-19, 2023

Sarah Esterson, Senior Policy Advisor, ODOE



Council Options

Option 1 - Recommended

Approve the Department's Use of Consultants for Review of Exhibit S for Specific Projects

Option 2

Approve the Department's Use of Consultants for Review of Exhibit S for Specific Projects, with Changes

Option 3

Deny the Department's Use of Consultants for Review of Exhibit S for Specific Projects

Council Deliberation



Agenda Item E (Action Item)

Contested Case Rulemaking

July 17-19, 2023

Thomas Jackman, Rules Coordinator, ODOE



Presentation Overview

- Background and Overview of Proposed Scope
- Overview of suggested Rules Advisory Committee (RAC)
- Council Consideration of the Contested Case Rulemaking and the creation of a RAC



Background - Rulemaking Process



Scope and Objectives

- **Scope:** Overhaul contested case rules, located primarily in Division 015
- **Objectives:**
 - 1) Adopt Office of Administrative Hearings (OAH) contested case rules in place of the Attorney General model rules.
 - 2) Remove existing rules that overlap any newly adopted OAH rules.
 - 3) Reduce confusion and uncertainty in the contested case process by amending rules, adopting new rules, and reordering existing rules as needed.

WHY OAH RULES?

- Council currently has adopted the Attorney General model rules, which govern much of the contested case process
- Review by staff suggests that Office of Administrative Hearings (OAH) rules would constitute an improvement
- While not a central reason, this has a side benefit of making it easier to continue to utilize Administrative Law Judges (ALJs) from OAH for any contested case proceedings as they will be more familiar with the OAH rules
- Any rules incorporated or adopted from OAH would still apply even if OAH ALJs were not used in the future

Clarity and Certainty

Addressing issues identified in recent contested case proceedings:

- What is required to participate in a contested case, including whether a prospective party has raised an issue with sufficient specificity
- What it means to be a limited party as opposed to being granted full party status
- Clarifying the duties of the Hearing Officer, including conducting prehearing conferences and issuance of prehearing orders
- What can be appealed directly to Council and what cannot

Request to Approve RAC

12 Total RAC Members

- 2 – Investor-owned utilities
- 3 – Independent power producers and their representation
- 3 – Reviewing agencies (which includes the counties, state agencies, and the nine tribal governments)
- 2 – The public
- 2 – Resource interest groups and environmental justice groups

Any Council Member that is interested in attending RAC meetings



Recommended Council Action

- Staff recommends that the Council initiate formal proceedings on the Contested Case Rulemaking, which was approved for the 2023-2025 Rulemaking Schedule.
- Staff recommends that Council approve the scope and general direction of the changes that staff has drafted.
- Staff requests that the Council approve the creation of a Rulemaking Advisory Committee (RAC), with members to be assigned by Staff.



Council Options

Option 1 - Recommended

Approve the Initiation
of Contested Case
Rulemaking

Option 2

Approve the Initiation
of Contested Case
Rulemaking, with
Changes

Option 3

Deny the Initiation of
Contested Case
Rulemaking

Council Deliberation



BREAK



Agenda Item A2 (Information Item and Hearing)

Boardman to Hemingway Transmission Line Public Hearing on Draft Proposed Order for Request for Amendment 1 of Site Certificate

July 18, 2023 -

**Informational Presentation – Kellen Tardaewether, Senior Siting Analyst, Oregon Department of Energy
Presiding Officer – Kent Howe, Vice Chair, EFSC**



Boardman to Hemingway Transmission Line Request for Amendment 1: Public Hearing on Draft Proposed Order Overview

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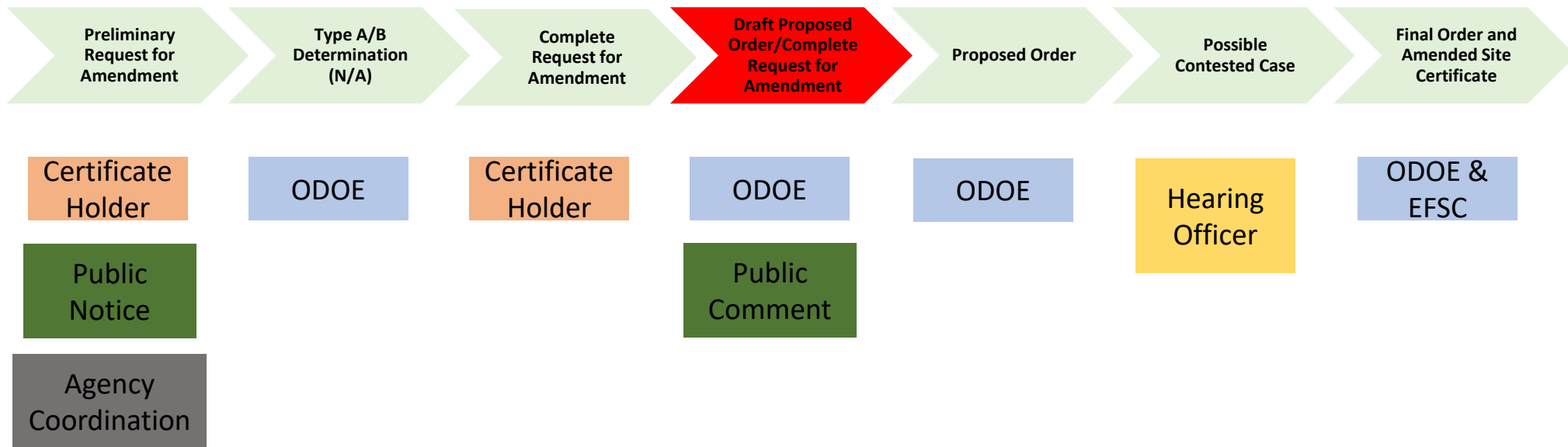


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- ODOE's Siting Division is staff to EFSC

Energy Facility Siting Amendment Process

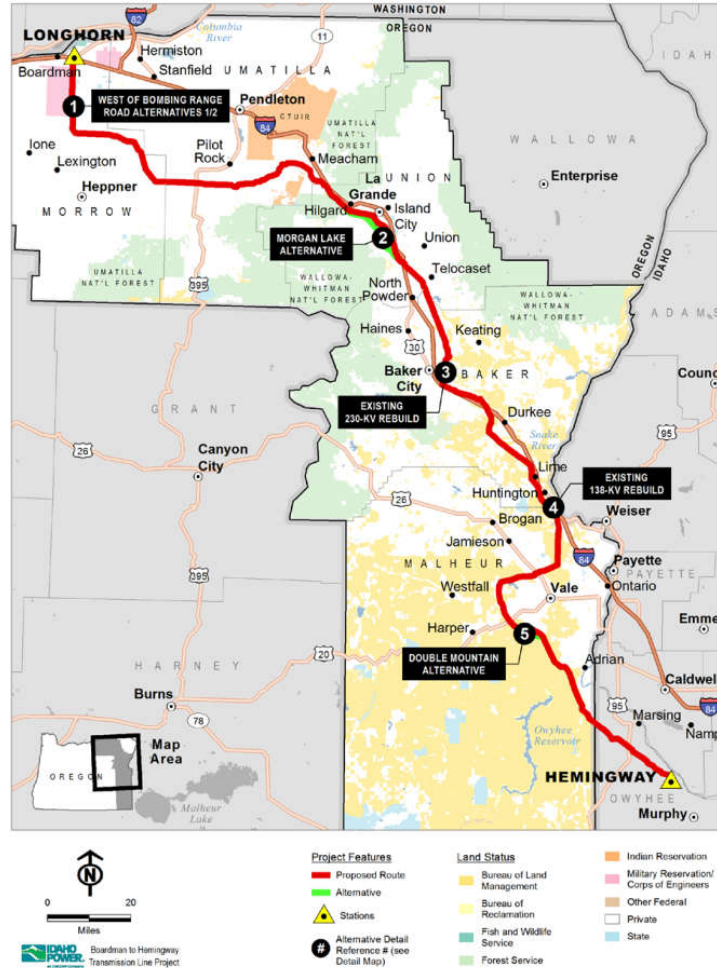


Boardman to Hemingway Transmission Line Overview

Certificate Holder
Idaho Power Company

Approved Facility
Approximately 273 miles of
predominantly 550 kV
transmission line, includes
related or supporting facilities

Facility Location:
Morrow, Umatilla, Union, Baker
and Malheur Counties

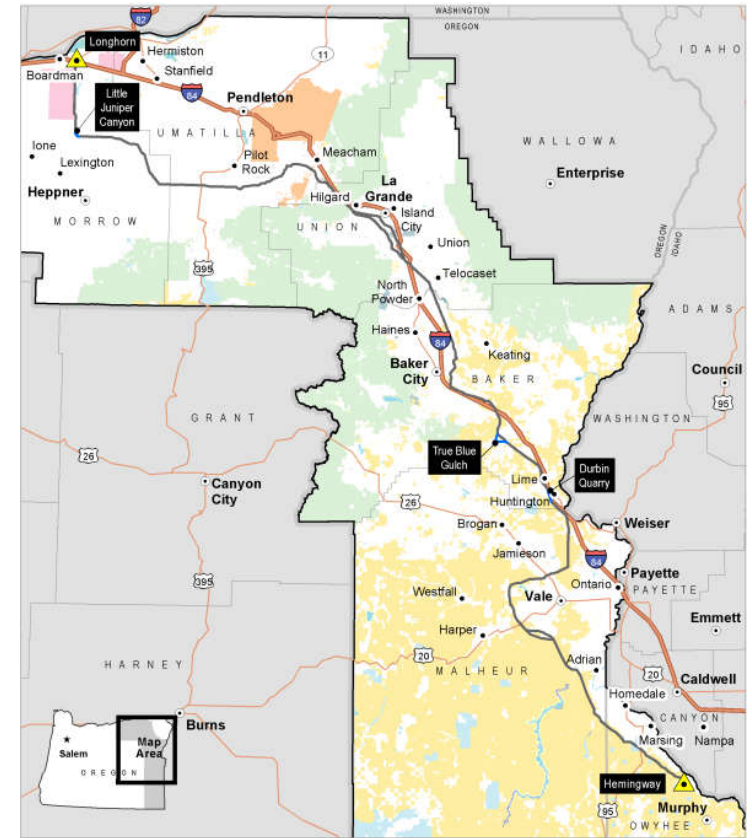
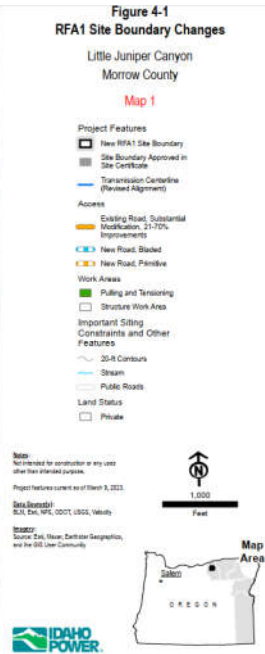


Boardman to Hemingway Transmission Line: Request for Amendment 1

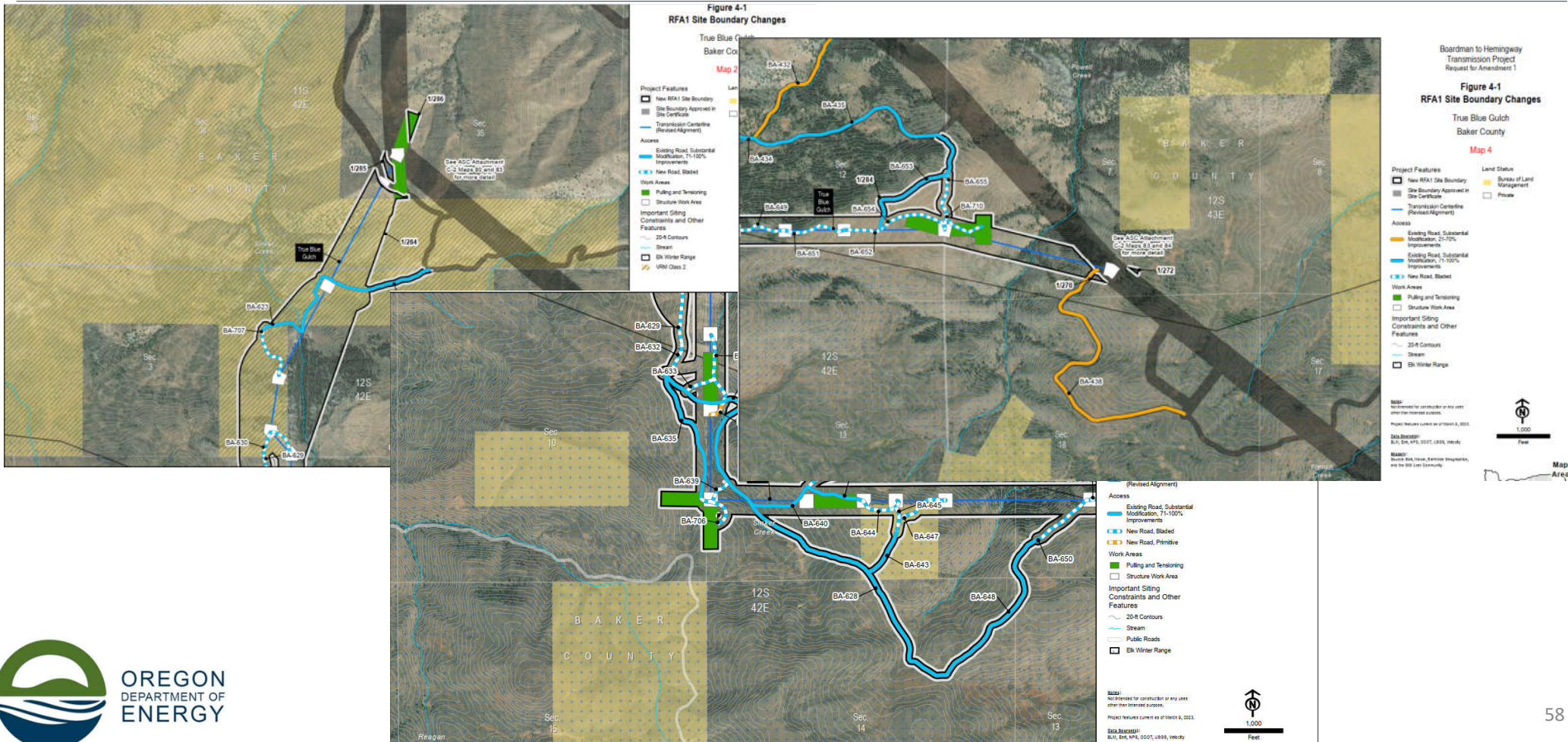
Request for Amendment 1 (RFA1) seeks approval from EFSC for the following changes:

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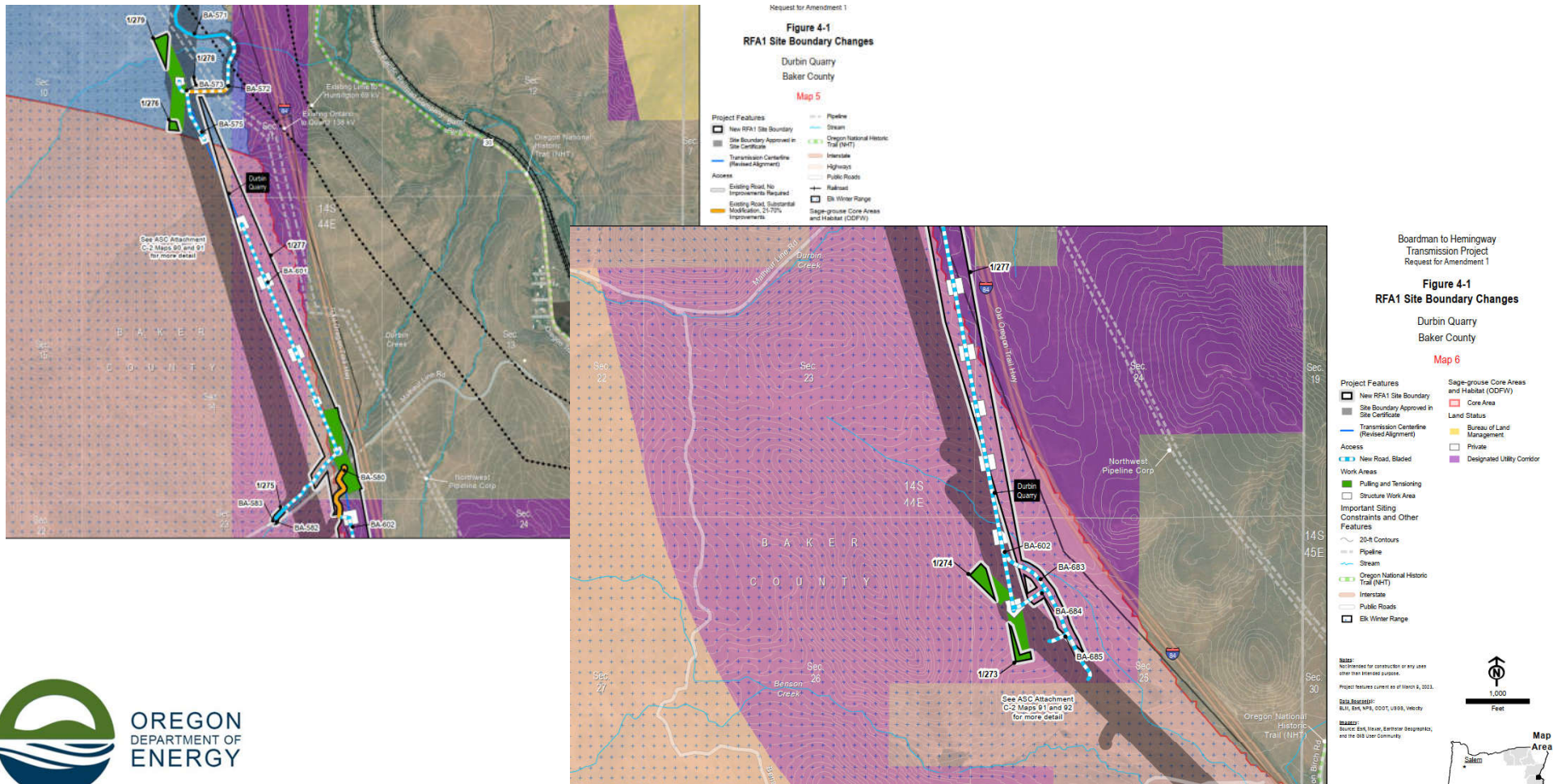
Boardman to Hemingway Transmission Line: Request for Amendment 1



Boardman to Hemingway Transmission Line: Request for Amendment 1



Boardman to Hemingway Transmission Line: Request for Amendment 1



Boardman to Hemingway Transmission Line RFA1- Scope of Council Review

- OAR 345-027-0375 – Scope of Council’s Review for Adding Areas to the Site Boundary

1. That the portion of the facility within the area added to the site boundary by the amendment complies with all laws and Council standards applicable to an original site certificate application; and

2. The amount of the bond or letter of credit required under OAR 345-022-0050 is adequate.

Boardman to Hemingway: RFA1 Procedural History

Milestone	Responsible Party	Date
Preliminary RFA1 under Type A Review	Cert Holder	Dec 7, 2022
Complete RFA1	ODOE	June 8, 2023
Draft Proposed Order	ODOE	June 14, 2023
Draft Proposed Order Public Hearing(s)	EFSC	July 17-18, 2023
EFSC Review of DPO and Public Comments*	EFSC	July 19, 2023
Proposed Order**	ODOE	TBD
Final Decision	EFSC	TBD



* Pending the close of the record of the DPO hearing

**Pending review of petitions for contested case, if applicable

Public Participation at DPO Phase

- The issuance of the DPO notice initiates the opportunity for public comment on the requested amendment;
- Notice opens comment period and provides details on public hearing;
- The public may submit comments by:
 - Mail, email, public comment portal, hand-delivery, or fax during the comment period;
 - Providing oral or written comments at the in-person, webinar/call-in DPO public hearing.



Public Participation at DPO Phase (cont'd)

- The Council will not accept comments on the Request for Amendment 1 or on the DPO after the close of the record at the end of the public hearing on July 18, 2023*;
- Persons commenting on DPO during the comment timeframe are eligible to request a contested case proceeding, which is not an automatic part of the amendment process;
- For consideration in the contested case, issues must:
 - Be submitted within the comment timeframe.
 - Be within the jurisdiction of the Council
 - Include sufficient specificity with facts so that the Council, the Department, and the certificate holder understand the issue raised and are afforded an opportunity to respond to the issue;

*Unless otherwise held open by Council.

Public Participation at DPO Phase (cont'd)

- Threshold for a contested case for a Type A Amendment:
 - Council must find that the request raises a significant issue of fact or law that is reasonably likely to affect the Council's determination whether the facility, with the change proposed by the amendment, meets the applicable laws and Council standards included in chapter 345 divisions 22, 23 and 24. And Council must determine whether the preponderance of evidence on the record supports that the portions of the facility within the area added to the site boundary by the amendment complies with all laws and Council standards.
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 - Remand Proposed Order to Department - properly raised issue(s) could be addressed through new findings and/or conditions
 - Deny – request does not include properly raised issue(s)

Agenda Item A2 (Information Item and Hearing)

Boardman to Hemingway Transmission Line Public Hearing on Draft Proposed Order for Request for Amendment 1 of Site Certificate

July 18, 2023 -

Presiding Officer – Kent Howe, Vice Chair, EFSC



Boardman to Hemingway Transmission Line RFA1 Draft Proposed Order: Public Hearing

Order of Oral Testimony and Comments for this Public Hearing:

1. Certificate Holder (testimony or additions to record)
 - Members of Council may ask clarifying questions.
2. Members of the Public (will be called on in the following order):
 - Oral in-person testimony
 - Oral testimony via WebEx
 - Oral testimony via phone
3. Members of Council
4. Certificate Holder's Responses to Comments (optional)



Boardman to Hemingway Transmission Line RFA1 Draft Proposed Order: Public Hearing

A person who intends to raise any issue that may be the basis for a contested case must raise the issue:

- ➔ in person at the hearing or in a written comment submitted to the Department of Energy before the deadline stated in the notice of the public hearings (**July 18, 2023**).
- ➔ with sufficient specificity to afford the Council, the Department of Energy and the certificate holder an adequate opportunity to respond, including a statement of facts that support the person's position on the issue.



Boardman to Hemingway Transmission Line RFA1
DPO: Public Hearing
Consideration of Issues in a Possible Contested Case

To raise an issue eligible to be in a contested case proceeding, the issue must be:

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- raised in person or in writing before the deadline stated in the notice of the public hearing; and
- raised with sufficient specificity to afford the Council, the Department of Energy, and the applicant an adequate opportunity to respond.

To raise an issue with sufficient specificity, a person must present facts that support the person's position on the issue.

Boardman to Hemingway Transmission Line RFA1

DPO: Public Hearing

Testimony

Prior to Testifying, state the following:

- Full name with spelling
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Boardman to Hemingway Transmission Line RFA1 DPO: Public Hearing

Certificate Holder

The certificate holder may provide/present on anything in the Draft Proposed Order and/or may submit additional information/evidence to supplement the record.

Presiding Officer or Council Members may ask clarifying questions.



Boardman to Hemingway Transmission Line RFA1 DPO: Public Hearing

Public

Members of the public may comment on the Draft Proposed Order and/or the Request for Amendment 1.



How to Raise Your Hand in Webex:

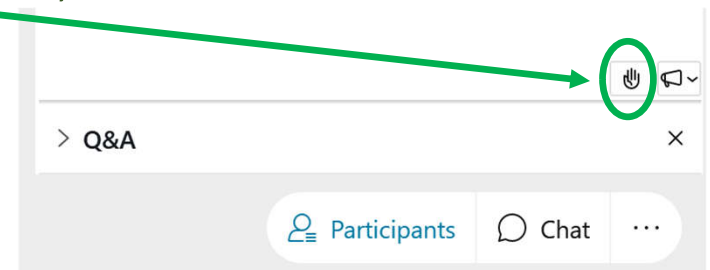
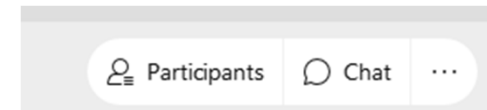
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Boardman to Hemingway Transmission Line RFA1 DPO: Public Hearing **Testimony**

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Council

Council may comment about any concerns they have related to the Draft Proposed Order and/or the Request for Amendment 1.

Boardman to Hemingway Transmission Line RFA1 DPO: Public Hearing

Certificate Holder's Response to Comments

The certificate holder may respond to any comments by:

- Providing oral responses
- Submitting additional information/evidence to supplement the record
- Requesting that the Presiding Officer extend the record to submit additional information/evidence to supplement the record

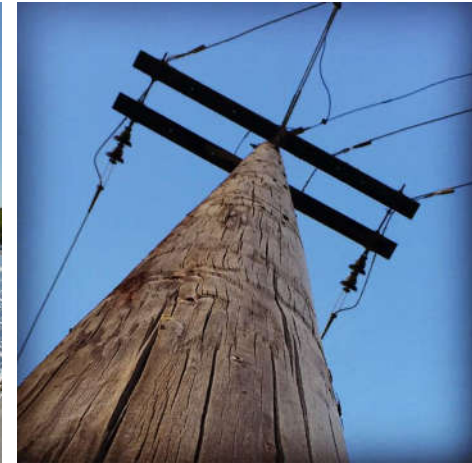
Boardman to Hemingway Transmission Line RFA1 DPO: Public Hearing

Close of the Public Hearing



Oregon Department of **ENERGY**

June 19, 2023 @8:30 pm
Oxford Inn Suites
Conference Room
Pendleton, Oregon



Opening Items:

- Call to Order
- Roll Call
- Announcements



Announcements:

- Reminder that this meeting is being held in person and via teleconference and webinar.
- Reminder to Council and to anyone addressing the Council to please remember to state your full name clearly, and do not use the speakerphone feature, as it will create feedback.
- You may sign up for email notices by clicking the link on the agenda or the Council webpage.
- You are also welcome to access the online mapping tool and any documents by visiting our website.



Announcements continued:

- Please silence your cell phones
- Please use the “Raise Your Hand” feature in Webex to speak during the public comment period, or press *3 to raise your hand if you are participating by telephone.
- Energy Facility Council meetings shall be conducted in a respectful and courteous manner where everyone is allowed to state their positions at the appropriate times consistent with Council rules and procedures. Willful accusatory, offensive, insulting, threatening, insolent, or slanderous comments which disrupt the Council meeting are not acceptable. Pursuant to Oregon Administrative Rule 345-011-0080, any person who engages in unacceptable conduct which disrupts the meeting may be expelled.



Agenda Item F

PUBLIC COMMENT

Phone Commenters: Press *3 to raise your hand to make comment, and *3 to lower your hand after you've made your comment.

Webinar Commenters: Open the Participant list, hover over your name and click on the "Raise Your Hand icon".



How to Raise Your Hand in Webex:

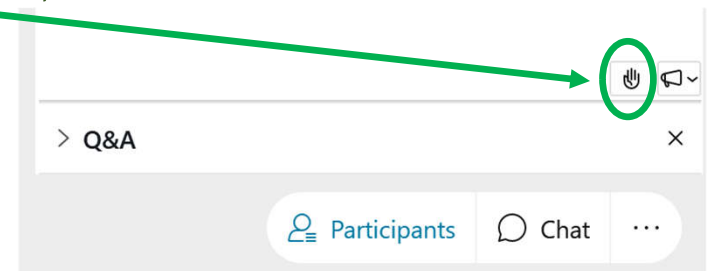
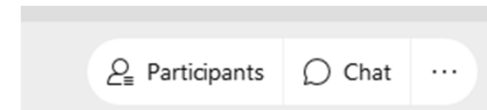
Webinar Participants

The bottom right of the main window is a set of icons:

Click on “Participants”

The bottom right of the participant window is a hand icon, click on the hand:

Clicking on it again will lower your hand.



Phone Participants

Press *3 on your telephone keypad to raise your hand.

Press *3 again on your telephone keypad to lower your hand.

Agenda Item G (Information/Action Item)

Nolin Hills Wind Power Project Council Review of Proposed Order on ASC

July 17-19, 2023

**Kathleen Sloan, Senior Siting Analyst &
Alia Miles, Oregon Department of Justice Senior Assistant Attorney General**



Materials Provided to Council To Date

Document	Date
Proposed Order on ASC	08/04/22; 07/04/23
Proposed Contested Case Order (Order)	05/12/23; 07/05/23
PCCO Exceptions	07/05/23
Responses to PCCO Exceptions	07/05/23

Agenda Item Presentation Overview

1.a) Proposed Order Review: Overview, Procedural History, Organizational Expertise Standard

2) Overview of Proposed Contested Case Order

3) Exceptions Hearing

1.b) Proposed Order Review: Land Use

4) (If Applicable) – Material Change Hearing

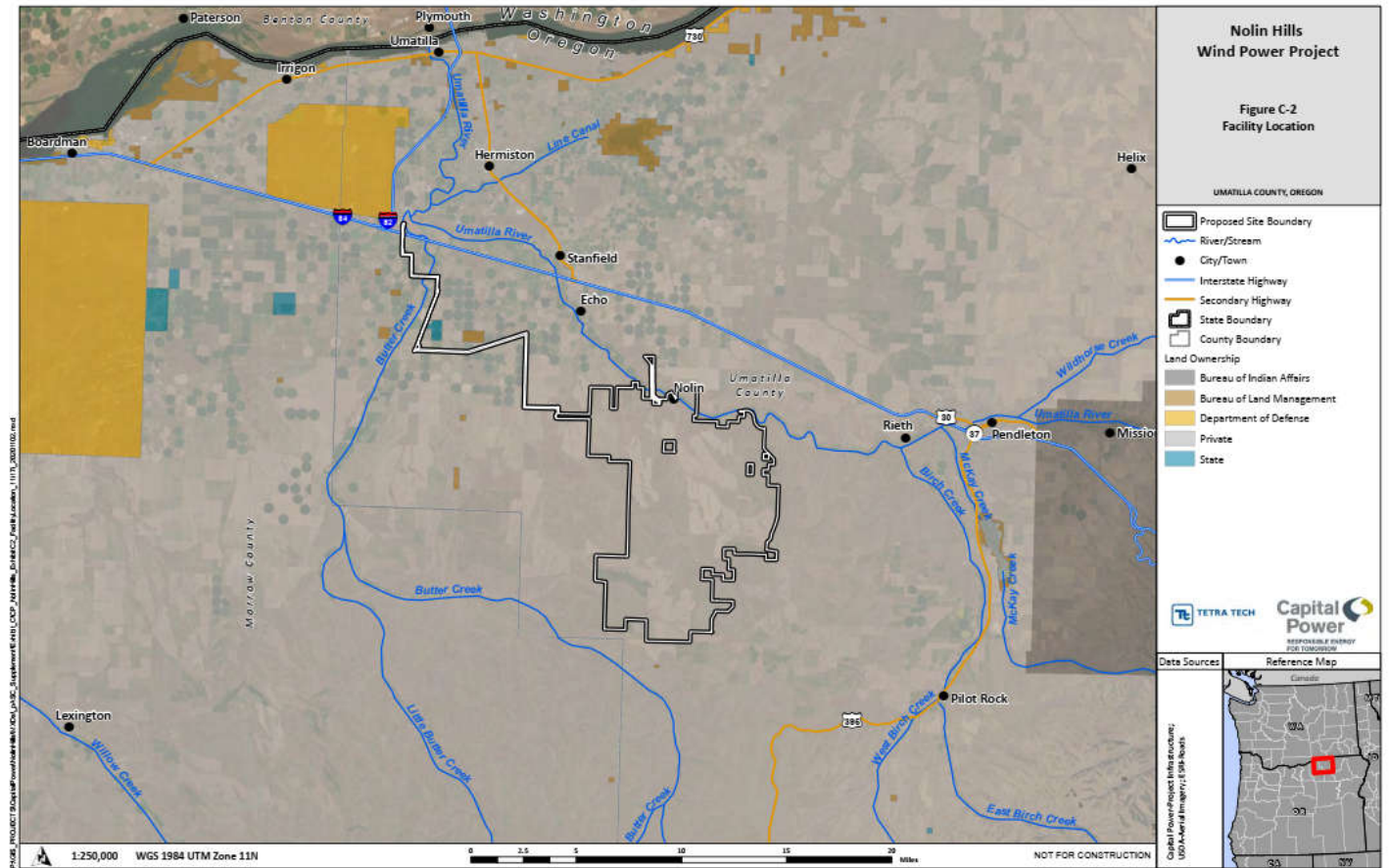
5) (If Applicable) – Hearing to Adopt Final Order

1.a) Proposed Order Review

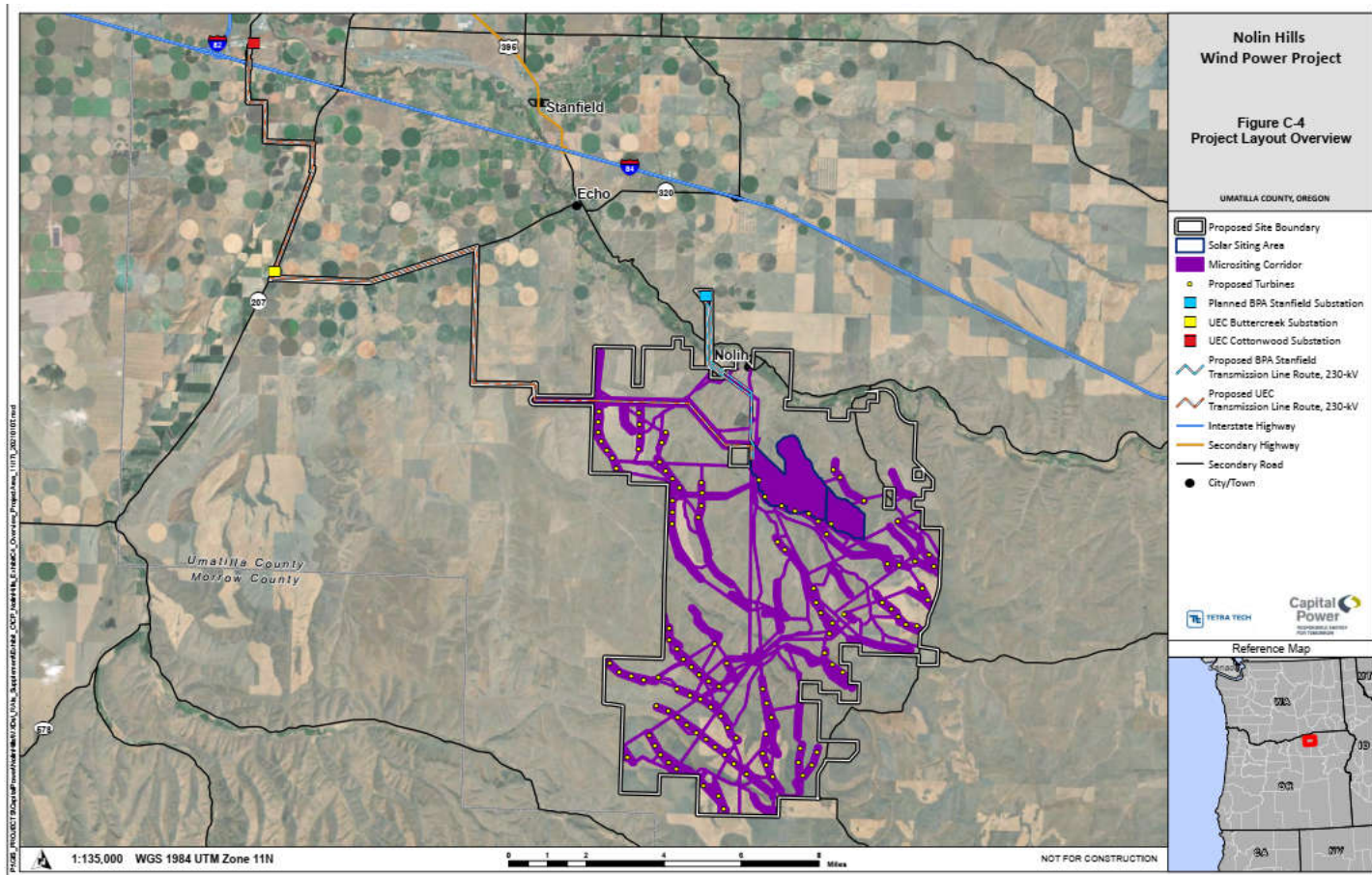
Council Review of Proposed Order

Description of Proposed Facility

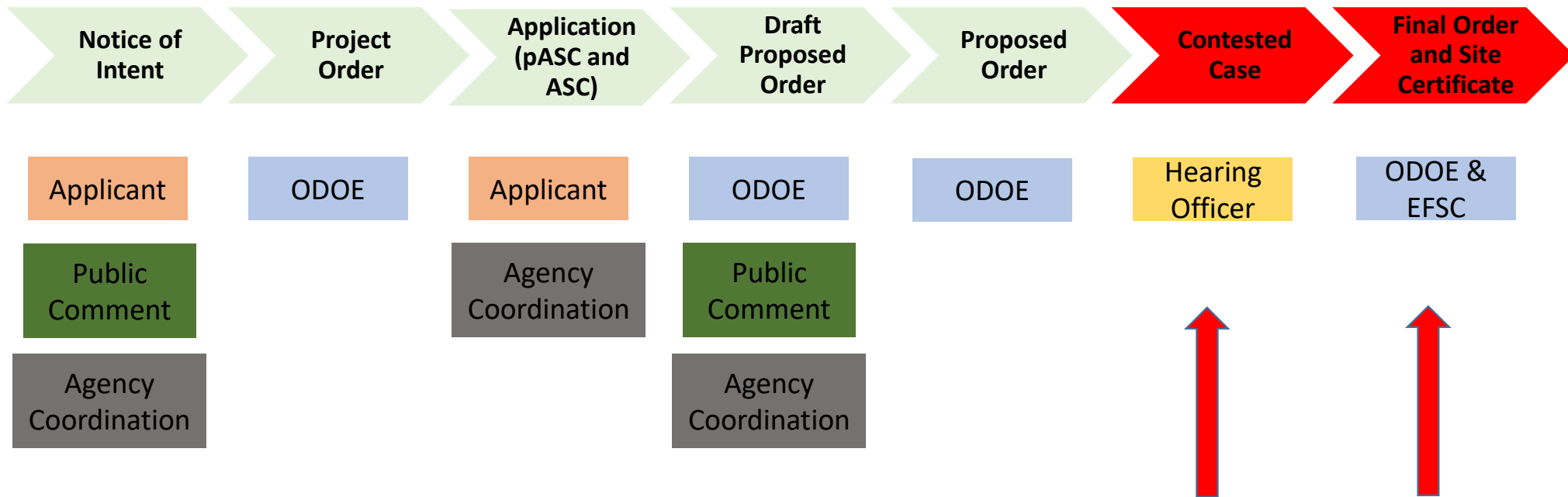
- Applicant: Nolin Hills Wind, LLC (applicant), a subsidiary of Capital Power Corporation
- Proposed Facility: A 600-megawatt (MW) wind and solar energy facility
- 48,196 Acre Site Boundary
- Location: Northwestern Umatilla County



Council Review of Proposed Order



Energy Facility Siting Process



Nolin Hills Wind Power Project: Procedural History

Milestone	Responsible Party	Date
Application for Site Certificate (ASC)	Applicant	Jan 31, 2022
Draft Proposed Order (DPO)	ODOE	Apr 19, 2022
Proposed Order and Notice of Contested Case	ODOE	August 4, 2022
Contested Case Proceedings	Hearing Officer	August 22, 2022- June 27, 2023
Proposed Contested Case Order (PCCO)	Hearing Officer	May 12, 2023
Exceptions to PCCO	Umatilla County	June 12, 2023
Responses to Exceptions	ODOE and Applicant	June 27, 2023
Review of Proposed Order & PCCO, Exceptions Hearing, Possible Material Change Hearing and Possible Final Decision	EFSC	July 19, 2023

Council Scope of Review

OAR 345-015-0230: Council Review and the Department of Energy's Proposed Order

- Review of Council standards/issues specific to substantive changes based on Council's review of the Draft Proposed Order, as incorporated into the Proposed Order, for the following EFSC standards: **Organizational Expertise and Land Use**.
- Provide comments or changes for the Department to incorporate into the preparation of a Final Order
 - Provide comments individually, consensus, or vote at EFSC meeting
 - Provide comments by issue or standard as staff presents

ORS 469.370(7): *At conclusion of the contested case, Council shall issue a final order, approving or rejecting the application.*

OAR 345-015-0230(5): *After the conclusion of the contested case proceeding, the Council will take final action on the site certificate application, as described in OAR 345-015-0085, which states Council may adopt, modify or reject the Hearing Officer's Proposed Contested Case Order.*

- The next step in the process will be for Council to decide whether to adopt, modify or reject the Proposed Order, Proposed Contested Case Order (PCCO), and direct the Department to prepare a Final Order reflecting Council's decision.



Council Review of Proposed Order

Council Standards with No Substantive Changes from DPO to Proposed Order:

- General Standard of Review
- Structural Standard
- Soil Protection
- Protected Areas
- Retirement and Financial Assurance
- Fish and Wildlife Habitat
- Threatened and Endangered Species
- Scenic Resources
- Historic, Cultural and Archaeological Resources
- Recreation
- Public Services
- Waste Minimization
- Public Health and Safety of Wind Facilities
- Cumulative Effects Standard for Wind Energy Facilities
- Siting Standards for Transmission Lines
- Noise Control Regulation
- Removal Fill Law
- Water Rights

Council Comments on DPO

Section IV.B. Organizational Expertise: OAR 345-022-0010

At the DPO hearing, a Council member raised an issue regarding the **Organizational Expertise** standard, questioning Council's reliance on the applicant's parent company, Capital Power Corporation, for financial assurance to develop, construct, operate and retire the facility.

Applicant submitted additional information from Parent Company in response to Council Comments at the June 24, 2022 EFSC meeting and included in additional findings of fact in Proposed Order.

Changes in Proposed Order (compared to the DPO)

Section IV.B. Organizational Expertise: OAR 345-022-0010

Department made additional findings of fact in the Proposed Order:

- Capital Power Corporation has been a corporation since 1896 and is a publicly traded company on the Toronto Stock Exchange, with shareholders and over 870 employee in Canada and the US.
- Capital Power Corporation has a Standard & Poor (or S&P) “investment rating” which is only given to companies considered financially solid – the investment rating is BBB-.
- Capital Power Corporation owns 15 operational, wind and solar energy projects in North America (eight in the United States, and seven in Canada), ranging from 15 MW – 201.6 MW, totaling 1,441.6 MWs).
- Capital Power Corporation, as the parent company to the LLC, is the entity that would fund the construction, operation and retirement of the proposed facility.
- Capital Power Corporation’s Senior Vice President and Chief Legal, Development and Commercial Officer Christopher Kopecky that Capital Power “stands behind” the project and has “committed to providing the financial assurance outlined in Exhibit M of the Application and the human capital and expertise outlined in Exhibit D.”.
- The statement also affirmed that “Capital Power has the financial wherewithal and expertise to develop, construct, own and operate the Project.”

Changes in Proposed Order

(compared to the DPO)

Section IV.B. Organizational Expertise: OAR 345-022-0010

Department recommended Council impose the following new condition (Proposed Order, pages 43-44):

Recommended Organizational Expertise Condition 1 (PRE): Prior to construction, the certificate holder shall submit to the Department a guarantee signed by its parent company guaranteeing payment and performance of the certificate holder's obligations under the site certificate using the form:

- a. Provided in Final Order on ASC Attachment F; or
- b. Substantially similar to Final Order on ASC Attachment F, if approved by the Department in consultation with the Department's legal counsel at the Oregon Department of Justice.

Council Straw Poll

Proposed Order: Organizational Expertise Standard

1. Agree with findings of facts, conclusions of law and conditions of approval in the Proposed Order; or
2. Indicate any specific changes in findings of facts, conclusions of law or conditions of approval

2. Overview of Contested Case, Proposed Contested Case Order, Filed Exceptions on PCCO and Responses to Filed Exceptions on PCCO

Council Review of Hearing Officer's Proposed Contested Case Order (PCCO)

- Contested Case Proceeding Overview
- Parties and Issues
- Proposed Contested Case Order (PCCO) Findings, Analysis and Conclusions of Law

Contested Case Procedural Milestones

Description	Responsible Entity	Date
Notice of Proposed Order and Opportunity to Request a Contested Case	ODOE	08/04/22
Petition for Contested Case	Umatilla County	08/22/22
Contested Case Proceeding	Hearing Officer	08/22/22 - 04/11/23
Proposed Contested Case Order (PCCO)	Hearing Officer	05/12/23
Exceptions to PCCO	Umatilla County	06/12/23
Responses to Exceptions	Applicant, ODOE	07/12/23
PCCO Review/Exceptions Hearing	EFSC	07/19/23



Parties and Issues In Contested Case

Parties to Contested Case:

- Oregon Department of Energy (Department)
- Nolin Hills Wind, LLC (Applicant)
- Umatilla County

A petition for party status in the Contested Case on the Proposed Order on the ASC was filed by Umatilla County and received on August 22, 2022:

“Petitioner Umatilla County desires to raise the issues that (1) the County’s acknowledged land use regulations in UCDC 152.616(HHH), specifically UCDC 152.616(HHH)(6)(a)(3) requiring a two-mile setback between wind turbines and rural residences on EFU-zoned land, are “*applicable substantive criteria*” within the meaning of OAR 345-022-0030(3) that apply to the Project and that the Project does not comply with UCDC 152.616(HHH)(6)(a)(3); and (2) the Project is required to obtain a conditional use permit from the County.”



Order on Party Status & Issues In Contested Case

Issue 1:

Whether the County's land use regulation UCDC 152.616(HHH)(6)(a)(3) (requiring a two-mile setback between wind turbines and rural residences on EFU-zoned land) are "*applicable substantive criteria*" within the meaning of OAR 345-022-0030(3) that apply to the Project.

Issue 1.1:

If so, whether the Project complies with UCDC 152.616(HHH)(6)(a)(3).

Issue 2:

Whether the Project is required to obtain a conditional use permit from the County.



PCCO Analysis and Conclusions

Issue 1: Whether the County’s land use regulation UCDC 152.616(HHH)(6)(a)(3) (requiring a two-mile setback between wind turbines and rural residences on EFU-zoned land) are “*applicable substantive criteria*” within the meaning of OAR 345-022-0030(3) that apply to the Project.

Hearing Officer’s Legal Analysis and Conclusions of Law:

- If the legislature intended the term “applicable substantive criteria” to mean something other than local comprehensive plans and land use standards that are “required by the statewide planning goals and in effect on the date the application is submitted”, then it would have so indicated.
- Term “applicable substantive criteria” should have the same meaning throughout ORS 469.504 and OAR 345-022-0030
 - County’s interpretation of “applicable substantive criteria” is contrary to the provision of ORS 469.504(1)(b)(B) because it would require Council to apply local land use criteria that is more restrictive than statewide planning goals
- The Criterion (3) is not an applicable substantive criterion under OAR 345-022-0030(3) because it is not required by the statewide planning goals. Therefore, Criterion (3) does not apply to the Project.



PCCO Analysis and Conclusions

Issue 1.1: If so, whether the Project complies with UCDC 152.616(HHH)(6)(a)(3)

Hearing Officer's Legal Analysis and Conclusions of Law:

- Goal 2 requires that comprehensive plans and local land use regulations be consistent with statewide goals, nothing in Goal 2 requires a local government to enact regulations establishing wind turbine setbacks
- The Project does not comply with Criterion (3) but otherwise complies with applicable statewide planning goals.

PCCO Analysis and Conclusions

Issue 2: Whether the Project is required to obtain a conditional use permit from the County.

Hearing Officer's Legal Analysis and Conclusions of Law:

- If Council issues a site certificate, County must issue a conditional use permit subject only to conditions set out in site certificate (ORS 469.401(3))
- Applicant is not required to comply with Criterion(3) because the 2-mile setback is not “applicable substantive criteria”
- Applicant is not required to comply with Criterion(3) is order for the County to issue a conditional use permit.



3. Exceptions Hearing

Hearing Format

9 exceptions filed– to be heard in order/groups of common subject matter

- Group 1: Procedural (exception B.iv)
- Group 2: Interpretation of “applicable substantive criteria” (exceptions B.ii, B.iii)
- Group 3: Council authority to choose level of land use review when related or supporting facility crosses more than 3 zones (exception A.i, A.ii, B.v, B.i, B.vii, B.vi)

Umatilla County - Exception B.iv

B.iv: Relatedly, the ALJ in their Order on Petitions for Party Status and Issues for Contested Case Order (“Issues Order”) has already decided that whether Criterion (3) is an applicable substantive criterion is not within the Council’s authority. There is a specific seven (7)-day period of time for filing objections to the Issues Order and none were filed. OAR 345-015-0016(6). That means, as a matter of law, the PCCO misconstrues applicable law by deciding that Criterion (3) is not an applicable substantive criterion.



Group 1– Oral Testimony Format

- Umatilla County – 3 Minutes
- Nolin Hills Wind LLC – 3 Minutes
- Oregon Department of Energy – 3 Minutes



Council Straw Poll

Exception B.iv

1. Agree with findings of facts, conclusions of law and conditions of approval in the Proposed Contested Case Order; or
2. Indicate any specific changes in findings of facts, conclusions of law or conditions of approval

Umatilla County - Exceptions B.ii and B.iii

- B.ii: UCDC 152.616(HHH)(6)(a)(3) (“Criterion (3)”) is an “applicable substantive criterion” under ORS 469.504 and OAR 345-022-0030(3) and the PCCO erroneously asserts that it is not an “applicable substantive criterion” because it is not required by the statewide planning goals. PCCO, p. 14.
- B.iii: ODOE and EFSC do not have jurisdiction to review or reverse the special advisory group’s identification of Criterion (3) as an applicable substantive criterion.

Group 2: Oral Testimony Format

- Umatilla County – 6 Minutes
- Nolin Hills Wind LLC – 6 Minutes
- Oregon Department of Energy – 6 Minutes



Council Straw Poll

Exceptions B.ii and B.iii

1. Agree with findings of facts, conclusions of law and conditions of approval in the Proposed Contested Case Order; or
2. Indicate any specific changes in findings of facts, conclusions of law or conditions of approval

Umatilla County – Exceptions A.i, A.ii, B.v, B.i, B.vii and B.vi

- A.i: The Proposed Facility would not pass through more than three zones, including Umatilla County’s Agri-Business zone. The PCCO, p. 6, Finding of Fact #12 to the contrary is wrong and is not supported by substantial evidence. The record does not support the PCCO findings (PCCO, p. 30-31) that conclude that the UEC Cottonwood transmission line is a related or supporting facility (a “facility”) to the proposed wind and solar energy facilities.
- A.ii: The UEC Cottonwood Transmission Line Alternative is not a “related or supporting facility” to the proposed wind energy facility or solar energy facility and the County did cite evidence in the record establishing this fact. PCCO Finding of Fact #16.



Umatilla County - Exceptions A.i, A.ii, B.v, B.i, B.vii and B.vi

- B.v: The UEC Cottonwood transmission line is not a “related or supporting facility” that passes through more than three zones, as a matter of law.
- B.i: Related to the exception to the erroneous finding of fact described in section (II)(A)(ii) immediately above, the PCCO misconstrues applicable law by shifting the burden of proof to the County. The applicant carries the burden of proof. The PCCO misconstrues applicable law by deciding that the County did not show that the UEC Cottonwood line is not a related or supporting facility. The burden of proving that fact belongs to the applicant. There is at the least a genuine issue of material fact regarding whether the Cottonwood line is a related or supporting facility. That means as a matter of law that summary determination on that issue misconstrued applicable law. OAR 137-003-0580(6)(a).
- B.vii: The PCCO misconstrues applicable law in determining that MSD is appropriate in favor of ODOE and the applicant. MSD is only appropriate if there are no genuine issues of fact and the applicant has carried its burden to demonstrate compliance with all applicable standards. Neither is the case here.
- B.vi: The PCCO determination that even if Criterion (3) is an applicable substantive criterion, that the Council is authorized to ignore it and approve the proposal anyway under ORS 469.504(1)(b)(B) notwithstanding that the Proposed Facility does not comply with Criterion (3), misconstrues applicable law.



Group 3: Oral Testimony Format

- Umatilla County – 18 Minutes
- Nolin Hills Wind LLC – 18 Minutes
- Oregon Department of Energy – 18 Minutes



Council Straw Poll

Exceptions A.i, A.ii, B.v, B.i, B.vii and B.vi

1. Agree with findings of facts, conclusions of law and conditions of approval in the Proposed Contested Case Order; or
2. Indicate any specific changes in findings of facts, conclusions of law or conditions of approval

1.b) Proposed Order Review: Land Use Standard

Comments on DPO

Section IV. E Land Use: OAR 345-022-0030

Two Land Use Issues Identified in Comments on the DPO:

1. Goal 3 Exception for Solar Facility (more than 12 acres in EFU zone)
2. Umatilla County 2-mile setback (subject of Contested Case– just reviewed)

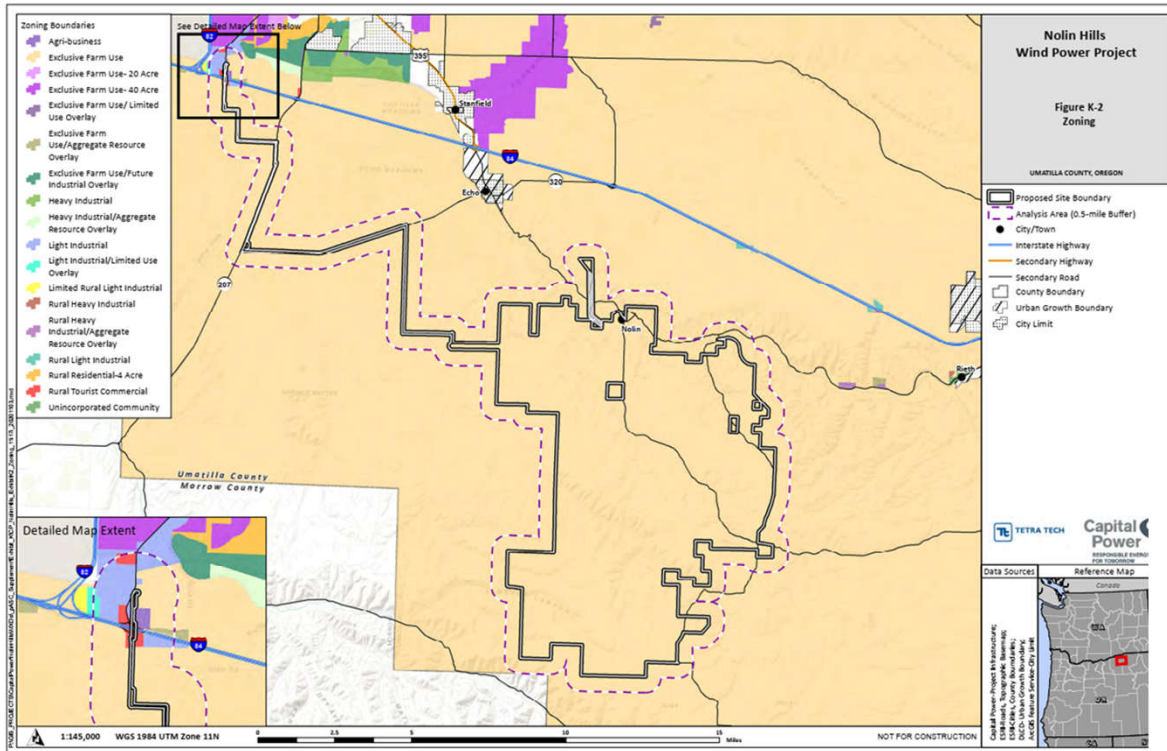
Council Comments on DPO

Section IV. E Land Use: OAR 345-022-0030

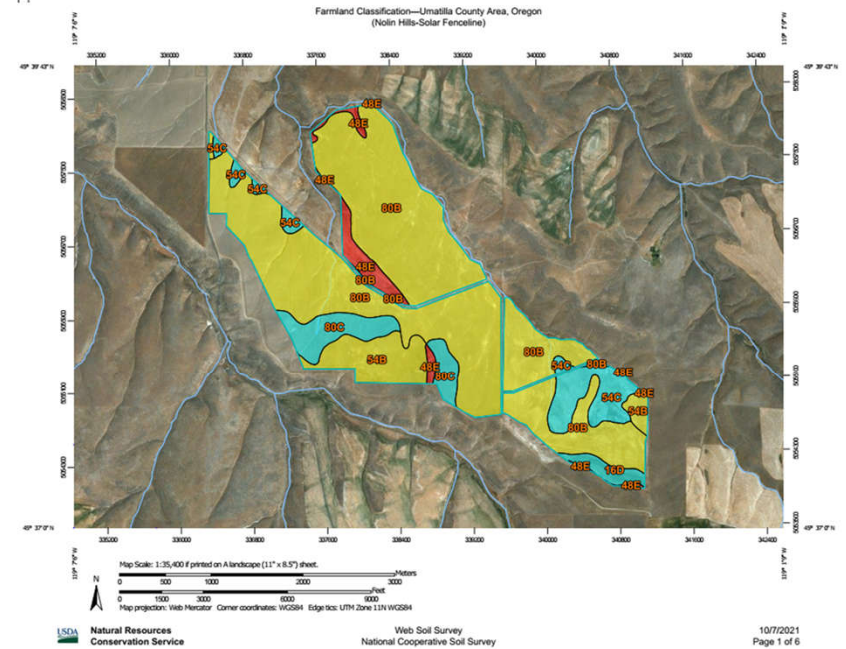
Goal 3 Exception request or Solar Facility in EFU Zone

- On the record of the DPO hearing, Council members expressed concern that the applicant’s “reasons” provided for the Goal 3 exception request were not site specific and could be applied to any site.
- Applicant requested to hold record open to respond to comments received at Public Hearing on May 26, 2022.
- Applicant responses submitted on June 15, 2022 to the Department and Council for inclusion in the record and reviewed by Council at the June 24, 2022 review of the DPO.

Land Use Zones



Solar Area: Goal 3 Exception Request



Changes in Proposed Order

Section IV. E Land Use: OAR 345-022-0030

Additional Findings of Fact in Proposed Order:

Department recommended Council find that the site specific parameters contributing to the “**locational dependency**” reason included that the site offered the ability to design, construct and operate both a utility-scale wind AND solar facility.

To ensure that this “**locationally dependent**” factor associated with the site is realized, the Department recommended Council impose the following condition:

Changes in Proposed Order

Section IV. E Land Use: OAR 345-022-0030

Recommended Land Use Condition 16 (PRE): Prior to construction of solar photovoltaic energy generation components, the certificate holder shall document that turbine strings with a minimum of 50 MW generation capacity be constructed in close proximity to the proposed solar site and that the wind and solar facility components will share the northern project substation and any existing roads during construction and operation.

Documentation of the combination of wind and solar energy generation components, at final design, shall be submitted to the Department or Council for review and approval, per (a) or (b) as applicable:

a) If construction of wind energy generation components will commence within the same 12-month period as solar energy generation components, certificate holder shall submit to the Department final facility design documents and executed contracts (e.g., construction contract, Power Purchase Agreement) or other evidence that shows a minimum of 50 MW within turbine strings in close proximity to the solar site will be constructed and that the wind and solar facility components will share the northern project substation and any existing roads during construction and operation; or

Changes in Proposed Order

Section IV. E Land Use: OAR 345-022-0030

Recommended Land Use Condition 16 (PRE): (Continued)

b) If commencement of wind energy generation components will occur more than 12-months after solar energy generation components, certificate holder shall submit to Council, for review at a regularly scheduled Council meeting, facility design documents and executed contracts (e.g., construction contract, Power Purchase Agreement) or other evidence that demonstrates to Council's satisfaction that turbine strings with a minimum of 50 MW generation capacity will be constructed in close proximity to the solar site and that the wind and solar facility components will share the northern project substation and any existing roads during construction and operation prior to the construction completion deadline.

Council Straw Poll

Proposed Order: Land Use Standard

1. Agree with findings of facts, conclusions of law and conditions of approval in the Proposed Order; or
2. Indicate any specific changes in findings of facts, conclusions of law or conditions of approval



4. Material Change Hearing (if applicable)

Material Changes in Draft Final Order

Material changes include substantive changes to conditions of approval imposed to meet a standard or conditions imposed based upon an applicant representation.

- ...Council may amend or reject the proposed order, so long as the council provides public notice of its hearing to adopt a final order, and provides an opportunity for the applicant and any party to the contested case to comment on material changes to the proposed order, including material changes to conditions of approval resulting from the council's review...ORS 469.370(7)

Material Change Hearing

- Scope of Material Changes
- Oral Comments
 - Umatilla County
 - Applicant
 - Department



Council Straw Poll

Material Change Hearing

1. Agree with the material changes previously identified; or
2. Indicate any specific changes in findings of facts, conclusions of law or conditions of approval

5. Hearing to Adopt Final Order (if applicable)

Council Adoption of Final Order

- ORS 469.370(7) At the conclusion of the contested case, the council shall issue a final order, either approving or rejecting the application based upon the standards adopted under ORS 469.501 and any additional statutes, rules or local ordinances determined to be applicable to the facility by the project order, as amended. The council shall make its decision by the affirmative vote of at least four members approving or rejecting any application for a site certificate. The council may amend or reject the proposed order, so long as the council provides public notice of its hearing to adopt a final order, and provides an opportunity for the applicant and any party to the contested case to comment on material changes to the proposed order, including material changes to conditions of approval resulting from the council's review. The council's order shall be considered a final order for purposes of appeal.
- ORS 469.370(9) The council shall either approve or reject an application for a site certificate.



Council Decision on NHW Application

Option 1 - Recommended

Approve the Proposed Order and PCCO as the Final Order, as presented, and issue a Site Certificate

Option 2

Approve the Proposed Order and PCCO as the Final Order, as presented but with changes, and issue a Site Certificate

Option 3

Deny the ASC, with amended findings of facts and conclusions of law

Council Deliberation



BREAK



Agenda Item H (Information Item)

Boardman to Hemingway Transmission Line Public Hearing on Draft Proposed Order for Request for Amendment 1 of Site Certificate

July 17-19, 2023

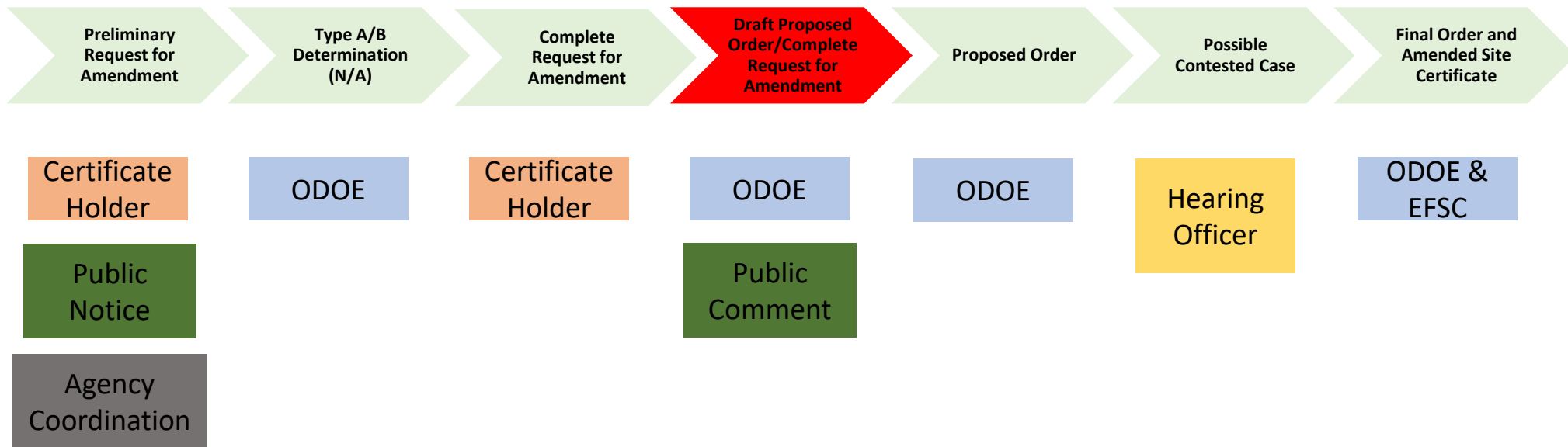
Informational Presentation – Kellen Tardaewether, Senior Siting Analyst, Oregon Department of Energy



Presentation Overview

- Facility Overview and Site Certificate History
- Request for Amendment 1 (RFA1) Proposed Changes and Procedural History
- Review of Draft Proposed Order (DPO), Council Standards and Comments Received on DPO

Energy Facility Siting Amendment Process



Boardman to Hemingway Transmission Line Overview

Certificate Holder

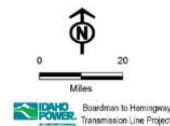
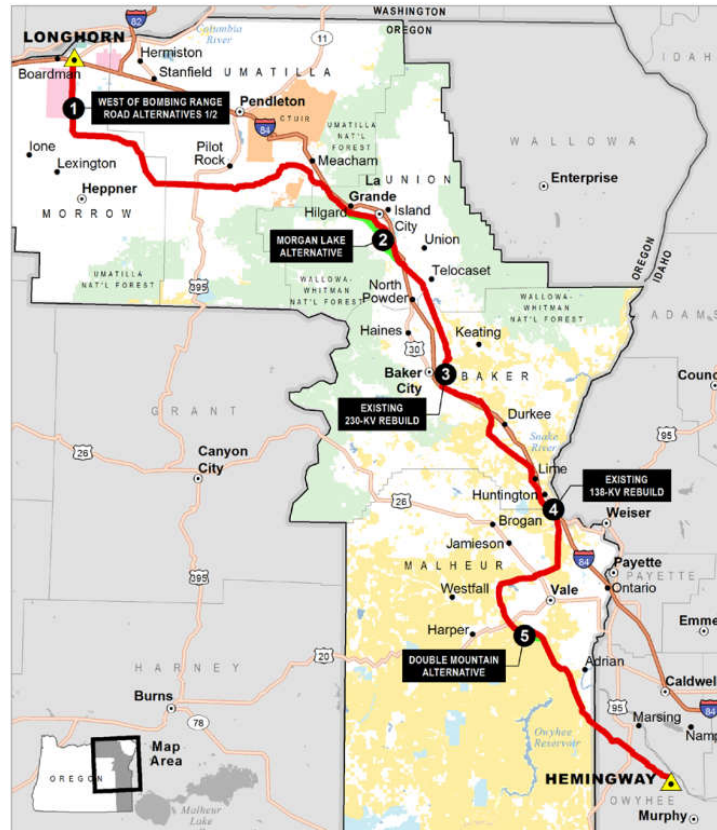
Idaho Power Company

Approved Facility

Approximately 273 miles of predominantly 550 kV transmission line, includes related or supporting facilities

Facility Location:

Morrow, Umatilla, Union, Baker and Malheur Counties



Project Features	Land Status	Indian Reservation
Proposed Route	Bureau of Land Management	Military Reservation/ Corps of Engineers
Alternative	Bureau of Reclamation	Other Federal
Stations	Fish and Wildlife Service	Private
Alternative Detail Reference # (see Detail Map)	Forest Service	State

Boardman to Hemingway Transmission Line RFA1- Scope of Council Review

- OAR 345-027-0375 – Scope of Council’s Review for Adding Areas to the Site Boundary

1. That the portion of the facility within the area added to the site boundary by the amendment complies with all laws and Council standards applicable to an original site certificate application; and

2. The amount of the bond or letter of credit required under OAR 345-022-0050 is adequate.

Boardman to Hemingway Transmission Line: Request for Amendment 1

Request for Amendment 1 (RFA1) seeks approval from EFSC for the following changes:

- **To add area to the site boundary to allow siting of previously approved facility components in new locations. This includes using the proposed new site boundary area to site approximately 8.8 miles of 500-kV transmission line and 45.9 miles of new or substantially modified access roads.**
- **Amend site certificate language to support implementation and interpretation.**

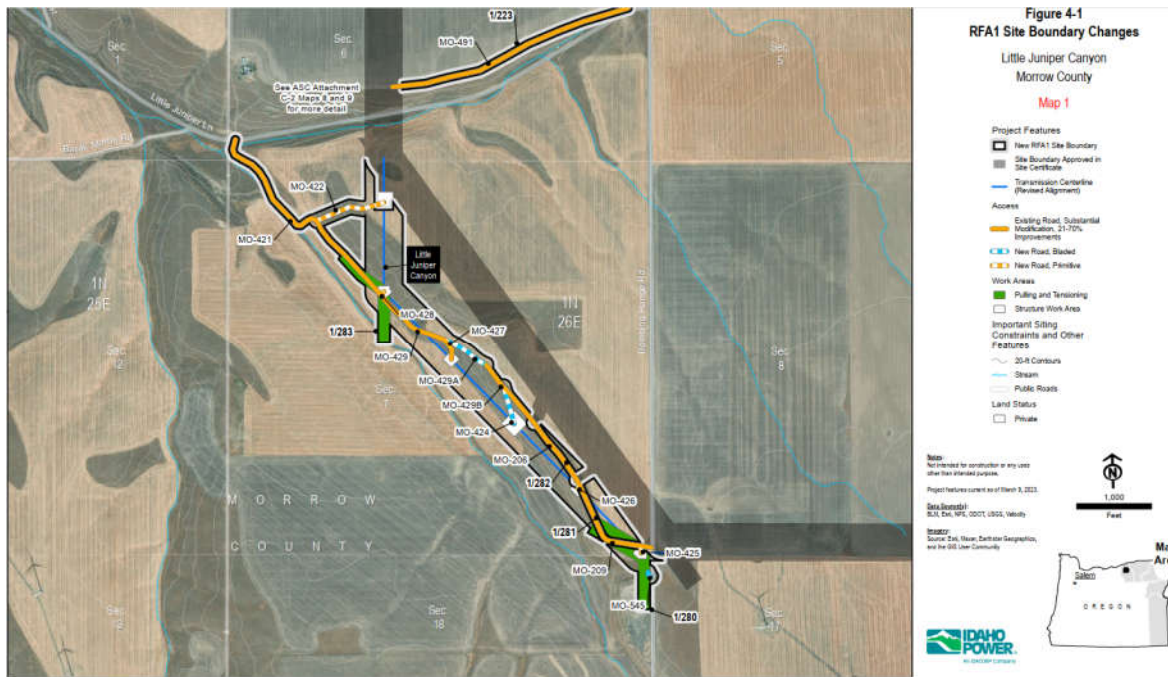
Boardman to Hemingway Transmission Line: Request for Amendment 1

Table 2: RFA1 Proposed Alternative Route and Access Road Additions⁶

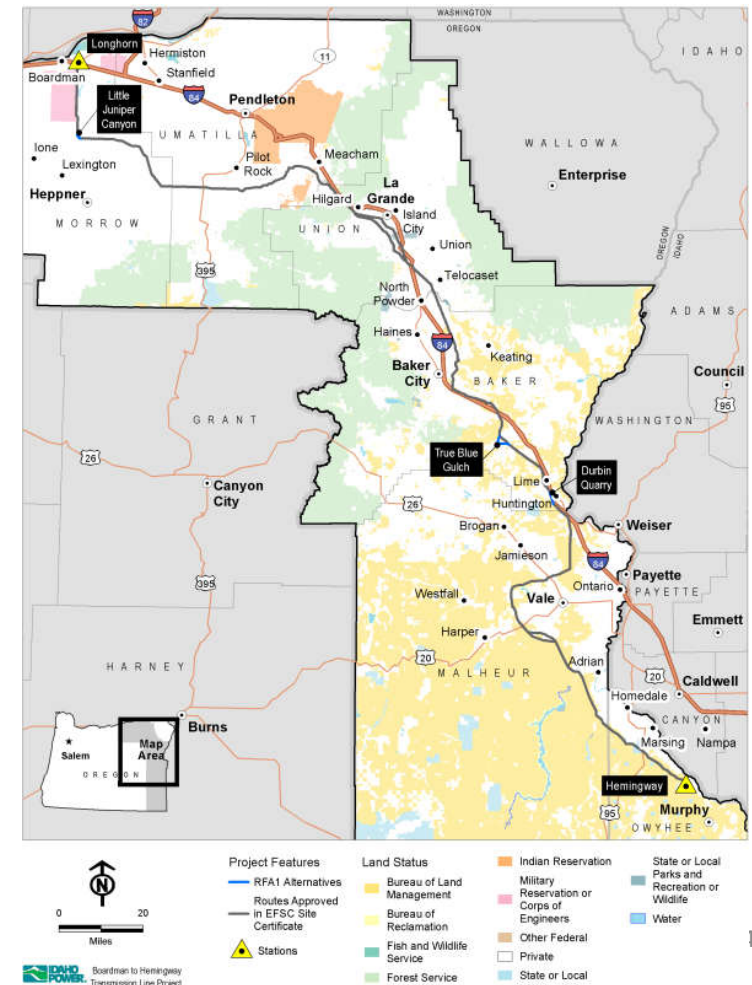
Proposed Site Boundary Additions	County	Length of Addition – Transmission Line (miles)	Length of Addition – Access Road (miles)	Area of Addition (acres)	Description of Site Boundary Addition
Little Juniper Canyon Transmission Line Alternative ¹	Morrow	1.4	1.4	78.7	Shifted transmission line to the west to minimize impacts to proposed solar facility
Access Road Changes in Morrow County	Morrow	NA	4.2	61.9	Road design changes
Access Road Changes in Umatilla County	Umatilla	NA	3.4	71.3	Road design changes
Access Road Changes in Union County	Union	NA	1.8	36.7	Road design changes
True Blue Gulch Transmission Line Alternative ²	Baker	4.6	8.6	422.8	Adjusted transmission line to the west and south to minimize noise and visual impacts
Durbin Quarry Transmission Line Alternative ³	Baker	2.8	2.1	130.0	Shifted transmission line to avoid crossing ODOT quarry
Access Road Changes in Baker County	Baker	NA	17.0	95.5	Road design changes
Access Road Changes in Malheur County	Malheur	NA	7.4	139.1	Road design changes
TOTAL	NA	8.8	45.9	1,036.0	NA



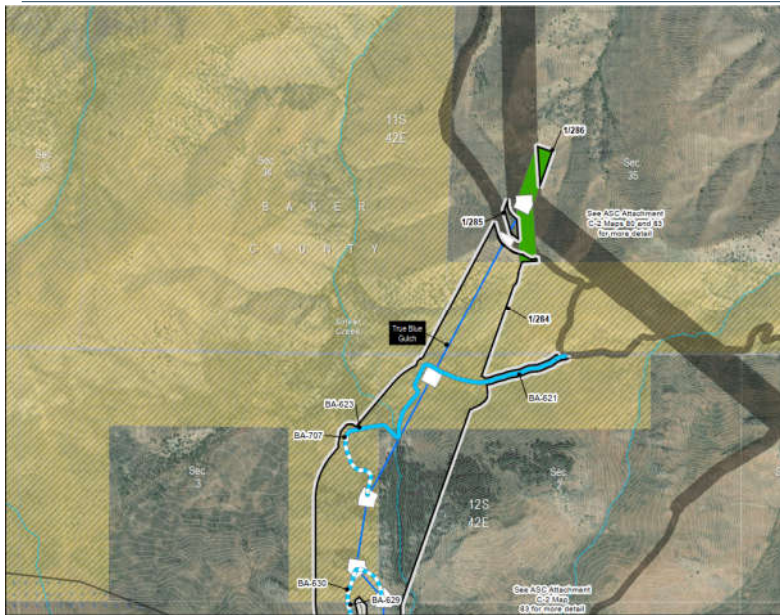
Boardman to Hemingway Transmission Line: Request for Amendment 1



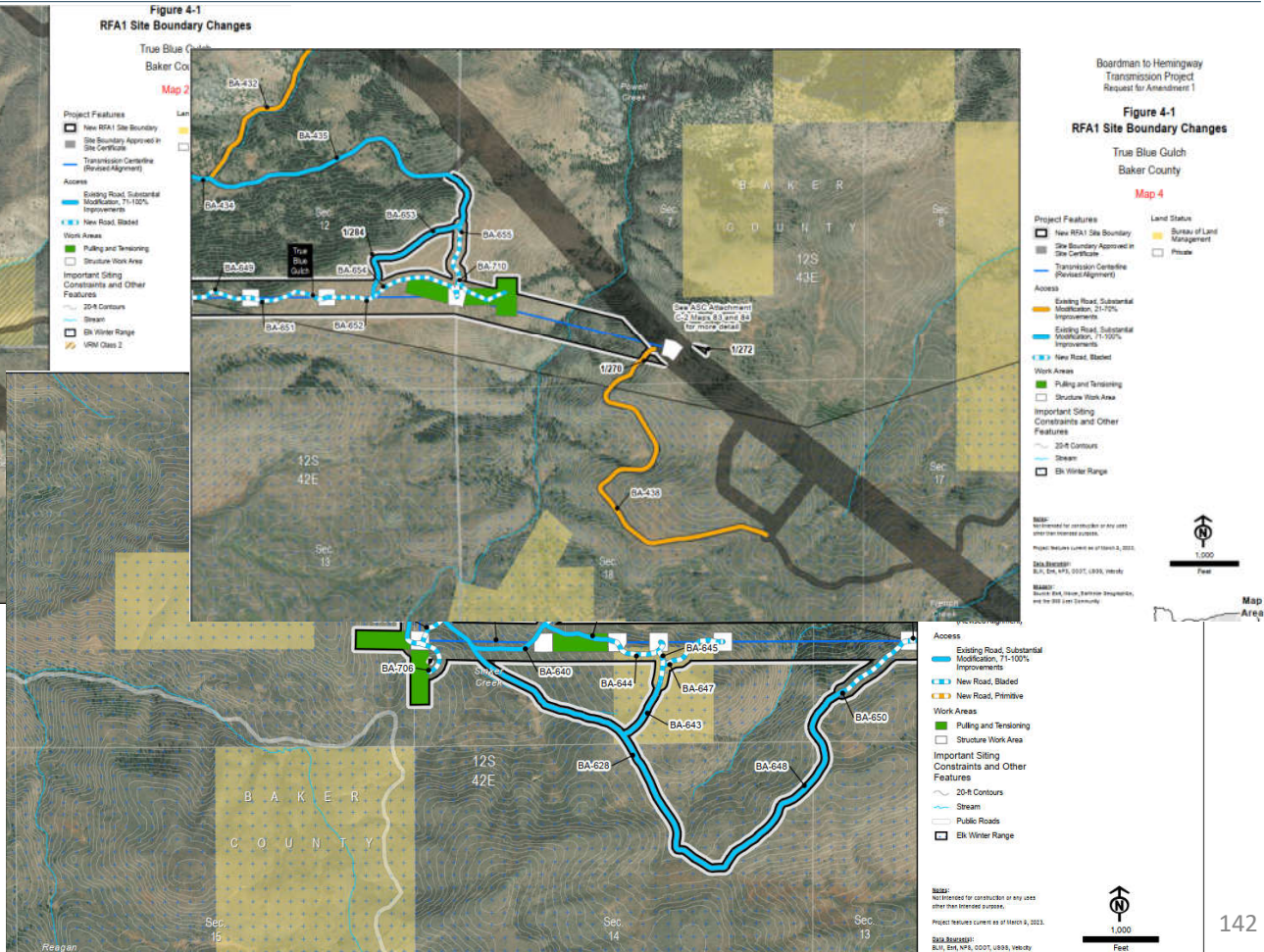
Little Juniper Canyon Alternative – 1.3 miles long;
0.1 miles longer than approved route segment



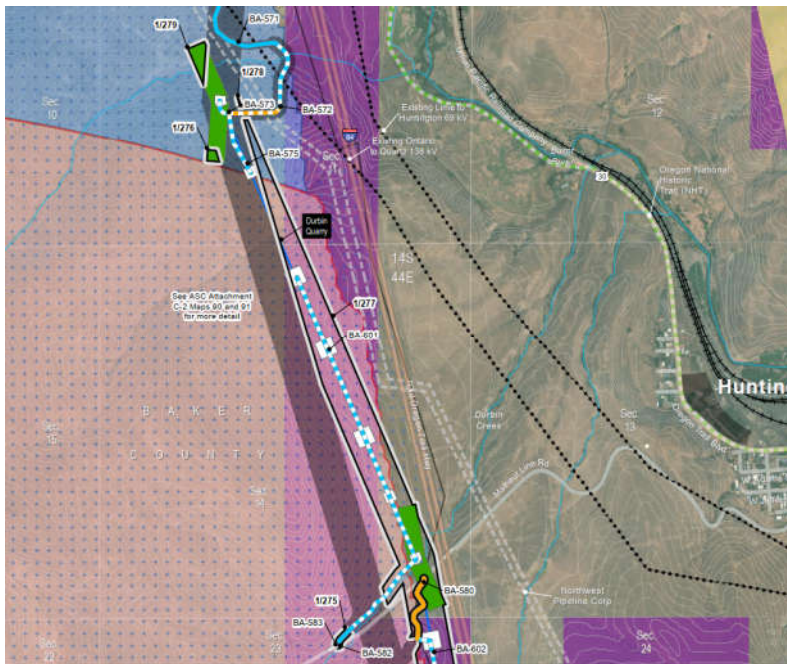
Boardman to Hemingway Transmission Line: Request for Amendment 1



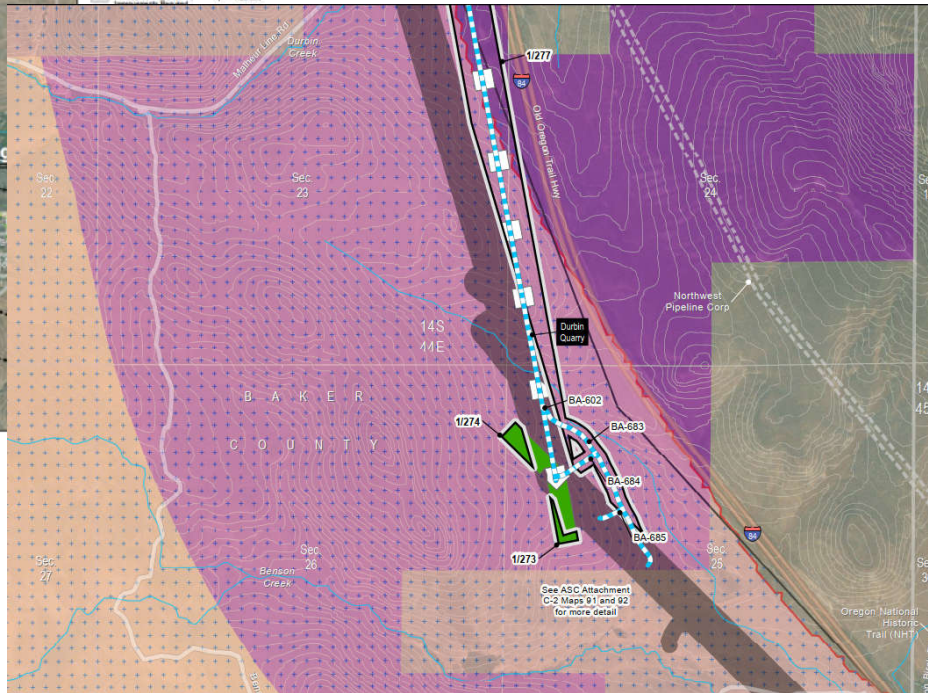
True Blue Gulch Alternative – 4.6 miles long;
1.7 miles longer than approved route segment



Boardman to Hemingway Transmission Line: Request for Amendment 1

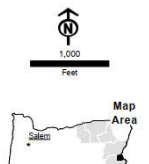


Request for Amendment 1
Figure 4-1
RFA1 Site Boundary Changes
 Durbin Quarry
 Baker County
Map 5

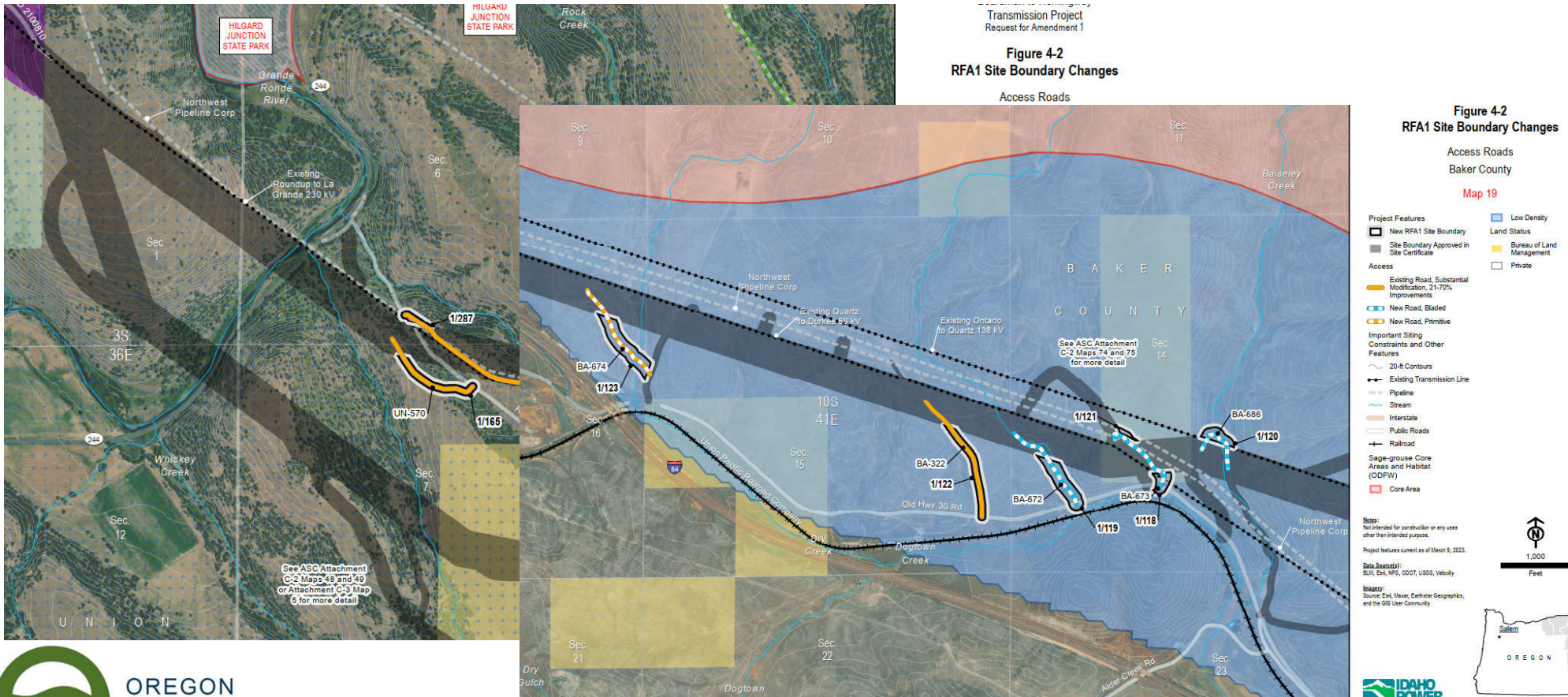


Boardman to Hemingway
 Transmission Project
 Request for Amendment 1
Figure 4-1
RFA1 Site Boundary Changes
 Durbin Quarry
 Baker County
Map 6

Durbin Quarry Alternative – 2.8 miles long;
 No distance difference between proposed
 alternative and approved route segment.



Boardman to Hemingway Transmission Line: Request for Amendment 1



Boardman to Hemingway: RFA1 Procedural History

Milestone	Responsible Party	Date
Preliminary RFA1 under Type A Review	Cert Holder	Dec 7, 2022
Complete RFA1	ODOE	June 8, 2023
Draft Proposed Order	ODOE	June 14, 2023
Draft Proposed Order Public Hearing(s)	EFSC	July 17-18, 2023
EFSC Review of DPO and Public Comments*	EFSC	July 19, 2023
Proposed Order**	ODOE	TBD
Final Decision	EFSC	TBD



* Pending the close of the record of the DPO hearing

**Pending review of petitions for contested case, if applicable

Overview of Draft Proposed Order

III.A. General Standard of Review: OAR 345-022-0000 p. 24-27

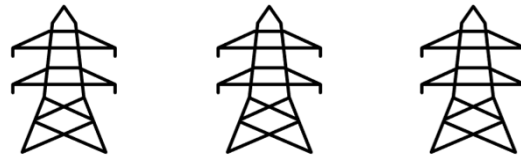
- The Council must determine that the preponderance of evidence on the record supports that the proposed RFA1 site boundary additions complies with the applicable laws or Council standards that protect a resource or interest that could be affected by the proposed change.
- When applying the preponderance of evidence test, Council takes into account the record as a whole and information obtained or demonstrated through compliance with existing, recommended amended or recommended new conditions.
- For the DPO, the evidentiary record relied upon to make recommended findings of fact and conclusions of law includes the record of the Final Order on the ASC (which includes the record of the contested case) and RFA1.



Overview of Draft Proposed Order

III.B. Organizational Expertise: OAR 345-022-0010 p. 28-31

- Based on the recommended findings of fact in this order, there are not substantively new or different resources or impacts resulting from the proposed RFA1 site boundary additions that would necessitate a different level of organizational expertise as evaluated in the Final Order on the ASC.
- Certificate holder power supply system includes 4,868 miles of transmission lines, including 692 miles in Oregon. It also operates 305 transmission and other stations, and operates and maintains 27,072 miles of distribution lines, 2,212 miles of which are located in Oregon. Certificate holder's experience in constructing high-voltage transmission lines, since 2000, includes 5 lines, extending 2 to 70 miles.



Overview of Draft Proposed Order

III.B. Organizational Expertise: OAR 345-022-0010 p. 28-31

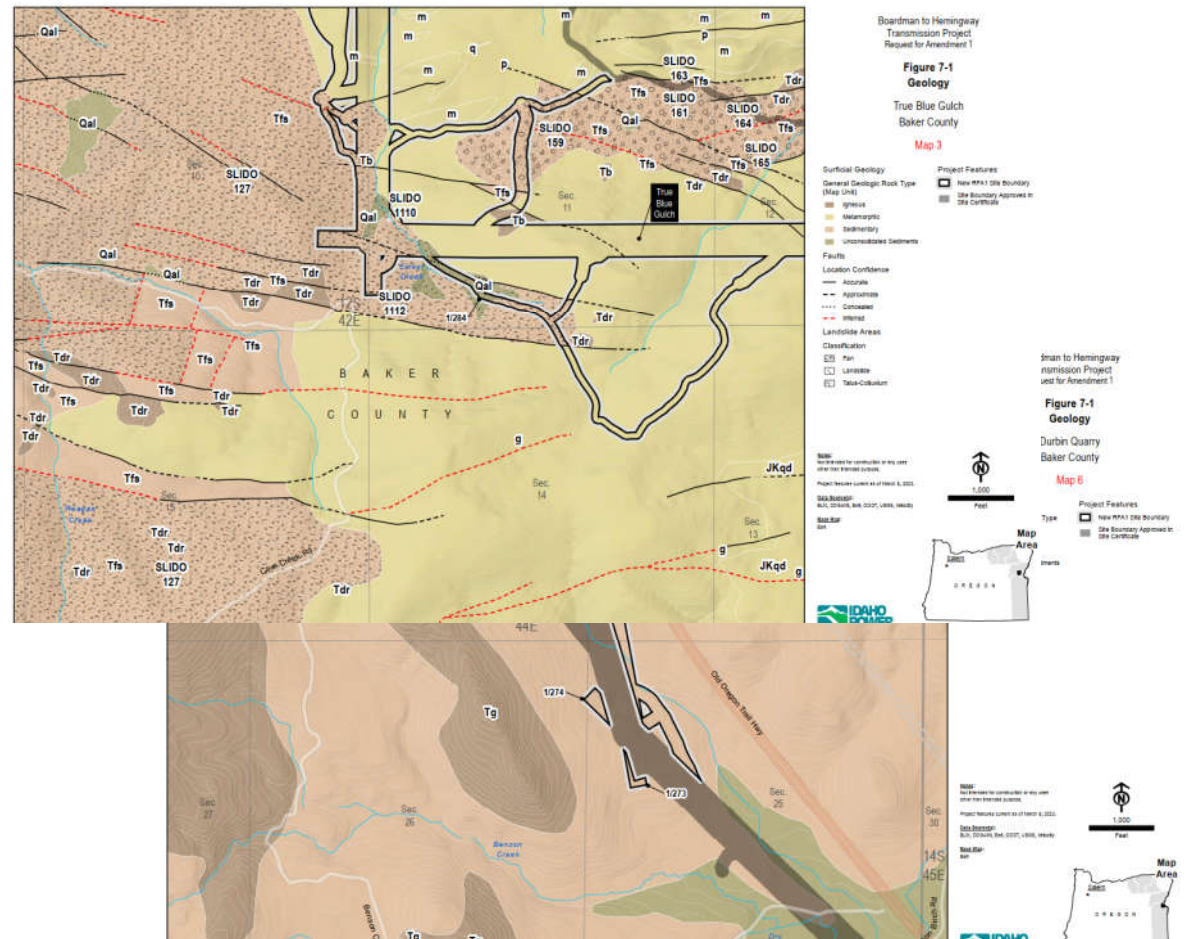
- Organizational Expertise Condition 2 (Condition GEN-OE-01) and Organizational Expertise Condition 3 (Condition PRE-OE-01) identify and provide qualifications of its construction contractors and construction managers. The qualifications must demonstrate that the contractors have substantial experience in designing, engineering and constructing similar types of facilities.
- Organizational Expertise Condition 4 (Condition PRE-OE-02) requires that the certificate holder contractually require its construction contractors to comply with the terms and conditions of the site certificate.
- Organizational Expertise Condition 1 (OPR-OE-01) requires that the certificate holder, during operations, implement and adhere to the requirements of the Transmission Maintenance and Inspection Plan (TMIP); and, report to the Department on the status and results of inspections and corrective actions implemented during the reporting year.



Overview of Draft Proposed Order

III.C. Structural Standard: OAR 345-022-0020 p. 31-40

- RFA1 site boundary additions include approximately 1,036 acres extending across portions of five counties; would be located in the same vicinity as the approved site boundary; therefore, the seismic and non-seismic hazards evaluated in the Final Order on the ASC will not significantly differ.



Overview of Draft Proposed Order

III.C. Structural Standard: OAR 345-022-0020 p. 31-40

- Structural Standard Condition 1 (Condition PRE-SS-01) requires geotechnical investigations within all areas where facility structures would be located.
- Structural Standard Condition 2 (Condition GEN-SS-01) requires the facility to be designed in accordance with the versions of the Oregon Structural Specialty Code, International Building Code, and local building codes in effect at the time of construction.
- Structural Standard Condition 4 (Condition GEN-SS-03) if site investigations or trenching identify foundation rocks that differ significantly from those described in the ASC, the certificate holder consult with the Department and DOGAMI on appropriate corrective or mitigation actions.

Table 8: Geologic Hazards within the Proposed RFA1 Site Boundary Additions Analysis Area

Proposed RFA1 Component	Mapped Landslide Reference	Evaluation	Certificate Holder's Pre-geotech Investigation Results
Little Juniper Canyon alternative	SLIDO 43	2011 site visit; 2022 reconnaissance visit	Identified as an alluvial fan and not a landslide; no surficial features indicative of landslide or geologic hazard observed (RFA1 Figure 7-1 Map 1)
True Blue Gulch alternative	SLIDO 127, 158, 159, 1110, 1112	Desktop mapping	Talus-colluvium with alluvial fans; not a landslide (RFA1 Figure 7-2 Maps 2-4)
Union County access roads	SLIDO 2281	Desktop mapping	It is a landslide, but located over 4,000 feet away (RFA1 Figure 7-2 Map 16)
Baker County access roads	SLIDO 1711	Review of aerial imagery and light detection and ranging; 2021 reconnaissance visit	Lack of sharp head scarps and landslide features indicates likely ancient landslide (RFA1 Figure 7-2 Map 26)
Malheur County access roads	SLIDO 2027, 2030	2011 site visit; 2021 reconnaissance visit; review of aerial imagery and light detection and ranging	Access roads would be in the landslide area; landslide area considered stable (RFA1 Figure 7-2 Map 33)
	SLIDO 2030, 2034	2021 reconnaissance visit	Lack of surficial features (RFA1 Figure 7-2 Map 34)
	SLIDO 2069	Desktop mapping	Access roads are in a gentle sloping area but 0.4-mile away from mapped landslide (RFA1 Figure 7-2 Map 39)

Overview of Draft Proposed Order

III.D. Soil Protection: OAR 345-022-0020 p. 41-47

➤ Of the 187 acres disturbed by construction, 129 acres would be restored and 58 acres would be permanently impacted by siting of facility infrastructure including 500 kV transmission towers and new and substantially modified access roads.

Table 9: Land Use and Cover Types within Proposed RFA1 Site Boundary Additions

County	Acres Within Analysis Area	High Value Farmland Soils within Analysis Area	Acres Impacted	Zone(s)	Land Cover Types
Morrow	140.6	73.8	23.8	Exclusive Farm Use	Agriculture; shrubland
Umatilla	71.3	59.4	11.1	Exclusive Farm Use; Grazing-Farm	Agriculture; forest/woodland; grassland; shrubland; riparian
Union	36.7	20.7	6.5	Exclusive Farm-Use; Agriculture-Grazing; Timber-Grazing	Forest/woodland; riparian; shrubland
Baker	648.3	479.1	120.6	Exclusive Farm Use	Forest/woodland; grassland; shrubland; riparian
Malheur	139.1	7.9	25.2	Exclusive Farm Use – Exclusive Range Use; Heavy Industrial	Agriculture; grassland; shrubland; open water

Overview of Draft Proposed Order

III.D. Soil Protection: OAR 345-022-0020 p. 41-47

Recommended Amended Soil Protection Condition 1: The certificate holder shall:

- a. Prior to construction of the facility, submit to the Department a ~~final copy of an~~ ODEQ-issued NPDES 1200-C General Construction Permit, ~~including the final and~~ Erosion Sediment Control Plan (ESCP). ~~The protective measures described in the 1200-C Permit Application and ESCP as provided in Attachment 1-3 of the Final Order on the ASC, shall be included in the final ESCP.~~
- b. During construction of the facility, the certificate holder shall conduct all work in

Recommended Amended Structural Standard Condition 1: At least 90 days prior to construction of a phase or segment of the facility, unless otherwise approved by the Department:

- a.
- b. The certificate holder shall submit to the Department and DOGAMI a pre-construction site-specific geological and geotechnical investigation report s.
 - i. ...
 - ii. ~~In the electronic (email) submission of the report to the Department, as required under (b) of this condition, the certificate holder shall identify whether blasting is recommended. For any recommended blasting locations, in table and map format, specify the transmission line structure number, milepost and county; and, either submit with the report the draft Framework Blasting Plan (Soil Protection Condition 4, Attachment G-5 of this order), following the pre-construction agency review process or provide the schedule for initiation of the established agency review process, as provided in the draft Blasting Framework Plan.~~

Recommended Amended Soil Protection Condition 4:

- a. Prior to construction ~~related blasting, in accordance with the OAR 345-025-0016 agency consultation process outlined in the draft Framework Blasting Plan (attachment G-5 of the Final Order on the ASC),~~ the certificate holder shall finalize, and submit to the Department ~~for approval,~~ a final Blasting Plan inclusive of all measures included in the draft Framework Blasting Plan (Final Order on RFA1 Attachment G-5). The final Blasting Plan shall meet all applicable federal, state and local requirements related to the transportation, storage and use of explosive.
- b. Prior to construction ~~related blasting~~ the certificate holder will consult with landowners regarding right-of-way acquisition, and during these consultations, the certificate holder will discuss with the landowner any blasting that the certificate holder plans to conduct on the landowner's property. If the landowner identifies a natural spring or well on the property, the certificate holder will notify the landowner that at the landowner's request, the certificate holder shall conduct pre-erecting baseline flow and water quality measurements for turbidity. The certificate holder shall compensate the landowner for adequate repair or replacement if damages to the flow or quality of the natural spring are caused by blasting. ~~ing construction-related blasting, the certificate holder shall conduct all work in compliance with the final Blasting Plan approved by the Department.~~ N-SP-04, Final Order on ASC, AMD1) Management and Spill Response Plan (HWMSRP). The protective Plan in the draft Construction HWMSRP Plan, as provided in the Final Order on the ASCRFA1, shall be included in the final Plan; unless otherwise approved by the Department. Plan of the facility, the certificate holder shall conduct all work in Plan final Construction SPCC Plan HWMSRP. on 2; Final Order on ASC; AMD1]

Overview of Draft Proposed Order

III.E. Land Use: OAR 345-022-0030 p. 47-109

The proposed RFA1 site boundary additions would be located in the following zones:

- Morrow County: Exclusive Farm Use (EFU)
 - Umatilla County: EFU; Grazing Farm (GF)
 - Union County: EFU; Agricultural Grazing (A-2); Timber-Grazing (A-4)
 - Baker County: EFU
 - Malheur County: EFU-Exclusive Range Use (C-A1 and C-A2); Heavy Industrial (HI)
- The proposed RFA1 site boundary additions must comply with the applicable substantive criteria from the comprehensive plans and land use regulations of these counties in effect on the date the preliminary request for amendment was submitted, December 7, 2022.

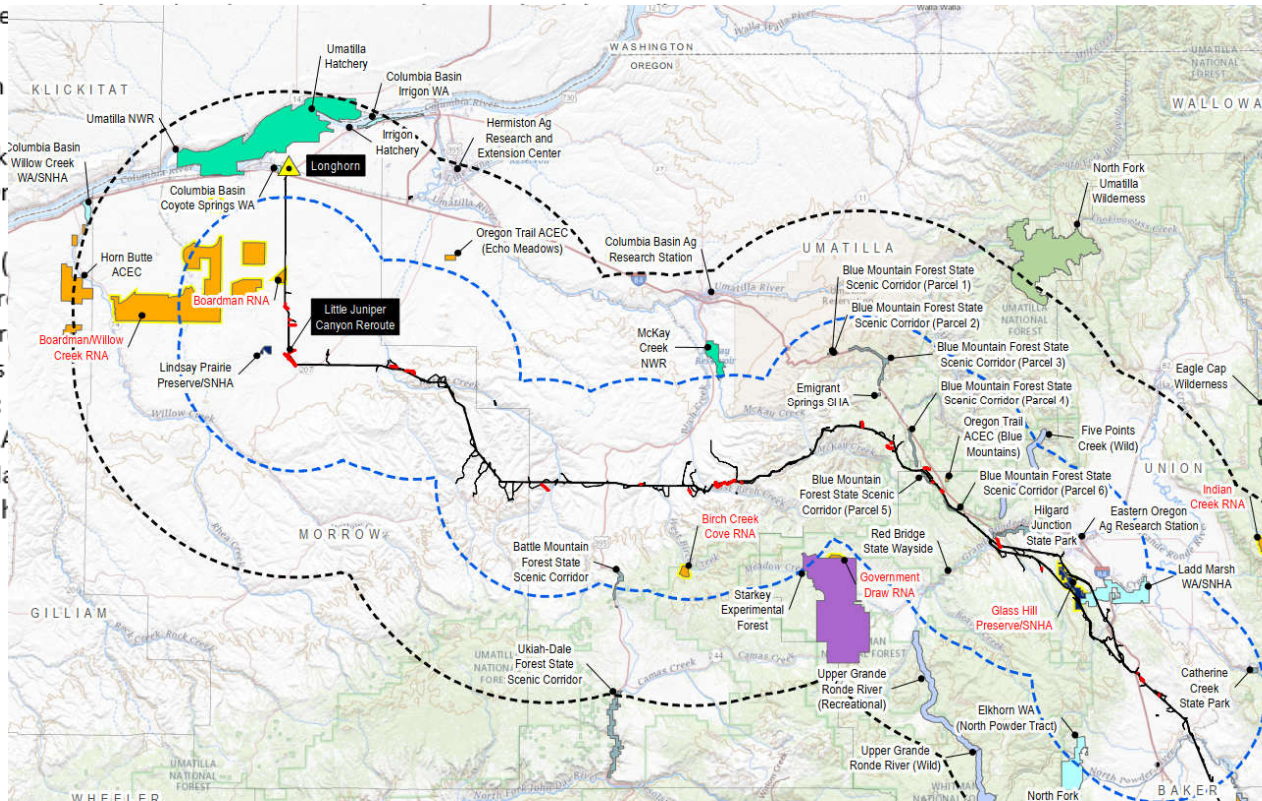


Overview of Draft Proposed Order

III.F. Protected Areas: OAR 345-022-0040 p. 110-148

Newly Identified Protected Areas in RFA1 Analysis Area:

- Glass Hill Preserve/ State Union County, Oregon;
- The Boardman Research County, Oregon;
- Boardman/Willow Creek
- Birch Creek Cove RNA Or County, Oregon;
- Government Draw RNA (
- Payette River Wildlife Ar Wildlife Management Ar
- Indian Creek RNA, Lands Plan/Indian Creek RNA);
- Rebecca Sand Hill RNA/ A Office Draft Resource Ma Washington County, Idal



Protected Areas

Analysis Areas

- Protected Areas (20-miles buffer of RFA1 Site Boundary)
- Scenic Resources (10-miles buffer of RFA1 Site Boundary)

Protected Areas

- Agricultural Experimental Stations
- Areas of Critical Environmental Concern, Outstanding Natural Areas, and Research Natural Areas
- Experimental Areas
- National and State Fish Hatcheries
- National and State Wildlife Refuges
- Scenic Waterways, Wild and Scenic Rivers, and Rivers Listed as Potential for Designation

State Natural Heritage Areas

- State Parks and Waysides
- State Wildlife Areas and Management Areas
- Wilderness Areas

Project Features

- New Protected Areas within 20-miles of RFA1 Site Boundary
- RFA1 Site Boundary Changes
- Site Boundary Approved in Site Certificate
- Stations

Data Sources:
BLM, NPS, ODWF, ODOT, ODOP, USFS, USFWS, USGS

Base Map:
USGS The National Map; National Boundaries Dataset; SDEP Elevation Program; Geographic Names Information System; National Hydrography Dataset; National Land Cover Database; National Structures Dataset; and National Transportation Dataset; USGS Global Ecosystems; U.S. Census Bureau TIGER/Line data; USFS Road Data; Natural Earth Data; U.S. Department of State Humanitarian Information Unit; and NOAA National Centers for Environmental Information; U.S. Coastal Relief Model. Data released June, 2022.

Map Area:
Oregon



Overview of Draft Proposed Order

III.F. Protected Areas: OAR 345-022-0040 p. 110-148

Table 15: Protected Areas within Analysis Area for Approved Routes and RFA1 Site Boundary Additions

Protected Areas (Pale green indicates new resource)	Protected Area Category	County	Approved Route	Approved Alternative Route	RFA1 Site Boundary Addition
Blue Mountain Forest State Scenic Corridor	State Parks and Waysides	Umatilla, Union			
Ladd Marsh WA/SNHA	State Wildlife Areas and Management Areas	Union			
Oregon Trail ACEC - NHOTIC Parcel	BLM ACECs	Baker			
Owyhee River Below the Dam ACEC	BLM ACECs	Malheur			
Oregon Trail ACEC - Straw Ranch 1 Parcel	BLM ACECs	Baker			
Oregon Trail ACEC - Birch Creek parcel	BLM ACECs	Malheur			
Hilgard Junction State Recreation Area	State Parks and Waysides	Union			
Deer Flat National Wildlife Refuge	National and State Wildlife Refuge	Malheur			

Table 17: Visual Impact Summary for Roads and Routes Proposed in RFA1 within Viewshed

Site Boundary Addition within Viewshed of Protected Area Resource ¹ (Pale green indicates new resource)	State - County	Location of Protected Area Relative to the RFA 1 Proposed Road/Route	Visual Impacts ²
Oregon Trail ACEC - Straw Ranch 1 Parcel	OR - Baker	0.1 mi E (Access Road Changes in Baker County) Approx. 8 mi NW (True Blue Gulch Transmission Line Alternative)	Certificate holder indicates that RFA1 Proposed Site Boundary Additions closest in proximity (i.e., access road changes followed by the True Blue Gulch Transmission Line Alternative) will introduce medium intensity impacts at a foreground viewing distance; these impacts will be less than what was previously approved for the ASC (see Figure 7-12 for a comparison with the previously approved viewshed). Views of the RFA 1 Proposed Site Boundary Additions will remain head-on and peripheral, depending on the viewer's location and will be from a neutral vantage point. However, existing views include I-84, a gravel quarry, scattered residential and ranching development, gravel surface roads, and two transmission lines. Due to access roads not having an aerial component, the visual impacts are anticipated to be low intensity as a result. Additionally, towers that are visible within the protected area as a result of the nearby RFA1 site boundary addition, the True Blue Gulch Transmission Line Alternative, will add minimal visual contrast to what was previously approved for the ASC (see Figure 7-12; substantial overlap with the previously approved viewshed). The site is managed for scenic quality. Therefore, the comprehensive visual impacts are anticipated to remain medium intensity and less than significant as a result of RFA1 (see Figure 7-12 and RFA1, Attachment 7-2, Table 2).

Overview of Draft Proposed Order

III.G. Retirement and Financial Assurance: OAR 345-022-0050 p. 148-152

- Same site restoration tasks, unit costs, labor rates, and cost estimate assumptions as Final Order on ASC.
- Council previously found that \$140,779,000 million was adequate to restore the site to a useful non-hazardous condition.
- Proposed transmission line routes in RFA1, if selected, would increase the overall distance by 1.8 miles, which is than 0.1% change in the total length of the facility.
- Existing site certificate conditions require the certificate holder to adjust the bonding for construction and for operation based upon final design and adjusting to current dollars.



Overview of Draft Proposed Order

III.H. Fish and Wildlife Habitat: OAR 345-022-0060(1) p. 152-165

Table 18: Habitat Categories and Types within Proposed RFA1 Additions

Proposed Change	Habitat Category			
	1	2	3	5
Little Juniper Canyon Alternative				
Agriculture / Developed	--	--	--	--
Shrubland	--	42.8	--	--
True Blue Gulch Alternative				
Bare Ground	--	8.2	--	--
Forest / Woodland	--	116.6	--	--
Grassland	--	18.3	--	--
Riparian Vegetation	--	2.5	--	--
Shrubland	--	277.0	--	--
Durbin Quarry Alternative				
Agriculture / Developed	--	--	--	--
Grassland	--	9.3	--	--
Shrubland	--	119.3	--	--
Access Road Changes				
Agriculture / Developed	--	--	--	--
Bare Ground	--	10.5	0.6	--
Forest / Woodland	--	9.6	37.4	--
Grassland	--	70.6	1.7	--
Open Water	--	3.2	--	--
Riparian Vegetation	--	0.2	0.5	--
Shrubland	--	178.9	33.2	--

Table 19: Proposed RFA1 Site Boundary Additions - Temporary and Permanent Habitat Impacts

Habitat Type	Habitat Category							
	2		3		5		6	
	Temp	Perm	Temp	Perm	Temp	Perm	Temp	Perm
Little Juniper Canyon Alternative								
Shrubland	4.7	1.4	1.9	0.2	--	--	7.4	0.9
Subtotal =	4.7	1.4	1.9	0.2	--	--	7.4	0.9
True Blue Gulch Alternative								
Forest / Woodland	0.6	0.0	--	--	--	--	--	--
Grassland	8.7	1.7	--	--	--	--	--	--
Riparian Vegetation	3.1	0.9	--	--	--	--	--	--
Shrubland	58.4	12.5	--	--	--	--	--	--
Subtotal =	70.8	15.1	--	--	--	--	--	--
Durbin Quarry Alternative								
Agriculture / Developed	--	--	--	--	--	--	0.5	--
Grassland	1.8	0.4	--	--	--	--	--	--
Shrubland	28.9	3.7	--	--	--	--	--	--
Subtotal =	30.7	4.1	--	--	--	--	0.5	--
Access Road Changes								
Agriculture / Developed	--	--	--	--	--	--	9.1	5.3
Bare Ground	2.0	0.9	0.1	0.1	--	--	--	--
Forest / Woodland	1.5	1.3	6.6	2.6	--	--	--	--
Grassland	12.6	6.6	0.2	0.2	--	--	--	--
Open Water	1.0	0.5	--	--	--	--	--	--
Riparian Vegetation	0.0	0.0	--	--	--	--	--	--
Shrubland	30.9	15.6	7.3	3.4	--	--	--	--
Subtotal =	47.9	24.9	14.2	6.2	--	--	9.1	5.3
Grand Total =	154.1	45.5	16.1	6.4	--	--	17.0	6.2
Total Permanent, Categories 2-5	51.9 acres							
Total Temporary, Categories 2-5	170.2 acres							



Proposed RFA1 Site Boundary Additions - 1,000

Overview of Draft Proposed Order

III.H. Fish and Wildlife Habitat: OAR 345-022-0060(1) p. 152-165

The certificate holder shall:

- a. Prior to construction of a phase or segment of the facility, finalize, in accordance with the OAR 345-025-0016 agency consultation process outlined in the draft Reclamation and Revegetation Plan (Attachment P1-3 of the Final Order on the ASC), and submit to the Department for its approval a final Reclamation and Revegetation Plan for that phase or segment of the facility to be constructed. The protective measures described in the draft Reclamation and Revegetation Plan in Attachment P1-3 of the Final Order on the ASC shall be included and implemented as part of the final Reclamation and Revegetation Plan, unless otherwise approved by the Department. If the certificate holder does not mitigate for temporal loss of temporary habitat impacts as presented in HMP Table 10, c Components of the plan to be finalized are as follows. All components can be specific to the phase or segment of the facility to be constructed:
 - i. Habitat (type/subtype) and disturbance impact (acres) assessment based on final facility design and layout and preconstruction field verification of disturbance areas.
 - ii. Identification and mapping of reclamation treatment and control monitoring sites per habitat type.
 - iii. Identification and mapping of transect size and quantity, based on size of disturbance areas, to be paired with treatment and control monitoring sites per habitat type.
 - iv. Collection of preconstruction qualitative and quantitative data at treatment and control monitoring sites.
 - v. Development of site-specific data analysis protocol for photographs and a standardized data-recording form.
 - vi. Identification, and confirmation of availability, of appropriate seed mixes per impacted habitat type
- b. Post-construction of a phase or segment of the facility, the certificate holder shall conduct all work in compliance with the final Reclamation and Revegetation Plan referenced in sub(a) of this condition.

[Fish and Wildlife Condition 1: Final Order on ASC. AMD1]

During facility operations and maintenance, tThe certificate holder shall:

- ~~a.—Prior to construction of a phase or segment of the facility, in accordance with the OAR 345-025-0016 agency consultation process outlined in the draft Vegetation Management Plan (Attachment P1-4 of the Final Order on the ASC), finalize and submit to the Department for its approval, in consultation with ODFW, a final Vegetation Management Plan. The protective measures described in the draft Vegetation Management Plan in Attachment P1-4 of the Final Order on the ASC, shall be included and implemented as part of the final Vegetation Management Plan, unless otherwise approved by the Department. During construction, the certificate holder shall conduct all work in compliance with the final Vegetation Management Plan referenced in sub(a) of this condition, substantially as presented in Final Order on ASC Attachment P1-4.~~
- ~~b.—During operation, the certificate holder shall conduct all work in compliance with the final Vegetation Management Plan referenced in sub(a) of this condition.~~

[Fish and Wildlife Condition 2; Final Order on ASC, AMD1]



OREGON
DEPARTMENT OF
ENERGY

Overview of Draft Proposed Order

III.H. Fish and Wildlife Habitat: OAR 345-022-0060(2) p. 152-165

The proposed Durbin Quarry alternative would be located in Core Area and Low Density habitat. Policy 2 criteria (a) – (d) are evaluated in DPO.

- The Department recommends Council find that Policy 2 criteria (a)(B) and (b)(B) (the proposed development is dependent on a unique or other physical feature(s) that cannot be found on other lands) is met for the proposed Durbin Quarry alternative.

Overview of Draft Proposed Order

III.I. Threatened and Endangered Species: OAR 345-022-0070 p. 165-169

- WAGS surveys were conducted April 4-11 and 19-27 and May 5-12 and 20-28, 2022 and included the area within a 1,000-foot buffer of suitable habitat. One WAGS colony was found within the ½-mile analysis area (the Little Juniper Canyon Alternative in Morrow County).
- T&E Species Condition 1 (Condition CON-TE-01) which precludes any ground-disturbing activities during construction to occur within WAGS-habitat.
- Council previously imposed T&E Species Condition 2 (Condition CON-TE-02) which precludes any ground-disturbing activities during construction from occurring within 33-feet of T&E plant species.

Overview of Draft Proposed Order

III.J. Scenic Resources: OAR 345-022-0080 p. 168-174

- 47 applicable land use management plans or development codes were reviewed to see if there had been updates to these plans that may identify new scenic resources. 23 of the 47 plans or codes have been updated since the ASC; these plan updates did not identify any new significant or important scenic resources and values.

Table 20: Scenic Resources within Analysis Area for ASC and RFA1

Scenic Resource	Distance to Approved/Proposed Routes	Designating Plan
Blue Mountain Forest Wayside (SR U1)	Crossed (ASC)	Union County Comprehensive Plan and Oregon Parks and Recreation Department
OR Highway 203 (SR B1)	3.3 miles (ASC)	Baker County Comprehensive Plan
OR Highway 86 (SR B2)	Crossed (ASC)	Baker County Comprehensive Plan
OR Highway 245 (SR B3)	7 miles (ASC)	Baker County Comprehensive Plan
Interstate 84, Pleasant Valley Durkee area (SR B4)	Crossed (ASC)	Baker County Comprehensive Plan
Interstate 84, Huntington to Baker/Malheur County line (SR B5)	0.2 miles (ASC) 0.1 miles (RFA1 Durbin Quarry)	Baker County Comprehensive Plan
Hells Canyon Scenic Byway	Crossed (ASC)	ODOT Hells Canyon Scenic Byway Management Plan
Grande Tour Route	0.2 miles (ASC)	ODOT Grande Tour Route Management Plan
Powder River Canyon – Keating (VRM B2)	5.7 miles (ASC)	BLM – Vale District, Baker Resource Area Management Plan
Burnt River Canyon (VRM B3)	Crossed (ASC) Crossed (RFA1 True Blue Gulch)	BLM – Vale District, Baker Resource Area Management Plan
Brownlee Reservoir West (VRM B7)	2.1 miles (ASC)	BLM – Vale District, Baker Resource Area Management Plan
Oregon Trail ACEC – Blue Mountain Parcel (SR B6)	0.9 miles (ASC)	BLM – Vale District, Baker Resource Area Management Plan
Oregon Trail ACEC – NHOTIC Parcel (SR B6)	0.02 miles (ASC)	BLM – Vale District, Baker Resource Area Management Plan
Oregon Trail ACEC – White Swan Parcel (SR B6)	2.9 miles (ASC)	BLM – Vale District, Baker Resource Area Management Plan
Oregon Trail ACEC – Straw Ranch 2 Parcel (SR B6)	1.1 miles (ASC)	BLM – Vale District, Baker Resource Area Management Plan
Oregon Trail ACEC – Straw Ranch 1 Parcel (SR B6)	0.1 miles (ASC)	BLM – Vale District, Baker Resource Area Management Plan
Oregon Trail ACEC – Powell Creek Parcel (SR B6)	1.2 miles (ASC)	BLM – Vale District, Baker Resource Area Management Plan

Overview of Draft Proposed Order

III.K. Historic, Cultural, and Archaeological Resources: OAR 345-022-0090 p. 175-183

➤ Aligning EFSC and Section 106 Review under ORS 469.370(13), and structure of site certificate conditions, as approved in Final Order on ASC.

Table 21: Potential Impacts to Historic, Cultural, Archeological Resources for RFA1

Resource Number	County	Generalized Resource Description/ Resource Type	NRHP Recommendation	Project Route	Project Component	Land Ownership	Applicable EFSC Standard	Impact Avoided?	Resource Newly Considered	Mitigation or Management Comments
Oregon National Historic Trail Route	Umatilla, Union, Baker	Historic Trail	Eligible	Access Road Changes in Umatilla, Union, and Baker Counties	New Road, Primitive	PV	a) Potential Historic Property;	No – No significant physical and visual/auditory impact. No intact NJIT segments at road change locations	No	If avoidance not possible, testing/segment eligibility evaluation/ consultation needed.
Sand Hollow Battleground	Morrow/ Umatilla	HPRCSIT	Eligible	Access Road Changes in Morrow and Umatilla Counties	New Road, Bladed, Primitive	BLM, DOD, PV	a) Potential Historic Property	No – potential significant physical and visual/auditory impacts	No	If avoidance not possible, testing (metal detecting)/ continued consultation needed.
Sisupa	Morrow	HPRCSIT	Eligible	Access Road Changes in Morrow County	New Road, Bladed, Primitive	DOD, PV	a) Potential Historic Property	No – potential significant physical and visual/auditory impacts	No	If avoidance not possible, continued consultation needed.
4B2H-EK-07	Baker	Historic: Water Conveyance (Smith Ditch)	Unevaluated	Access Road Changes in Baker County	Existing Road, Substantial Modification, 21-70% Improvements	PV	a) Potential Historic Property;	No – Physical and visual/auditory impacts not significant.	No	Use of existing canal access road will not physically alter ditch. No further management.
7B2H-DM-ISO-22	Baker	Precontact: Isolated Find - Debitage	Unevaluated	Durbin Quarry (ODOT) Alternative	Route Centerline, New Road, Bladed	BLM	a) Potential Historic Property;	Yes	Yes	Flag/Avoid
7B2H-BB-ISO-04	Baker	Precontact: Isolated Find - Debitage	Unevaluated	Durbin Quarry (ODOT) Alternative	Route Centerline, New Road, Bladed	PV	a) Potential Historic Property; b) Archaeological site on private lands	Yes	Yes	Flag/Avoid
35BA01570/ 4B2H-EK-27	Baker	Historic Road	Not Eligible	Durbin Quarry (ODOT) Alternative	New Road, Bladed	BLM, PV	b) Archaeological site on private land.	No	No	No further management
35BA01571/ 4B2H-EK-28	Baker	Historic Water Conveyance	Not Eligible	Durbin Quarry (ODOT) Alternative	New Road, Bladed	BLM, PV	a) Potential Historic Property; b) Archaeological site on private lands	Yes	No	No further management
35BA01564/ 4B2H-EK-30	Baker	Historic Water Conveyance	Not Eligible	Durbin Quarry (ODOT) Alternative	New Road, Bladed	BLM	None - Archaeological site not eligible for NRHP. Federal land.	Yes	No	No further management
8B2H-DM-23	Baker	Multi-component: Precontact: Lithic/Tool Scatter; Historic mine	Unevaluated	True Blue Gulch Alternative	Existing Road, Substantial Modification 71-100% improvements, New Road, Bladed	BLM	a) Potential Historic Property	No – Potential significant physical impact for new road. No significant physical impact for existing road with mitigation.	Yes	If avoidance not possible, testing/ eligibility evaluation needed for new road. Gravel will be placed over existing road through site to protect resource from physical impacts of existing road use.
8B2H-DM-24	Baker	Precontact: Lithic/Tool Scatter	Unevaluated	True Blue Gulch Alternative	Existing Road, Substantial Modification 71-100% improvements	PV	a) Potential Historic Property; b) Archaeological site on private lands	No – physical impact not significant with mitigation.	Yes	If avoidance not possible, gravel will be placed over existing road through site to protect resource from physical impacts of existing road use.

Overview of Draft Proposed Order

III.L. Recreation: OAR 345-022-0100 p. 183-192

➤ Department recommends Council determine that the Glass Hill Preserve is not an important recreational opportunity. The Glass Hill Preserve/SNHA is a protected area under OAR 345-022-0040, see Section III.F., Protected Areas, of this order and RFA1 Attachment 7-2 for an assessment of potential impacts Glass Hill Preserve including potential traffic, noise, and visual impacts.

Table 22: Proximity of ASC and RFA1 Routes to Important Recreation Opportunities in Analysis Area

Important Recreational Opportunity	Distance to Route Centerline	County
Blue Mountain Forest State Scenic Corridor	Crossed (approved route)	Union
Ladd Marsh Wildlife Area	Crossed (approved route)	Union
Burnt River Extensive Recreation Management Area	Crossed (approved route) Crossed (True Blue Gulch alternative RFA1)	Baker
Grande Tour Scenic Bikeway	Crossed (approved route)	Union and Baker
Blue Mountain Scenic Bikeway	Crossed (approved route)	Morrow and Umatilla
Oregon Trail Area of Critical Environmental Concern – National Historic Oregon Trail Interpretive Center Parcel	106 feet (approved route)	Baker
Ladd Marsh Wildlife Area	208 feet (Morgan Lake alternative)	Union
Owyhee River Below Dam Special Recreation Management Area	250 feet (approved route)	Malheur
Morgan Lake Park	0.2 mile (Morgan Lake alternative)	Union
Oregon Trail Birch Creek Special Recreation Management Area	0.2 mile (approved route)	Malheur
Hilgard Junction State Park	0.3 mile (approved route)	Union
Hilgard Junction State Park	0.4 mile (Morgan Lake alternative)	Union
Deer Flat National Wildlife Refuge – Snake Island Unit	0.4 mile (approved route)	Malheur
Weiser Dunes Off-highway Vehicle Play Area	0.5 mile (approved route)	Washington County (Idaho)
Oregon Trail Tub Mountain Special Recreation Management Area	0.5 mile (approved route)	Malheur
Morgan Lake Park	0.6 mile (approved route)	Union
Bully Creek Reservoir	0.7 mile (approved route)	Malheur
Farewell Bend State Recreation Area	0.7 miles (approved route)	Baker
Snake River Breaks Extensive Recreation Management Area	0.8 mile (approved route) 1.2 miles (Durbin Quarry alternative RFA1)	Baker
Snake River Islands (Huffman Island) Wildlife Area	0.9 mile (approved route)	Malheur
Oregon Trail Interpretive Park at Blue Mountain Crossing	1.0 mile (approved route)	Union
Umatilla National Wildlife Refuge	1.3 miles (approved route)	Morrow
Powder River WSR Area of Critical Environmental Concern	1.4 miles (approved route)	Union and Baker
Virtue Flat Off-highway Vehicle Area	1.5 miles (approved route)	Baker



Overview of Draft Proposed Order

III.M. PUBLIC SERVICES: OAR 345-022-0110 p. 193-201

- RFA1 does not propose any changes that would affect public service providers differently, that would introduce any new components or related or supporting facilities requiring new types of public service providers, or that would require changes to previously imposed conditions. Draft proposed order provides summary of findings applicable to RFA1 from the Final Order on ASC.

Overview of Draft Proposed Order

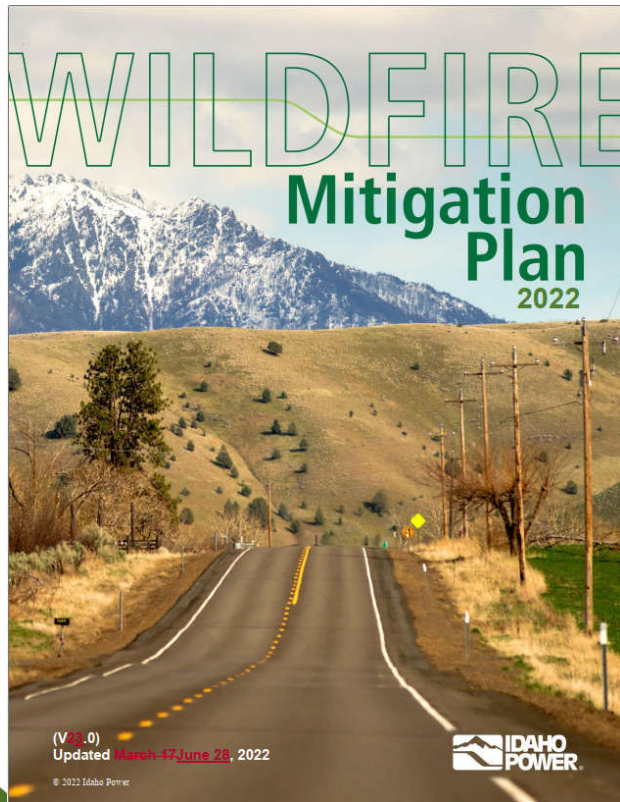
III.N. Wildfire Prevention and Risk Mitigation: OAR 345-022-0115 p. 201-211

- Under OAR 345-022-0115(2), in the DPO, the Department recommends Council find that it does not need to make findings under OAR 345-022-0115(1) because the certificate holder and Department identified evidence that supports the conclusions that the facility is subject to a Wildfire Protection Plan (WMP) that has been approved in compliance with OPUC rules, and the OPUC has approved the certificate holder's WMP. To support this recommendation, the Department discusses in the following in the DPO:
 - Procedural History for Wildfire Mitigation Plans (WMP) in Oregon and Certificate Holder WMP;
 - Summary of Final Order on ASC Findings for WMP;
 - Summary of Findings for RFA1 to Support OAR 345-022-0115(2);
 - Summary of OPUC rules requirements for WMP's
 - Results of Wildfire Risk Assessment for Facility and OPUC-Approved WMP;
 - Other Applicable Conditions Related to Operational Fire Risk.



Overview of Draft Proposed Order

III.N. Wildfire Prevention and Risk Mitigation: OAR 345-022-0115 p. 201-211



ORDER NO. 22-312

ITEM NO. CA7

PUBLIC UTILITY COMMISSION OF OREGON
STAFF REPORT
PUBLIC MEETING DATE: August 23, 2022

REGULAR CONSENT EFFECTIVE DATE August 23, 2022

DATE: August 23, 2022

TO: Public Utility Commission

FROM: Yassir Rashid

THROUGH: Bryan Conway and Heide Caswell **SIGNED**

SUBJECT: IDAHO POWER COMPANY:
(Docket No. UM 2209)
Idaho Power's Supplemental 2022 Wildfire Mitigation Plan.

STAFF RECOMMENDATION:

Staff recommends the Public Utility Commission of Oregon (Commission) approve Power Company's (Idaho Power or the Company) Supplemental 2022 Wildfire Mitigation Plan.

DISCUSSION:

Issue

Whether the Commission should approve Idaho Power's Supplemental 2022 Wildfire Mitigation Plan.

Applicable Rule or Law

On April 28, 2022, the Public Utility Commission of Oregon (Commission) entered Order No. 22-133 (Docket No. UM 2209) approving, with conditions, Idaho Power's 2022 Wildfire Mitigation Plan (WMP). The Commission required Idaho Power to supplement its plan with the following:

1. A narrative discussion of their cost and risk mitigation balancing assumptions that went into the 2022 WMP.
2. A strategy for maturing their analytical approach to cost and risk mitigation

ORDER NO. 22-312

ENTERED Aug 26 2022

BEFORE THE PUBLIC UTILITY COMMISSION

OF OREGON

UM 2209

In the Matter of

IDAHO POWER COMPANY,

Wildfire Protection Plan.


ORDER

DISPOSITION: STAFF'S RECOMMENDATION ADOPTED

At its public meeting on August 23, 2022, the Public Utility Commission of Oregon adopted Staff's recommendation in this matter. The Staff Report with the recommendation is attached as Appendix A.

BY THE COMMISSION:




Nolan Moser
Chief Administrative Law Judge

A party may request rehearing or reconsideration of this order under ORS 756.561. A request for rehearing or reconsideration must be filed with the Commission within 60 days of the date of service of this order. The request must comply with the requirements in OAR 860-001-0720. A copy of the request must also be served on each party to the proceedings as provided in OAR 860-001-0180(2). A party may appeal this order by filing a petition for review with the Circuit Court for Marion County in compliance with ORS 183.484.



Overview of Draft Proposed Order

III.N. Wildfire Prevention and Risk Mitigation: OAR 345-022-0115 p. 201-211

Recommended Wildfire Prevention and Risk Mitigation Condition 1 and 2 (see below):

~~Public Services Condition 7: The certificate holder shall:~~

- ~~a. Prior to operation, provide a copy of its Wildfire Mitigation Plan to the Department and each affected county which provides a wildfire risk assessment and establishes action and preventative measures based on the assessed operational risk from and of wildfire in each county affected by the facility.~~
- ~~b. During operation, the certificate holder shall update the Wildfire Mitigation Plan on an annual basis, or frequency determined acceptable by the Department in consultation with the Oregon Public Utilities Commission.~~
- ~~c. During operation, for the service territories the facility would be located within, the certificate holder shall provide to each of the fire districts and rural fire protection a contact phone number to call in the event a district needs to request an outage as part of a fire response.~~
- ~~d. Any Wildfire Mitigation Plan required by the Oregon Public Utilities Commission shall be considered by EFSC as meeting the requirements of this condition.~~

~~[GEN PS-03] [DELETED]~~

Recommended Wildfire Prevention and Risk Mitigation Condition 1:

- a. Prior to and during operation, the OPUC-approved Wildfire Mitigation Plan (WMP) shall:
 - i. Evaluate fire-related risks for the entire facility in all five counties in Oregon, regardless of certificate holder service territory or ownership of the facility.
 - ii. Require procedures and mitigation measures, including the applicable measures in the Public Safety Power Shutoff (PSPS) Plan, to apply to the entire facility in all five counties in Oregon, regardless of certificate holder service territory or ownership of the facility.
- b. Prior to operation, certificate holder shall provide a copy of the most recent OPUC-approved Wildfire Mitigation Plan that applies to the facility to the Department and each affected county.

Recommended Wildfire Prevention and Risk Mitigation Condition 2: During operation, on an annual basis consistent with the annual report under General Standard of Review Condition 4, submit the most recent OPUC approved WMP and a copy of OPUC approval.



Overview of Draft Proposed Order

III.O. Waste Minimization: OAR 345-022-0120 p. 211-213

- The proposed RFA1 site boundary additions will not result in substantive changes to the type or amount of solid waste and wastewater generated during facility construction and operation. Therefore, the Department recommends Council rely on its findings and conditions in the Final Order on ASC.

Overview of Draft Proposed Order

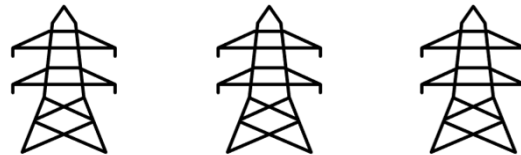
III.P. Need for a Facility: OAR 345-023-0005 p. 213-217

- In the Final Order on ASC, the certificate holder and the Council agreed that the certificate holder demonstrated that the facility was needed under the least-cost plan rule (OAR 345-023-0020) and the system reliability rule for electric transmission lines (OAR 345-023-0030). Certificate holder maintains, and the Department recommends Council concur that the proposed site boundary additions proposed in RFA1 would not alter the findings Council relied upon in the Final Order on ASC for the Need Standard.

Overview of Draft Proposed Order

III.Q. Siting Standards for Transmission Lines: OAR 345-024-0090 p. 217-218

- The proposed RFA1 site boundary additions do not alter or change anything related to the previously approved facility components, other than potential final location. The changes proposed in RFA1 would therefore not impact the Council's findings of fact and conclusions of law as presented in the Final Order on the ASC.



Overview of Draft Proposed Order

III.R.1. Noise Control Regulations: OAR 340-035-0035 p. 219-235

- Operational noise generated by a new industrial or commercial noise source to be located on a previously unused site must comply with two standards: the “maximum allowable noise standard” and the “ambient antidegradation standard.” Under the ambient antidegradation standard, facility-generated noise must not increase the ambient hourly L10 or L50 noise levels at an appropriate measurement point by more than 10 dBA.
- Certificate holder used these same methods, comparing baseline ambient sound levels to the modeled predicted future sound levels at potentially affected Noise Sensitive Receptors (NSRs).
- Two NSRs, 3 and 5010, both previously evaluated in the Final Order on ASC) which fell within the analysis area of the one-half mile analysis area and out to a mile in an area with a low (26 dBA ambient noise level).



Overview of Draft Proposed Order

III.R.1. Noise Control Regulations: OAR 340-035-0035 p. 219-235

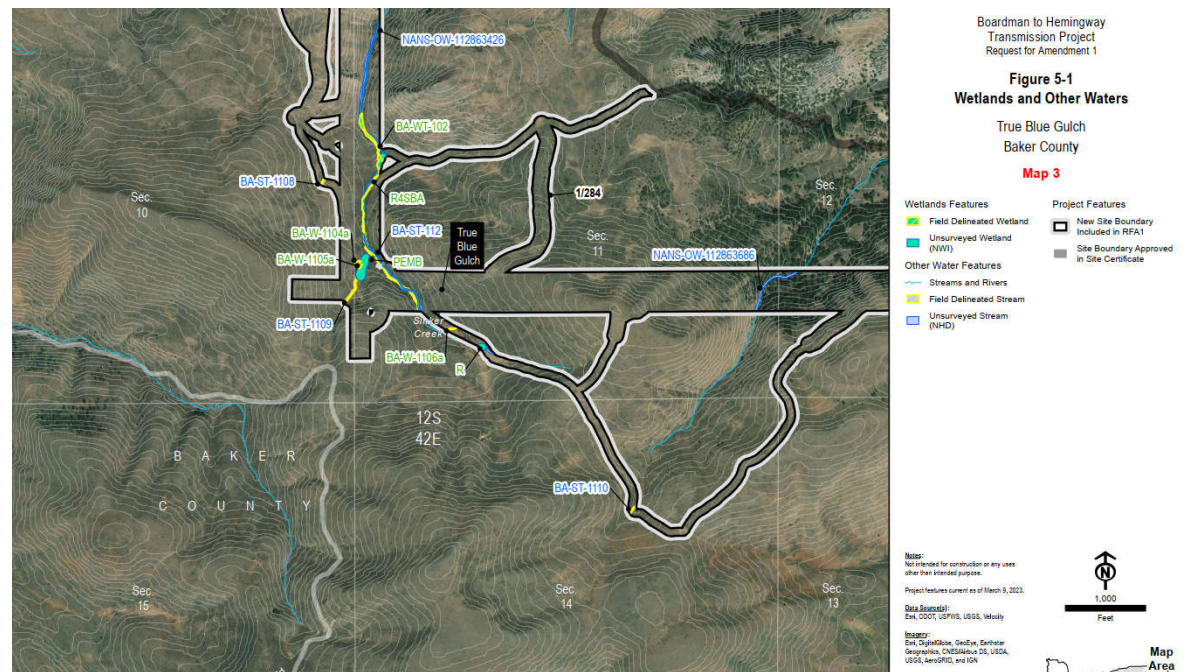
- Only Exceedance is at NSR 5010, which the True Blue Gulch Alternative is 1,528 feet further away from the approved route segment.
- Previously approved exception and variance to the DEQ rules for the transmission line as a source of noise during infrequent, four weather, is applicable to RFA1.
- Existing conditions applicable to RFA1.



Overview of Draft Proposed Order

III.R.2. Removal-Fill OAR 141-085-0500 through 141-085-0785 p. 235-239

- Wetlands and waters of the state (WOS) were evaluated using the same desktop and field wetland delineation methodologies as done for the ASC.
- The combined total permanent and temporary impacts to wetlands and waters of the state from RFA1 is 0.591 acres.



Overview of Draft Proposed Order

III.R.2. Removal-Fill OAR 141-085-0500 through 141-085-0785 p. 235-239

Recommended Amended Removal Fill Condition 3: The certificate holder shall:

- a. Prior to construction of a phase or segment of the facility, as applicable, submit an updated ~~final~~ Compensatory Wetland and Non-Wetland Mitigation Plan (CWNWMP ~~-~~), ~~consistent with the draft CWNWMP (Attachment J-1 to the Final Order on the ASC), for review and approval by the Department, in consultation with Department of State Lands (DSL). The Department shall provide written verification of its review and approval of the final CWNWMP.~~ Updates to the CWNWMP include the final amount of wetland mitigation credit required which shall be based on the final design configuration of the phase or segment of the facility, as applicable, and the estimated acres of wetlands and non-wetland waters of the state that would be permanently impacted, unless otherwise agreed to by the Department.
- b. Following construction and during operation of a phase or segment of the facility, the certificate holder shall implement the actions described in the final CWNWMP.
- c. The Department will provide updates to Council on the certificate holder's implementation of the final CWNWMP and of any Plan revisions at Council meetings, following submittal of the certificate holder's six-month construction progress report per General Standard of Review Condition 3 or annual report per General Standard of Review Condition 4
- d. The final CWNWMP version approved when the facility begins operation may be revised or updated from time to time by agreement of the certificate holder and the Oregon Energy Facility Siting Council. Such revisions or updates may be made without amendment of the site certificate. The Council authorizes the Department

Recommended Deleted Removal Fill Condition 5: ~~Prior to construction of a phase or segment of the facility and during operation, the certificate holder shall maintain compliance with the General and Special Conditions set forth in the removal fill permit (Attachment J-3 to the Final Order on the ASC). [DELETED]~~
[GEN-RF-03; Final Order on ASC, AMD1]

Recommended Amended Removal Fill Condition 6: The certificate holder shall:

- a. Prior to construction of a phase or segment of the facility;
 - i. Maintain compliance with the General and Special Conditions set forth in the removal-fill permit (Attachment J-3 to the Final Order on the ASC); comply with procedures in all Removal-Fill Conditions, and
 - ii. Receive an updated removal-fill permit (Attachment J-3 to the Final Order on the ASC) reviewed and approved by the Department in consultation with the Oregon Department of State Lands.
 - iii. ~~Prior to construction of a phase or segment of the facility, s~~submit a final copy of the updated removal-fill permit issued by the Oregon Department of State Lands.
- b. Following construction and during operation of a phase or segment of the facility, the certificate holder shall implement the actions ~~described in the removal fill permit and~~ maintain compliance with the General and Special Conditions set forth in the removal-fill permit (Final Order on the ASC Attachment J-3).
- c. The Department will provide updates to Council on the certificate holder's implementation of the removal-fill permit and of any permit revisions at Council meetings, following submittal of the certificate holder's six-month construction progress report per General Standard of Review Condition 3 or annual report per General Standard of Review Condition 4.
- d. The removal-fill permit version approved when the facility begins operation may be revised or updated from time to time by agreement of the certificate holder and the Oregon Energy Facility Siting Council ("Council"). Such revisions or updates may be



Overview of Draft Proposed Order

III.R.3. Water Rights p. 239-240 and

III.R. 4 Fish Passage OAR 635-412-0035 p. 242

- The scope and extent of construction activities involved associated with facility components located within the proposed RFA1 site boundary additions would be similar to those evaluated in the Final Order on the ASC; no significant changes to the volume of water needed for construction is expected; no water right needed.
- The proposed RFA1 site boundary additions will not result in stream crossings where new artificial obstructions, or substantial modifications to existing obstructions, on any waters would occur.

Council Comments



Adjourn

