

Exhibit E

Permits for Construction and Operation

Boardman to Hemingway Transmission Line Project



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Application for Site Certificate

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ACRONYMS AND ABBREVIATIONS

ACDP	Air Contaminant Discharge Permit
ASC	Application for Site Certificate
BCZSO	Baker County Zoning and Subdivision Ordinance
BLM	Bureau of Land Management
CFR	Code of Federal Regulations
CHZO	City of Huntington Zoning Ordinance
CPCN	Certificate of Public Convenience and Necessity
CWA	Clean Water Act of 1972
EFSC or Council	Energy Facility Siting Council
EFU	Exclusive Farm Use
ERU	Exclusive Range Use
FLPMA	Federal Land Policy and Management Act
FPA	Forest Practices Act
IPC	Idaho Power Company
MCC	Malheur County Code
MCZO	Morrow County Zoning Ordinance
NPDES	National Pollutant Discharge Elimination System
NPZO	City of North Powder Zoning Ordinance
OAR	Oregon Administrative Rules
ODEQ	Oregon Department of Environmental Quality
ODF	Oregon Department of Forestry
ODFW	Oregon Department of Fish and Wildlife
ODOT	Oregon Department of Transportation
OPUC	Oregon Public Utilities Commission
ORS	Oregon Revised Statutes
PA	Programmatic Agreement
P.L.	Public Law
Project	Boardman to Hemingway Transmission Line Project
ROW	right-of-way
Second Amended Project Order	Second Amended Second Amended Project Order, Regarding Statutes, Administrative Rules, and Other Requirements Applicable to the Proposed BOARDMAN TO HEMINGWAY TRANSMISSION LINE (July 26, 2018)
UCDC	Umatilla County Development Code
UCZPSO	Union County Zoning, Partition and Subdivision Ordinance
U.S.	United States
USACE	United States Army Corps of Engineers
U.S.C.	United States Code
USFS	United States Forest Service

Exhibit E

Permits for Construction and Operation

1.0 INTRODUCTION

Exhibit E identifies the federal, state, and local permits needed for construction and operation of the Boardman to Hemingway Transmission Line Project (Project) in Oregon, as required by Oregon Administrative Rule (OAR) 345-021-0010(1)(e). Exhibit E identifies all state and local permits that will be included in and governed by the site certificate, as well as state and local permits related to the siting and operation of the Project that will not be included in and governed by the site certificate. Idaho Power Company (IPC) intends to obtain the permits necessary for the Project directly or through a construction contractor under IPC's direction and control, except for certain local approvals required for the electric distribution lines serving the communication stations, which will be obtained by the relevant third-party local service provider.

2.0 APPLICABLE RULES AND SECOND AMENDED PROJECT ORDER PROVISIONS

2.1 Site Certificate Application Requirements

In accordance with OAR 345-021-0010(1)(e), Exhibit E must include the following information about permits needed for construction and operation of the Project:

(A) Identification of all federal, state and local government permits related to the siting of the proposed facility, a legal citation of the statute, rule or ordinance governing each permit, and the name, mailing address, email address and telephone number of the agency or office responsible for each permit.

(B) A description of each permit, the reasons the permit is needed for construction or operation of the facility and the applicant's analysis of whether the permit should or should not be included in and governed by the site certificate.

(C) For any state or local government agency permits, licenses or certificates that are proposed to be included in and governed by the site certificate, evidence to support findings by the Council that construction and operation of the proposed facility will comply with the statutes, rules and standards applicable to the permit. The applicant may show this evidence:

(i) In Exhibit J for permits related to wetlands.

(ii) In Exhibit O for permits related to water rights.

(D) For federally-delegated permit applications, evidence that the responsible agency has received a permit application and the estimated date when the responsible agency will complete its review and issue a permit decision.

(E) If the applicant relies on a state or local government permit or approval issued to a third party, identification of any such third-party permit and for each:

(i) Evidence that the applicant has, or has a reasonable likelihood of entering into, a contract or other agreement with the third party for access to the resource or service to be secured by that permit.

(ii) Evidence that the third party has, or has a reasonable likelihood of obtaining, the necessary permit.

(iii) An assessment of the impact of the proposed facility on any permits that a third party has obtained and on which the applicant relies to comply with any applicable Council standard.

(F) If the applicant relies on a federally-delegated permit issued to a third party, identification of any such third-party permit and for each:

(i) Evidence that the applicant has, or has a reasonable likelihood of entering into, a contract or other agreement with the third party for access to the resource or service to be secured by that permit.

(ii) Evidence that the responsible agency has received a permit application.

(iii) The estimated the date when the responsible agency will complete its review and issue a permit decision.

(G) The applicant's proposed monitoring program, if any, for compliance with permit conditions.

2.2 Second Amended Project Order Provisions

The Second Amended Project Order includes the following discussion:

Exhibit E shall describe and discuss all state and local permits that the applicant proposes to be included in and governed by the site certificate, as well as state and local permits that are related to the siting, operation, and construction of the proposed facility but are not to be included in and governed by the site certificate.¹ Exhibit E shall also describe required federal and federally-delegated permits. For federally-delegated permits needed for construction or operation, the Applicant must submit a copy of the permit application to the Department, as required under OAR 345-021-000(7).

Although the Council does not have jurisdiction over the federally-delegated permits, the Council may rely on the determinations of compliance and the conditions in federally-delegated permits in evaluating the application for compliance with Council standards.

The following state agency and local government permits and approvals are expected to be required for the proposed B2H facility. This list may not be exhaustive.

...

The applicant has elected for EFSC to determine compliance with the substantive criteria of all affected local governments' comprehensive plans and land use ordinances under ORS 469.504(1)(b). The above-listed local permits will be included in and governed by the site certificate. The affected local government Special Advisory Groups (SAGs) may have additional permitting requirements that may or may not relate to the construction or operation of the facility. The applicant shall identify those permits or approvals and include an analysis of whether each is required to be included in and governed by the site certificate.

¹ This amended project order includes permits that are known at the time this order is issued to be related to the siting of the proposed facility. This list does not include permits that are statutorily excluded from the site certificate under ORS 469.401(4) and may exclude other permits that may not be related to the siting of the proposed facility or will otherwise not be included in or governed by the site certificate.

(Second Amended Project Order, Section III(e)).

3.0 ANALYSIS

OAR 345-021-0010(1)(e): Information about permits needed for construction and operation of the facility, including: (A) Identification of all federal, state and local government permits related to the siting of the proposed facility, a legal citation of the statute, rule or ordinance governing each permit, and the name, mailing address, email address and telephone number of the agency or office responsible for each permit. (B) A description of each permit, the reasons the permit is needed for construction or operation of the facility and the applicant's analysis of whether the permit should or should not be included in and governed by the site certificate. (C) For any state or local government agency permits, licenses or certificates that are proposed to be included in and governed by the site certificate, evidence to support findings by the Council that construction and operation of the proposed facility will comply with the statutes, rules and standards applicable to the permit. The applicant may show this evidence: (i) In Exhibit J for permits related to wetlands. (ii) In Exhibit O for permits related to water rights.

Exhibit E identifies all federal, state, and local government permits related to the siting of the Project. All state statutes, state administrative rules, and local government ordinances that contain standards or criteria that the proposed facility must meet in order for the Council to issue a site certificate but which do not require issuance of a permit or approval are identified and discussed in Exhibit CC.

3.1 Permits Under the Council's Jurisdiction (Included in and Governed by the Site Certificate)

The Oregon Energy Facility Siting Council (EFSC or Council) determines compliance with all Oregon and local government statutes, regulations, and permitting requirements related to siting the facility, except for federally-delegated state permits.² For purposes of determining whether a permit or approval is "related to siting" the Project, "siting" is understood to mean the placement of something on a site or in a position.³ Upon issuance of the site certificate and following submission by IPC of the appropriate applications and payment of proper fees, the affected state agencies and local governments will issue the permits addressed in the site certificate.⁴

Section 3.1 identifies the state and local permits and approvals that IPC requests be included in and governed by the site certificate. It contains the information required for issuance of the permit, so the Council can make the necessary findings to conclude that the permit should be issued.

3.1.1 Energy Facility Site Certificate

Permit Description and Necessity:

² See ORS 469.401(4) (explaining that matters not included in and governed by the Site Certificate "include but are not limited to employee health and safety, building code compliance, wage and hour or other labor regulations, local government fees and charges or other design or operational issues that do not relate to siting the facility")

³ See <http://dictionary.reference.com/browse/siting> (last visited Oct. 25, 2015) (defining the term "siting").

⁴ See ORS 469.401(3) ("after issuance of the site certificate, or amended site certificate, any affected state agency, county, city and political subdivision shall, upon submission by the applicant of the proper applications and payment of the proper fees, but without hearings or other proceedings, promptly issue the permits, licenses and certificates addressed in the site certificate or amended site certificate, subject only to conditions set forth in the site certificate or amended site certificate . . .").

Under Oregon law, no energy facility shall be constructed or expanded unless a site certificate has been issued (see Oregon Revised Statutes [ORS] 469.320(1)). The term “energy facility” includes a “high voltage transmission line of more than 10 miles in length with a capacity of 230,000 volts or more to be constructed in more than one city or county in this state” (ORS 469.300(11)(a)(C)). Because the Project consists of a transmission line of more than 10 miles and with a capacity greater than 230 kilovolts, it is therefore an “energy facility” and cannot be constructed without a site certificate issued by the Council. The Oregon Department of Energy, Siting Division, serves as staff to the Council by reviewing all applications for site certificate, administering and enforcing current site certificates, and making recommendations to the Council.

Legal Authority:

ORS 469.300 et seq.; OAR Chapter 345, Division 21 through Division 27.

Contact Information:

Ms. Kellen Tardaewether
Oregon Department of Energy
Energy Facility Siting Analyst
550 Capitol Street NE
Salem, Oregon 97301-3737
(503) 378-5050

3.1.2 Removal-Fill Permit

The Second Amended Project Order includes the following discussion regarding the Removal-Fill Permit requirements:

The applicant shall include in its application information to support a finding on whether removal-fill permits will be required. The applicant shall incorporate this information into Exhibit J of the site certificate application. A Compensatory Wetland Mitigation Plan which meets the requirements of OAR 141-085-0680 through OAR 141-085-0715 must be provided to replace all lost functions and values previously provided by the impacted wetlands and waterways.

(Second Amended Project Order, Section III(e)).

Permit Description and Necessity:

Oregon's Removal-Fill statutes, ORS 196.795 through 196.910, require a permit from the Department of State Lands to remove material from, or to fill in, waters of the state. The Project will require removal of material from, or the filling in of, waters of the state; therefore, IPC will need a Removal-Fill Permit. Because the removal or fill activities will be site-specific and related to the location of the transmission line (and related and supporting facilities) in waters of the state, the Removal-Fill Permit is within the Council's jurisdiction. Exhibit J includes the evidence required for issuance of the Removal-Fill Permit. Accordingly, IPC requests that the Council approve the Removal-Fill Permit under ORS 469.401(3) and that the approval be included in and governed by the site certificate.

Legal Authority:

ORS 196.800-196.990; OAR Chapter 141, Division 85 (Removal-Fill Authorizations).

Contact Information:

Mr. Dan Cary
Oregon Department of State Lands
775 Summer Street, NE

Salem, Oregon 97301
(503) 986-5302

3.1.3 Fish Passage Plan Approval

The Second Amended Project Order includes the following discussion regarding ODFW's fish passage requirements:

OAR Chapter 635, Division 412 (Fish Passage) requires upstream and downstream fish passage at all existing or new artificial obstructions in Oregon waters in which migratory native fish are currently or have historically been present, except under certain clearly defined circumstances. A fish passage plan that complies with OAR Chapter 635, Division 412 shall be included in Exhibit BB of the application.

(Second Amended Project Order, Section III(e)).

Permit Description and Necessity:

Under Oregon law, upstream and downstream fish passage is required at all artificial obstructions in Oregon waters in which migratory native fish are currently or have historically been present, except under certain circumstances. Because the Project may require artificial obstructions in native fish streams, IPC will need an Oregon Department of Fish and Wildlife (ODFW) approved Fish Passage Plan. Approval of a Fish Passage Plan or waiver for these crossings is related to siting of the Project, because the approval or waiver relate to locationally-dependent features, such as access roads, dictates the extent to which the Project can be built and maintained in its proposed location. Requiring IPC to pursue a fish passage plan approval directly from ODFW and outside of (and after) the EFSC process would be counter to the Council's objective of providing's comprehensive system for siting energy facilities (see ORS 469.310). In particular, the EFSC process is intended to serve as a centralized public review process; in the event that IPC requests a waiver of the fish passage requirements at one or more locations, the public review and comment on that waiver should occur as part of the EFSC process, not through a separate ODFW public process. Requiring IPC to seek approval and/or waiver under Oregon's fish passage law outside of the EFSC process would create an unacceptable risk that a Project location for which IPC has sought and received approval from EFSC and federal land management agencies would not receive approval and/or waiver from ODFW. Accordingly, IPC requests that the Council approve the Fish Passage Plan under ORS 469.401(3) and that the approval be included in and governed by the site certificate. The Fish Passage Plan is included as an attachment to Exhibit BB.

Legal Authority:

ORS 509.580-509.910; OAR Chapter 635, Division 412 (Fish Passage).

Contact Information:

Mr. Greg Apke
Fish Passage Coordinator
Oregon Department of Fish and Wildlife Screening and Passage Program
3406 Cherry Avenue NE
Salem, Oregon 97303
(503) 947-6228

3.1.4 Public Land Action Permit

The Second Amended Project Order includes the following discussion regarding Public Land Action Permi requirements:

ODA provides technical review and recommendations regarding compliance with the Council's threatened and endangered species standard (OAR 345-022-0070) as it relates to plant species. The Council's Threatened and Endangered Species standard applies to all land in Oregon, including private and public land. OAR 603-073-0070 contains the state list of endangered and threatened plant species. OAR 603-073-0080 gives ODA the authority to designate candidate plants. If the applicant finds any state-listed threatened or endangered plant species on state-managed land that may be affected by the proposed facility, it must address the requirements of OAR 603-073-0090(5)(d)(A)-(E) in the application for a site certificate.⁵

(Second Amended Project Order, Section III(e)).

Permit Description and Necessity:

Any land action on Oregon non-federal public lands which results, or might result, in the taking of a threatened or endangered plant species, requires either a permit or a formal consultation with the Oregon Department of Agriculture. The Project may include activities on state lands that result, or might result, in the taking of a threatened or endangered plant species, requiring a Public Land Action Permit. Because a Public Land Action Permit is site-specific and directly related to the location of the transmission line (and related and supporting facilities), it is within the Council's jurisdiction. To the extent a Public Land Action Permit is necessary, IPC has included evidence in Exhibit Q in support of the permit or evidence regarding the required consultation. If a Public Land Action Permit is required, IPC requests that the Council approve the Public Land Action Permit under ORS 469.401(3) and that the approval be included in and governed by the site certificate.

Legal Authority:

ORS Chapter 564 (Wildflowers, Threatened or Endangered Plants); OAR Chapter 603, Division 73 (Plants: Wildflowers and Endangered, Threatened and Candidate Species).

Contact Information:

Dr. Robert Meinke
Oregon Department of Agriculture – Plant Division
635 Capitol St. NE
Salem, Oregon 97301-2532
(503) 986-4550

3.1.5 Morrow County Land Use Permits

IPC requests Council approval of the following local land use permits and decisions under ORS 469.504(1)(b) and requests that these approvals be included in and governed by the site certificate (see OAR 345-021-0010(1)(k) (requiring applicant to state whether it will elect to address the Council's land use standard by obtaining local land use approvals under ORS 469.504(1)(a) or by obtaining a Council determination under ORS 469.504(1)(b))). As discussed in more detail in Exhibit K, IPC elects to address the Council's land use standard by obtaining a determination from the Council.

⁵ OAR 345-022-0070 applies only to state-listed plant and animal species. Note also that OAR 345-022-0070 applies to all lands affected by a proposed facility including state, federal and private lands.

3.1.5.1 Land Use Decision (Utility Facility; EFU Zone)

Permit Description and Necessity:

For those portions of the Project occurring in an Exclusive Farm Use (EFU) Zone in Morrow County, the Project will require a land use decision determining whether the Project is permitted outright as a utility facility necessary for public service and whether the Project consists of transmission towers less than 200 feet. Under Oregon law, utility facilities necessary for public service are permitted outright in an EFU Zone (see ORS 215.275). Additionally, Morrow County Zoning Ordinance (MCZO) 3.010(C)(16) provides that utility and transmission towers less than 200 feet in height and their accessory uses are permitted outright in the EFU Zone. In Exhibit K, Section 6.4.2.1, IPC provides evidence that the Project is a utility facility necessary for public service and consists of transmission towers less than 200 feet in height. IPC requests the Council determine under ORS 469.504(1)(b) that the Project complies with the relevant substantive criteria for obtaining these land use decisions and that the approvals be included in and governed by the site certificate.

Legal Authority:

ORS 215.275; MCZO 3.010(C)(16).⁶

Contact Information:

Ms. Carla McLane
Planning Director
205 NE Third St.
Irrigon, Oregon 97844
(541) 922-4624
cmclane@co.morrow.or.us

3.1.5.2 Zoning Permit (Utility Facility; General Industrial Zone)

Where the Project occurs in a General Industrial Zone in Morrow County, the Project will require a land use decision determining whether the Project consists of transmission towers less than 200 feet in height. Under MCZO 3.070(A)(15), transmission towers less than 200 feet tall and their accessory uses are permitted outright in the General Industrial Zone. Exhibit K, Section 6.4.2.2 shows that the Project consists of transmission towers less than 200 feet in height. IPC requests the Council determine under ORS 469.504(1)(b) that the Project complies with the relevant substantive criteria for obtaining the Zoning Permit and that the permit be included in and governed by the site certificate.

Legal Authority:

MCZO 3.070.

Contact Information:

Same as above.

3.1.5.3 Zoning Permit (Utility Facility; Port Industrial Zone)

Permit Description and Necessity:

A zoning permit will be required for the portions of the Project occurring in a Port Industrial Zone in Morrow County. MCZO 3.073(A)(9) provides that utility facilities are permitted outright with a zoning permit in the Port Industrial Zone. IPC has included in Exhibit K, Section 6.4.2.3 evidence that the Project is a utility facility entitled to be permitted outright in the Port Industrial

⁶ Morrow County has indicated that MCZO sections 3.010(C) and (D) are out-of-date and therefore not applicable due to *Brentmar v. Jackson County*, 321 Or 481, 496 (1995) (concluding that the uses delineated in ORS 215.213(1) may not be subjected to additional local criteria).

Zone. IPC requests the Council determine under ORS 469.504(1)(b) that the Project complies with the relevant substantive criteria for obtaining the Zoning Permit and that the permit be included in and governed by the site certificate.

Legal Authority:

MCZO 3.073.

Contact Information:

Same as above.

3.1.6 Umatilla County Land Use Permits

IPC requests Council approval of the following Umatilla County local land use permits and decisions under ORS 469.504(1)(b) and requests that these approvals be included in and governed by the site certificate. As discussed in more detail in Exhibit K, IPC elects to address the Council's land use standard by obtaining a determination from the Council (see OAR 345-021-0010(1)(k)).

3.1.6.1 Land Use Decision and Zoning Permit (Utility Facility; EFU Zone)

Permit Description and Necessity:

For those portions of the Project in an EFU Zone in Umatilla County, the Project will require a land use decision determining whether it is considered a utility facility necessary for public service and a zoning permit finalizing the decision. Under Oregon law, utility facilities necessary for public service are permitted outright in an EFU Zone (see ORS 215.275). Umatilla County Development Code (UCDC) 152.059(C) provides that a utility facility necessary for public service may be permitted through a land use decision, and once approval is obtained, a zoning permit is necessary to finalize the decision. In Exhibit K, Section 6.5.2.1, IPC provides evidence that the Project is a utility facility necessary for public service. IPC requests the Council determine under ORS 469.504(1)(b) that the Project complies with the relevant substantive criteria for obtaining this land use decision and Zoning Permit and that the permit and approvals be included in and governed by the site certificate.

Legal Authority:

UCDC 152.059 and 152.617; ORS 215.275 and ORS 215.283.

Contact Information:

Mr. Robert Waldher
Planning Director
Department of Land Use Planning
216 SE 4th Street Room 104
Pendleton, Oregon 97801
(541) 278-6252

3.1.6.2 Conditional Use Permit (Helipads; EFU Zone)

Permit Description and Necessity:

The Umatilla County Planning Department indicated to IPC that the zoning permit provisions of UCDC 152.059(C) applicable to utility facilities in the EFU Zone may not cover the helipads associated with the multi-use areas. Umatilla County indicated that, instead, the provisions of UCDC 152.060(G) relating to personal-use airports might apply. However, under ORS 215.283(1)(c)(A) and UCDC 152.059(C), utility facilities and their related and supporting facilities—such as the helipads—are permitted outright in the EFU Zone. Regardless, and in the alternative, IPC requests a Conditional Use Permit for the helipads under UCDC 152.060(G). In Exhibit K, Section 6.5.2.1, IPC provides evidence the Project can comply with the applicable

criteria for issuance of a conditional use permit for the Project. IPC requests the Council determine under ORS 469.504(1)(b) that the Project complies with the relevant substantive criteria for obtaining the Conditional Use Permit, including necessary land use decisions, and that the approvals be included in and governed by the site certificate.

Legal Authority:

UCDC 152.060(G).

Contact Information:

Same as above.

3.1.6.3 Conditional Use Permit and Land Use Decision (Utility Facility; Grazing-Farm Zone/Goal 4 Forestlands)

Permit Description and Necessity:

Where the Project occurs in a Grazing-Farm Zone/Goal 4 Forestlands in Umatilla County, the Project will require a Conditional Use Permit. Under Oregon law, “[n]ew electric transmission lines with right of way widths of up to 100 feet as specified in ORS 772.210” may be allowed on Goal 4 forestlands subject to certain conditions. OAR 660-006-0025(4)(q). Further, UCDC 152.083(C) provides that, in a Grazing-Farm Zone, utility facilities necessary for public service and their accessory uses are permitted upon the issuance of a zoning permit. Here, the Project route travels across approximately 8 miles of land zoned Grazing-Farm that Umatilla County has directed be treated as Goal 4 forestland. In Exhibit K, Section 6.5.2.2, IPC provides evidence that the Project can comply with the applicable criteria for issuance of a conditional use permit for the Project. IPC intends that the Conditional Use Permit will provide for the full width of the right-of-way (ROW)—i.e., 250 feet.⁷ IPC requests the Council determine under ORS 469.504(1)(b) that the Project complies with the relevant substantive criteria for obtaining this Conditional Use Permit and that the approvals be included in and governed by the site certificate.

Legal Authority:

OAR 660-006-0025(4)(q) (UCDC does not include up-to-date parallel section); UCDC 152.083(C); UCDC 152.085(R).

Contact Information:

Same as above.

3.1.6.4 Exception to Goal 4 (Access Roads; Helipads; Grazing-Farm Zone/Goal 4 Forestlands)

Permit Description and Necessity:

For access roads and light-duty fly-yards located in Goal 4 forestlands, IPC’s position is that the Project complies with the relevant local substantive criteria. Additionally, or in the alternative, IPC requests an exception to Goal 4 under ORS 469.504(2).

The evidence necessary to support IPC’s request for an exception is provided in Exhibit K, Sections 6.5.2.2. and 8.0. IPC requests that the Council grant this exception under ORS 469.504(2) and requests that the approval be included in and governed by the site certificate.

⁷ IPC may need to extend the ROW width up to 300 feet in certain forested areas to allow for maintenance of danger trees; those circumstances will be limited and the ROW will typically be 250 feet in most forested areas.

Legal Authority:

ORS 469.504(2).

Contact Information:

Same as above.

3.1.6.5 Conditional Use Permit and Land Use Decision (Helipads; Grazing-Farm Zone)

Permit Description and Necessity:

OAR 660-006-0025(4)(q) authorizes new electric transmission lines in the Grazing-Farm Zone. OAR 660-006-0025(4)(q) should be construed to authorize, in addition to the transmission line, the Project features that relate to and support the Project transmission line, including light-duty fly yards. Nonetheless, and in the alternative, IPC requests a Conditional Use Permit for the helipads under UCDC 152.085(G). In Exhibit K, IPC provides evidence the Project can comply with the applicable criteria for issuance of a conditional use permit for the Project. The applicable substantive criteria include a land use decision that the helipad will not be hazardous or unnecessarily restrict development (see UCDC 152.617(I)(N)). IPC requests the Council determine under ORS 469.504(1)(b) that the Project complies with the relevant substantive criteria for obtaining the Conditional Use Permit, including necessary land use decisions, and that the approvals be included in and governed by the site certificate.

Legal Authority:

UCDC 152.085(G) and UCDC 152.617(I)(N).

Contact Information:

Same as above.

3.1.6.6 Conditional Use Permit (Access Roads; Grazing-Farm Zone)

Permit Description and Necessity:

OAR 660-006-0025(4)(q) authorizes new electric transmission lines in the Grazing-Farm Zone. OAR 660-006-0025(4)(q) should be construed to authorize, in addition to the transmission line, the Project features that relate to and support the Project transmission line, including the Project access roads. Nonetheless, and in the alternative, IPC requests a Conditional Use Permit for the access roads under UCDC 152.085(U). In Exhibit K, Section 6.5.2.2, IPC provides evidence the Project can comply with the applicable criteria for issuance of a conditional use permit for the Project. IPC requests the Council determine under ORS 469.504(1)(b) that the Project complies with the relevant substantive criteria for obtaining the Conditional Use Permit, including necessary land use decisions, and that the approvals be included in and governed by the site certificate.

Legal Authority:

UCDC 152.085(U).

Contact Information:

Same as above.

3.1.6.7 Conditional Use Permit (Utility Facility; Light Industrial Zone)

Permit Description and Necessity:

The Project includes a temporary multi-use area at the intersection of Lamb and Westland Roads in Umatilla County that is zoned both Rural Tourist Commercial and Light Industrial. In a Light Industrial Zone, utility facilities and “other buildings and uses” and their accessory uses are permitted conditionally under UCDC 152.303(16) and (17), subject to the requirements of UCDC

152.610 through 152.616. In Exhibit K, Section 6.5.2.3, IPC demonstrates that the multi-use area is considered a utility facility or “other building and use” related to a utility facility, the Project meets the criteria of UCDC 152.610 through 152.616, and therefore, it is a permitted conditional use. IPC requests Council approval of this conditional use permit under ORS 469.504(1)(b) and requests that the approval be included in and governed by the site certificate.

Legal Authority:

UCDC 152.303.

Contact Information:

Same as above.

3.1.6.8 Conditional Use Permit (Batch Plant; Light Industrial Zone)

Permit Description and Necessity:

Umatilla County’s comments to the Oregon Department of Energy on the preliminary Application for Site Certificate indicated that, if IPC uses a batch plant at the multi-use area in the Light Industrial Zone, IPC may need to permit the batch plant separately from the multi-use area. However, the batch plant is related to and supports the Project transmission line, and therefore, the batch plant is considered a utility facility under UCDC 152.303(A)(16) and will be conditionally permitted in the LI Zone as part of the multi-use area. Regardless, and in the alternative, Idaho Power requests a Conditional Use Permit for the batch plant under UCDC 152.303(A)(8). In Exhibit K, Section 6.5.2.3, IPC provides evidence the Project can comply with the applicable criteria for issuance of a conditional use permit for the Project. IPC requests the Council determine under ORS 469.504(1)(b) that the Project complies with the relevant substantive criteria for obtaining the Conditional Use Permit, including necessary land use decisions, and that the approvals be included in and governed by the site certificate.

Legal Authority:

UCDC 152.303(A)(8).

Contact Information:

Same as above.

3.1.6.9 Conditional Use Permit (Multi-Use Area; Rural Tourist Commercial Zone)

Permit Description and Necessity:

The Project includes a temporary multi-use area at the intersection of Lamb and Westland Roads in Umatilla County that is zoned both Rural Tourist Commercial and Light Industrial. In a Rural Tourist Commercial Zone, utility facilities and “[o]ther uses similar to the uses permitted or the conditional uses normally located in a Rural Tourist Commercial Zone, providing that it has the approval of the Planning Commission” and their accessory uses are permitted conditionally under UCDC 152.238(D) and (E), subject to the requirements of UCDC 152.610 through 152.616 and 152.284 through 152.286. In Exhibit K, Section 6.5.2.3, IPC demonstrates that the multi-use area is considered a utility facility or a use similar to the uses permitted or the conditional uses normally located in a Rural Tourist Commercial Zone, the Project meets the criteria of UCDC 152.610 through 152.616 and 152.284 through 152.286, and therefore, it is a permitted conditional use. IPC requests Council approval of this conditional use permit under ORS 469.504(1)(b) and requests that the permit be included in and governed by the site certificate.

Legal Authority:

UCDC 152.283.

Contact Information:

Same as above.

3.1.7 Union County Land Use Permits

IPC requests Council approval of the following Union County local land use permits and decisions under ORS 469.504(1)(b) and requests that these approvals be included in and governed by the site certificate. As discussed in more detail in Exhibit K, IPC elects to address the Council's land use standard by obtaining a determination from the Council (see OAR 345-021-0010(1)(k)).

3.1.7.1 Land Use Decision (Utility Facility; EFU Zone)

Permit Description and Necessity:

Under Oregon law, utility facilities necessary for public service are permitted outright in an EFU Zone (see ORS 215.275). Union County Zoning, Partition, and Subdivision Ordinance (UCZPSO) 2.03(7) provides that, in an EFU Zone, a utility facility necessary for public service may be permitted through a land use decision. Therefore, for those portions of the Project in the EFU Zone in Union County, the Project will require a land use decision determining whether it is considered a utility facility necessary for public service. In Exhibit K, Section 6.6.2.1, IPC provides evidence that the Project is a utility facility necessary for public service where it is located in the EFU Zone in Union County. IPC requests Council approval of this local land use decision and zoning permit under ORS 469.504(1)(b) and requests that the approval be included in and governed by the site certificate.

Legal Authority:

UCZPSO 24.02 (land use decision); 2.03 (EFU); ORS 215.275 and ORS 215.283.

Contact Information:

Scott Hartell
Planning Department
1001 Fourth Street, Suite C
La Grande, Oregon 97850
(541) 963-1014

3.1.7.2 Conditional Use Permit and Land Use Decision (Helipads; EFU Zone)

Permit Description and Necessity:

The Union County Planning Department indicated to IPC that the zoning permit provisions of UCZPSO 2.03(7) applicable to utility facilities in the EFU Zone may not cover the helipads associated with the multi-use areas. Union County indicated that, instead, the provisions of UCZPSO 2.04(21) relating to personal-use airports might apply. However, under ORS 215.283(1)(c)(A) and UCZPSO 2.03(7), utility facilities and their related and supporting facilities—such as the helipads—are permitted outright in the EFU Zone. Regardless, and in the alternative, IPC requests a Conditional Use Permit for the helipads under UCZPSO 2.04(21). In Exhibit K, IPC provides evidence the Project can comply with the applicable criteria for issuance of a conditional use permit for the Project. The applicable substantive criteria include a land use decision that the helipad will not force a significant change in accepted farm or forest practices (see UCZPSO 2.04). IPC requests the Council determine under ORS 469.504(1)(b) that the Project complies with the relevant substantive criteria for obtaining the Conditional Use Permit, including necessary land use decisions, and that the permit and approvals be included in and governed by the site certificate.

Legal Authority:

UCZPSO 2.04(21).

Contact Information:

Same as above.

3.1.7.3 Conditional Use Permit and Land Use Decision (Concrete Batch Plants; EFU Zone)

Permit Description and Necessity:

The Union County Planning Department indicated to IPC that the zoning permit provisions of UCZPSO 2.03(7) applicable to utility facilities in the EFU Zone may not cover the concrete batch plants associated with the multi-use areas. Union County indicated that, instead, the provisions of UCZPSO 2.04(17) relating to aggregate crushing facilities might apply. However, under ORS 215.283(1)(c)(A) and UCZPSO 2.03(7), utility facilities and their related and supporting facilities—such as the concrete batch plants—are permitted outright in the EFU Zone.

Regardless, and in the alternative, IPC requests a Conditional Use Permit for the batch plants under UCZPSO 2.04(17). In Exhibit K, IPC provides evidence the Project can comply with the applicable criteria for issuance of a conditional use permit for the Project. The applicable substantive criteria include a land use decision that the batch plants will not force a significant change in accepted farm or forest practices (see UCZPSO 2.04). IPC requests the Council determine under ORS 469.504(1)(b) that the Project complies with the relevant substantive criteria for obtaining the Conditional Use Permit, including necessary land use decisions, and that the permit and approvals be included in and governed by the site certificate.

Legal Authority:

UCZPSO 2.04(17).

Contact Information:

Same as above.

3.1.7.4 Land Use Decision (Utility Facility; Agriculture-Grazing Zone)

Permit Description and Necessity:

UCZPSO 3.03(7) provides that, in an Agriculture-Grazing Zone, a utility facility necessary for public service may be permitted through a land use decision. Therefore, for those portions of the Project in the Agriculture-Grazing Zone in Union County, the Project will require a land use decision determining whether it is considered a utility facility necessary for public service. In Exhibit K, Section 6.6.2.2, IPC provides evidence that the Project is a utility facility necessary for public service where it is located in the Agriculture-Grazing Zone in Union County. IPC requests Council approval of this local land use decision and zoning permit under ORS 469.504(1)(b) and requests that the approval be included in and governed by the site certificate.

Legal Authority:

UCZPSO 24.02 (land use decision) and 3.03(7).

Contact Information:

Same as above.

3.1.7.5 Land Use Decision (Predominant Use Determination; Timber-Grazing Zone)

Permit Description and Necessity:

The Timber-Grazing Zone is a hybrid zone including both farm and forest uses. UCZPSO 5.03 provides the county will apply either farm or forest standards based on the predominant use of the relevant tract. Therefore, for those portions of the Project in the Timber-Grazing Zone, the Project will require a land use decision determining the predominant use of the affected parcels. In Exhibit K, Section 6.6.2.3, IPC provides evidence of the process it used, and the conclusions it made, with respect to the predominant use of the affected parcels. IPC requests Council

approval of this local land use decision under ORS 469.504(1)(b) and requests that the approval be included in and governed by the site certificate

Legal Authority:

UCZPSO 24.02 (land use decision) and 5.03.

Contact Information:

Same as above.

3.1.7.6 Land Use Decision (Utility Facility; Timber-Grazing Zone, Predominantly Farmland Parcels)

Permit Description and Necessity:

UCZPSO 5.03(8) provides that, in a Timber-Grazing Zone, a utility facility necessary for public service may be permitted through a land use decision. Therefore, for those portions of the Project in the Timber-Grazing Zone in Union County, the Project will require a land use decision determining whether it is considered a utility facility necessary for public service. In Exhibit K, Section 6.6.2.3, IPC provides evidence that the Project is a utility facility necessary for public service where it is located in the Timber-Grazing Zone in Union County. IPC requests Council approval of this local land use decision and zoning permit under ORS 469.504(1)(b) and requests that the approval be included in and governed by the site certificate.

Legal Authority:

UCZPSO 24.02 (land use decision) and 5.03(8).

Contact Information:

Same as above.

3.1.7.7 Conditional Use Permit (Utility Facility; Timber-Grazing Zone, Predominantly Forestland Parcels)

Permit Description and Necessity:

UCZPSO 5.04(3) contains criteria consistent with OAR 660-006-0025(4)(q), which specifies that "new electric transmission lines with right of way widths of up to 100 feet as specified in ORS 772.210" may be allowed on Goal 4 forestlands subject to certain conditions. The Project route travels across several miles of land zoned Timber-Grazing, much of which Union County has directed be treated as Goal 4 forestland. In Exhibit K, Section 6.6.2.3, IPC has provided evidence that the Project will comply with the applicable criteria for issuance of a conditional use permit for the Project in this zone. IPC requests Council approval of this conditional use permit under ORS 469.504(1)(b) and requests that the approval be included in and governed by the site certificate.

Legal Authority:

UCZPSO 5.04; OAR 660-006-0025(4)(q).

Contact Information:

Same as above.

3.1.7.8 Exception to Goal 4 (Transmission Line Right-of-Way Width; Timber-Grazing Zone, Predominantly Forestland Parcels)

Permit Description and Necessity:

While UCZPSO 5.04(3) references a 100-foot ROW for transmission lines authorized as a conditional use in the Timber-Grazing Zone, the Oregon Supreme Court decision in *Save Our Rural Oregon v. EFSC*, 339 Or. 353 (2005) taken together with ORS 772.210(1) indicates that a

new electric transmission line with a ROW in excess of 100 feet is allowed in Goal 4 forest lands without requiring an exception to Goal 4. Regardless, and in the alternative, if the Council finds that an exception is required for a ROW greater than 100 feet, IPC requests that the transmission line and ROW greater than 100 feet be permitted through an exception to Goal 4 pursuant to ORS 469.504(2) for the full width of the ROW—i.e., 250 feet.⁸ In Exhibit K, Section 8.0, IPC provides evidence that such an exception is warranted.

Legal Authority:

ORS 469.504(2).

Contact Information:

Same as above.

3.1.7.9 Conditional Use Permit (Access Roads; Timber-Grazing Zone, Predominantly Forestland Parcels)

Permit Description and Necessity:

UCZPSO 5.04(3) and OAR 660-006-0025(4)(q) authorize new utility facilities and new electric transmission lines, respectively, in the Timber-Grazing Zone. Those provisions should be construed as authorizing, in addition to the transmission line, related and supporting facilities, including access roads. Regardless, and in the alternative, IPC requests a Conditional Use Permit for the access roads under UCZPSO 5.04(8). In Exhibit K, Section 6.6.2.3, IPC provides evidence the Project can comply with the applicable criteria for issuance of a conditional use permit for the Project. IPC requests the Council determine under ORS 469.504(1)(b) that the Project complies with the relevant substantive criteria for obtaining the Conditional Use Permit, including necessary land use decisions, and that the permit and approvals be included in and governed by the site certificate.

Legal Authority:

UCZPSO 5.04(8).

Contact Information:

Same as above.

3.1.8 Baker County Land Use Permits

IPC requests Council approval of the following Baker County local land use decisions and permits under ORS 469.504(1)(b) and requests that these approvals be included in and governed by the site certificate (see OAR 345-021-0010(1)(k)). As discussed in more detail in Exhibit K, IPC has elected to address the Council's land use standard by obtaining a determination from the Council (see OAR 345-021-0010(1)(k)).

3.1.8.1 Land Use Decision (Utility Facility; EFU Zone)

Permit Description and Necessity:

Under Oregon law, a "utility facility necessary for public service," as defined in ORS 215.275, is a use permitted outright in an Exclusive Farm Use zone. Exhibit K, Section 6.8.2.1, demonstrates that the Project is a "utility facility necessary for public service" where it is located in the EFU zone in Baker County. IPC requests the Council determine under ORS 469.504(1)(b) that the Project complies with the relevant substantive criteria for obtaining this land use decision and that the approval be included in and governed by the site certificate.

⁸ IPC may need to extend the ROW width up to 300 feet in certain forested areas to allow for maintenance of danger trees; those circumstances will be limited and the ROW will typically be 250 feet in most forested areas.

Legal Authority:

ORS 215.275.⁹

Contact Information:

Ms. Holly Kerns
Interim Planning Director
Baker County Planning Department
1995 Third Street
Baker City, Oregon 97814
(541) 523-8219

3.1.8.2 Conditional Use Permit (Rural Service Area Zone)**Permit Description and Necessity:**

The Project features located in a Rural Service Area Zone in Baker County will require a Conditional Use Permit (see Baker County Zoning and Subdivision Ordinance [BCZSO] 305.02(D)). In Exhibit K, Section 6.8.2.2, IPC provides evidence the Project can comply with the applicable criteria for issuance of a conditional use permit for the Project. IPC requests the Council determine under ORS 469.504(1)(b) that the Project complies with the relevant substantive criteria for obtaining the Conditional Use Permit, including necessary land use decisions, and that the permit be included in and governed by the site certificate.

Legal Authority:

BCZSO 305.02(D).

Contact Information:

Same as above.

3.1.9 Malheur County Land Use Permits

IPC requests Council approval of the following Malheur County local land use decisions under ORS 469.504(1)(b) and requests that these approvals be included in and governed by the site certificate (see OAR 345-021-0010(1)(k)). As discussed in more detail in Exhibit K, IPC has elected to address the Council's land use standard by obtaining a determination from the Council (see OAR 345-021-0010(1)(k)).

3.1.9.1 Land Use Decision (Utility Facility; EFU and ERU Zones)**Permit Description and Necessity:**

Malheur County Code (MCC) 6-3A-2(A)(14) provides that a "utility facility necessary for public service" may be "permitted outright by ministerial permit" in the EFU and Exclusive Range Use (ERU) zones. IPC refers to this as a land use decision for consistency with the other counties, and because utility facilities necessary for public service are permitted outright in an EFU zone under Oregon law. Exhibit K, Section 6.10.2.1, demonstrates that the Project is a "utility facility necessary for public service" where it is located in the EFU and ERU zones in Malheur County. The Project will therefore require a land use decision to this effect. IPC requests Council approval of this local land use decision under ORS 469.504(1)(b) and requests that this approval be included in and governed by the site certificate.

Legal Authority:

⁹ Baker County has indicated that ORS 215.275 and ORS 215.283 should apply directly in lieu of a Baker County ordinance. It appears that BCZSO sections 301.01 and 301.02 are out-of-date and therefore not applicable due to *Brentmar v. Jackson County*, 321 Or 481 (1995) (holding that counties cannot impose condition use criteria beyond the criteria provided in ORS 215.275).

MCC 6-3A-2(A)(14).

Contact Information:

Mr. Alvin Scott
Interim Planning Director
251 B St. West #12
Vale, Oregon 97918
(541) 473-5185

3.1.9.2 Conditional Use Permit (Helipads; EFU and ERU Zones)

Permit Description and Necessity:

ORS 215.283(1)(c)(A) and MCC 6-3A-2(A)(14) authorize new utility facilities in the EFU Zone. Those provisions should be construed as authorizing, in addition to the transmission line, related and supporting facilities, including the helipads. Regardless, and in the alternative, Idaho Power requests a Conditional Use Permit for the helipads under MCC 6-3A-4(I). In Exhibit K, Section 6.10.2.2, IPC provides evidence the Project can comply with the applicable criteria for issuance of a conditional use permit for the Project. IPC requests the Council determine under ORS 469.504(1)(b) that the Project complies with the relevant substantive criteria for obtaining the Conditional Use Permit, including necessary land use decisions, and that the permit be included in and governed by the site certificate.

Legal Authority:

MCC 6-3A-4(I).

Contact Information:

Same as above.

3.1.10 City of North Powder

IPC requests Council approval of the following City of North Powder local conditional use permits under ORS 469.504(1)(b) and requests that these approvals be included in and governed by the site certificate (see OAR 345-021-0010(1)(k)). As discussed in more detail in Exhibit K, IPC has elected to address the Council's land use standard by obtaining a determination from the Council (see OAR 345-021-0010(1)(k)).

3.1.10.1 Conditional Use Permit (Multi-Use Area; Commercial Interchange Zone)

Permit Description and Necessity:

A conditional use permit under City of North Powder Zoning Ordinance (NPZO) 4.02(12) will be required for the multi-use area that will be located in the commercial interchange zone. In Exhibit K, Section 6.7.2.1, IPC provides evidence the Project can comply with the applicable criteria for issuance of a conditional use permit for the Project. IPC requests the Council determine under ORS 469.504(1)(b) that the Project complies with the relevant substantive criteria for obtaining the Conditional Use Permit, including necessary land use decisions, and that the permit be included in and governed by the site certificate.

Legal Authority:

NPZO 3.02(9) and 4.02(12).

Contact Information:

Beth Wendt
City Recorder
City of North Powder

635 3rd Street
PO Box 309
North Powder, Oregon 97867

3.1.11 City of Huntington

IPC requests Council approval of the following City of Huntington local conditional use permit under ORS 469.504(1)(b) and requests that these approvals be included in and governed by the site certificate (see OAR 345-021-0010(1)(k)). As discussed in more detail in Exhibit K, IPC has elected to address the Council's land use standard by obtaining a determination from the Council (see OAR 345-021-0010(1)(k)).

3.1.11.1 Land Use Decision (Multi-Use Area; Commercial Industrial Zone)

The only Project feature located within City of Huntington city limits is a multi-use area. Zoning for the multi-use area is split, with approximately 85 percent being Commercial Industrial and the remaining portion being Commercial Residential. City of Huntington Zoning Code (CHZO) 153.080 provides industrial uses are permitted outright in the Commercial Industrial Zone. The City indicated to IPC in a June 2, 2016, email that the multi-use area would require no City permits because it will be a temporary and not a permanent use. Regardless, or in the alternative, IPC requests a land use decision determining whether the multi-use area is considered an industrial use. In Exhibit K, Section 6.9.2.1, IPC provides evidence that the Project is an industrial use. IPC requests Council approval of this local land use decision under ORS 469.504(1)(b) and requests that the approval be included in and governed by the site certificate.

Legal Authority:

CHZO 153.080.

Contact Information:

Tracy McCue
City Recorder
PO Box 369
Huntington, Oregon 97907

3.1.11.2 Land Use Decision/Temporary Use Permit (Multi-Use Area; Commercial-Residential Zone)

Permit Description and Necessity:

For the portion of the multi-use area located in the Commercial-Residential Zone, CHZO 153.050 provides that commercial uses are permitted outright in the Commercial-Residential Zone. The City indicated to IPC in a June 2, 2016 email that the multi-use area would require no City permits because it will be a temporary and not a permanent use. Regardless, or in the alternative, IPC requests a land use decision determining whether the multi-use area is considered an commercial use. Alternatively, IPC requests a temporary use permit for the multi-use area, and that the same be included and governed by the site certificate.

Legal Authority:

CHZO 153.050.

Contact Information:

Same as above.

3.1.12 Summary of State and Local Permits under Council Jurisdiction

Table E-1 lists the state and local government permits subject to EFSC jurisdiction and includes cross-references to Exhibits in IPC's Amended preliminary Application for Site Certificate to provide evidence to support findings by the Council that the construction and operation of the Project will comply with the statutes, rules, and standards applicable to the permit.

Table E-1. State and Local Permits Included in and Governed by Site Certificate

Agency	Permit	Project Feature	Land Use Zone	Location of Evidence
EFSC	Site Certificate	All Features	N/A	All Exhibits
DSL	Removal-Fill Permit	All Features	N/A	Exhibit J
ODFW	Fish Passage Plan Approval	Access Roads	N/A	Exhibit BB
Oregon Department of Agriculture	Public Land Action Permit	N/A	N/A	Exhibit Q
Morrow County	Land Use Decision	All Features	EFU Zone	Exhibit K
Morrow County	Zoning Permit	All Features	General Industrial Zone	Exhibit K
Morrow County	Zoning Permit	All Features	Port Industrial Zone	Exhibit K
Umatilla County	Land Use Decision and Zoning Permit	All Features	EFU Zone	Exhibit K
Umatilla County	Conditional Use Permit	Helipads	EFU Zone	Exhibit K
Umatilla County	Conditional Use Permit	All Features	Grazing-Farm Zone	Exhibit K
EFSC	Exception to Goal 4	Transmission Line ROW Width	Umatilla County Grazing-Farm Zone	Exhibit K
Umatilla County	Conditional Use Permit and Land Use Decision	Helipads	Grazing-Farm Zone	Exhibit K
Umatilla County	Conditional Use Permit	Access Roads	Grazing-Farm Zone	Exhibit K
Umatilla County	Conditional Use Permit	All Features	Light Industrial Zone	Exhibit K
Umatilla County	Conditional Use Permit	Batch Plant	Light Industrial Zone	Exhibit K
Umatilla County	Conditional Use Permit	Multi-use Area	Rural Tourist Commercial Zone	Exhibit K
Union County	Land Use Decision	All Features	EFU Zone	Exhibit K
Union County	Conditional Use Permit and Land Use Decision	Helipads	EFU Zone	Exhibit K
Union County	Land Use Decision	All Features	Agriculture-Grazing Zone	Exhibit K
Union County	Land Use Decision – Predominant Use Decision	All Features	Timber-Grazing Zone	Exhibit K

Agency	Permit	Project Feature	Land Use Zone	Location of Evidence
Union County	Land Use Decision	All Features	Timber-Grazing Zone, Predominantly Farmland Parcels	Exhibit K
Union County	Conditional Use Permit	All Features	Timber-Grazing Zone, Predominantly Forestland Parcels	Exhibit K
EFSC	Exception to Goal 4	Transmission Line ROW Width	Union County Timber-Grazing Zone, Predominantly Forestland Parcels	Exhibit K
Union County	Conditional Use Permit	Access Roads	Timber-Grazing Zone, Predominantly Forestland Parcels	Exhibit K
Baker County	Land Use Decision	All Project Features	EFU Zone	Exhibit K
Baker County	Conditional Use Permit	All Project Features	Rural Service Area Zone	Exhibit K
Malheur County	Land Use Decision	All Project Features	EFU and ERU Zones	Exhibit K
Malheur County	Conditional Use Permit	Helipads	EFU and ERU Zones	Exhibit K
City of North Powder	Conditional Use Permit	Multi-use Area	Commercial Interchange Zone	Exhibit K
City of Huntington	Land Use Decision	Multi-use Area	Commercial Industrial Zone	Exhibit K
City of Huntington	Land Use Decision/ Temporary Use Permit	Multi-use Area	Commercial Residential Zone	Exhibit K

DSL = Oregon Department of State Lands; EFSC = Energy Facility Siting Council; EFU = Exclusive Farm Use; ERU = Exclusive Rangeland Use; N/A = not applicable; ODFW = Oregon Department of Fish and Wildlife

3.2 Permits Outside the Council's Jurisdiction (Not Included In or Governed by Site Certificate)

Section 3.2 identifies the federal, state, and local permits and approvals related to the siting of the Project and not included in or governed by the site certificate.

3.2.1 Bureau of Land Management Permits

3.2.1.1 Right-of-Way Grant

Permit Description and Necessity:

A ROW grant is an authorization to use a specific piece of public land for a certain project, such as a transmission line. A ROW grant authorizes rights and privileges for a specific use of the land for a specific period of time. Generally, a Bureau of Land Management (BLM) ROW is granted for a term appropriate for the life of the project. IPC submitted a revised application for a special use authorization for the Project on November 21, 2011, and BLM is processing that application. This permit will be obtained directly from BLM and should not be included in and governed by the site certificate.

Legal Authority:

Federal Land Policy and Management Act (FLPMA), 43 United States Code (U.S.C.)1761-1771, 43 Code of Federal Regulations (CFR) 2800.

Contact Information:

Mr. Donald Gonzalez
Vale District Manager
100 Oregon Street
Vale, Oregon 97918

Ms. Tamara Gertsch
BLM National Project Manager
5353 Yellowstone Road
Cheyenne, Wyoming 82009

3.2.1.2 Permit for Archaeological Investigations

Permit Description and Necessity:

Application for this permit is required when an individual or organization wants to perform any archaeological testing on BLM-managed land. This permit will authorize specific testing and data recovery work within a specific prehistoric archaeological site. Application for this permit will require a research design, a plan of work for the project, and consultation with Native American Tribes. This permit will be obtained directly from BLM and should not be included in and governed by the site certificate.

Legal Authority:

FPLMA (Public Law [P.L.] 94-579, 43 U.S.C. 1701).

Contact Information:

Same as above.

3.2.1.3 Cultural Resource Use Permit and Site-Specific Authorizations

Permit Description and Necessity:

This is a blanket survey permit that authorizes surface-only surveys to identify, evaluate, and record cultural resources on federally-managed public lands within the Project Area. Blanket survey permits are for non-collection, non-testing survey only. IPC was issued a blanket survey permit (OR-50860) which covers BLM-administered lands in Oregon. The permit expires 5/1/2018. Holders of a Cultural Resource Use Permit are required to obtain field work authorizations from the appropriate BLM manager for major episodes of fieldwork or individual projects. Field work authorizations are not separate permits but are authorizations to conduct specific field work under the terms and conditions of an already approved permit. The Cultural Resource Use Permit and related authorizations will be obtained directly from BLM and should not be included in and governed by the site certificate.

Legal Authority:

FLPMA (P.L. 94-579, 43 U.S.C. 1701).

Contact Information:

Same as above.

3.2.1.4 Paleontological Resources Use Permit

Permit Description and Necessity:

Application for this permit is required when an individual or organization needs to perform any paleontological surface survey/limited surface collection and/or excavation and removal on federally-managed public lands within the Project Area only. Application for this permit must be made to the Bureau of Land Management State Cultural Resources Program Lead and comply with special conditions and stipulations that are a part of or attached to the permit. The completed application for a survey permit must be submitted at least 30 calendar days prior to beginning field work. The Paleontological Resources Use Permit and related authorizations will be obtained directly from BLM and should not be included in and governed by the site certificate.

Legal Authority:

FLPMA, P.L. 94-579, 43 U.S.C. 1701.

Contact Information:

Same as above.

3.2.2 United States Forest Service Permits

3.2.2.1 Special Use Authorization for Right-of-Way

Permit Description and Necessity:

A special use authorization is a legal document that provides private individuals or entities the right to occupancy or use of United States Forest Service (USFS) land. The authorization is granted for a specific use of the land for a specific period of time. The Project will cross lands under the management of the Wallowa-Whitman National Forest and will require a Special Use Authorization Permit. IPC submitted a revised application for a special use authorization for the Project on November 21, 2011, and the USFS is processing that application. The Special Use Authorization permit will be obtained directly from USFS and should not be included in and governed by the site certificate.

Legal Authority:

16 U.S.C. 460I–6a, 460I–6d, 472, 551, 580d, 1134, 3210; 36 CFR 251, 261.

Contact Information:

Mr. Bill Gamble
District Ranger
Wallowa-Whitman National Forest
La Grande Ranger District
3502 Highway 30
La Grande, Oregon 97850

3.2.2.2 Special Use Authorization for Archaeological Investigations**Permit Description and Necessity:**

Under the authority of the Archaeological Resources Protection Act and NHPA, the USFS requires permits prior to conducting cultural/archaeological investigations. This permit authorizes non-collection surface survey activities including the identification, evaluation, and recordation on national forest service lands. Surficial and non-collecting cultural/archaeological investigations will be conducted on all federally-managed lands as part of the Project. IPC has a special use permit (Permit No. LAG 2008-02) for archaeological investigations which was issued in September 2008 and is valid until December 31, 2013. Additional authorization may be required for site testing or mitigation. The archaeological investigation permit and related authorizations will be obtained directly from USFS and should not be included in and governed by the site certificate.

Legal Authority:

Archaeological Resources Protection Act, 16 U.S.C. 470aa-mm; National Historic Preservation Act (NHPA), 16 U.S.C. 470.

Contact Information:

Same as above.

3.2.2.3 Special Use Permit for Logging Activities; Timber Settlement Agreement**Permit Description and Necessity:**

A temporary special use authorization from the USFS likely will be required to conduct any logging activities on USFS lands related to the construction of the Project. A timber settlement agreement likely would accompany the special use authorization, outlining how the USFS timber will be harvested (e.g., marking boundaries, removal techniques authorized, valuation methods, and payment requirements). The Special Use Authorization permit and Timber Settlement Agreement will be obtained directly from the USFS and should not be included in and governed by the site certificate.

Legal Authority:

16 U.S.C. 460l-6a, 460l-6d, 472, 551, 580d, 1134, 3210; 36 CFR 251, 261.

Contact Information:

Same as above.

3.2.3 United States Department of Navy Easement**Permit Description and Necessity**

An easement is a recordable interest in land, not revocable at will, to use or restrict the use of real property of the owner for a specific purpose. In June 2015, IPC submitted to the Department of the Navy a revised application for an easement to site a portion of the Project on the Naval Weapons Systems Training Facility Boardman bombing range in Morrow County. The easement will be obtained directly from the Department of the Navy and should not be included in and governed by the site certificate.

Legal Authority:

10 U.S.C. 2668

Contact Information:

Kent Mathes
Range Program Manager
Naval Air Station Whidbey Island
3730 North Charles Porter Ave.
Oak Harbor, Washington 98728
(360) 257-3315

**3.2.4 United States Army Corps of Engineers (USACE) Clean Water Act (CWA)
Section 404 Nationwide Permit 12 (Utility Line Activities)**

Permit Description and Necessity:

Under the CWA, a Section 404 permit is required for construction of the Project, which will include the discharge of dredged or fill material into waters of the United States, including wetlands. IPC anticipates that the Project will be authorized under the Nationwide Permit 12, which authorizes activities required for the construction, maintenance, repair, and removal of utility lines and associated facilities in waters of the United States, provided the activity does not result in the loss of greater than 1/2-acre of waters of the United States for each single and complete project. IPC has provided extensive information, including a draft Joint Permit Application, in Exhibit J. IPC will satisfy the requirements of this permit in direct coordination with the USACE and this permit should not be included in and governed by the site certificate.

Legal Authority:

Clean Water Act, 33 U.S.C. 1344, 33 CFR 320, 323, 325-328, 330.

Contact Information:

Mr. Peter Olmstead, Regulatory Branch Biologist
La Grande Field Office
U.S. Army Corps of Engineers
3502 Highway 30
La Grande, Oregon 97850-5628
(541) 962-0401

**3.2.5 Federal Aviation Administration Notice of Proposed Construction or
Alteration**

Permit Description and Necessity:

CFR Title 14, Part 77 establishes standards and notification requirements for objects affecting navigable airspace. Any construction activities involving cranes exceeding 200 feet above ground level require notification to the Federal Aviation Administration. Because the Project will require the use of cranes exceeding 200 feet in height, IPC will need to submit to the Federal Aviation Administration a Notice of Proposed Construction or Alteration.

Legal Authority:

CFR Title 14, Part 77

Contact Information:

Gary Gates
Federal Aviation Administration
Northwest Mountain Region Airports Division, ANM-600
1601 Lind Avenue, SW, Suite 315

Renton, Washington 98057-3356
(435) 227-2600

3.2.6 Oregon Department of Aviation Notice of Proposed Construction or Alteration

Permit Description and Necessity:

The Oregon Department of Aviation has the responsibility of determining whether specific objects or structures constitute a hazard to air navigation. Should a Notice of Proposed Construction or Alteration be necessary, IPC will obtain it directly from the Oregon Department of Aviation and it should not be included in or governed by the site certificate.

Legal Authority:

ORS 836.530 and OAR Chapter 738, Division 70 (Regulations Pertaining to Physical Hazards to Air Navigation).

Contact Information:

Jeff Caines
Oregon Department of Aviation
3040 25th Street SE
Salem, Oregon 97302-1125
(503) 378-2529

3.2.7 Oregon Department of Environmental Quality (ODEQ) Permits

The Second Amended Project Order includes the following discussion regarding National Pollutant Discharge Elimination System (NPDES) Construction Storm Water 1200-C 21 permit and related Clean Water Act Section 401 Water Quality Certificate:

The U.S. Environmental Protection Agency (EPA) has delegated authority to ODEQ to issue NPDES Storm Water Discharge permits for construction and operation activities pursuant to OAR 340, Division 45.

In accordance with OAR 345-021-0000(7), the applicant shall submit to the Department one copy of the NPDES permit draft application and Section 401 Water Quality Certification draft application, or provide a schedule of the date by which the applicant intends to submit the application. Note that the Department may not be able to find the application for site certificate complete before receiving a copy of the draft permit applications and a response letter from the ODEQ. The ODEQ response letter shall state that the agency has received a permit application from the applicant, identify any additional information the agency is likely to need from the applicant based on the agency's review of the application as submitted, and provide an estimated date when the agency will complete its review and issue a permit decision. The applicant may incorporate this information into Exhibit I (Soils) of the site certificate application or submit it separately in Exhibit BB.

(Second Amended Project Order, Section III(e)).

3.2.7.1 National Pollutant Discharge Elimination System Permit 1200-C

Permit Description and Necessity:

The United States (U.S.) Environmental Protection Agency has delegated authority to ODEQ to issue NPDES Storm Water Discharge permits for construction and operation activities. IPC has submitted a preliminary 1200-C application for the Project to ODEQ, and the draft permit has been acknowledged by ODEQ. The letter from ODEQ acknowledging IPC's submittal of the

draft NPDES 1200-C permit is included as an attachment to Exhibit I. IPC will satisfy the requirements of this permit in direct coordination with ODEQ and this permit should not be included in and governed by the site certificate.

Legal Authority:

ORS 468B.050, OAR Chapter 340, Division 45 (Regulations Pertaining to NPDES and Water Pollution Control Facility Permits).

Contact Information:

Jackie Ray
Eastern Regional Office – DEQ
700 SE Emigrant, #330
Pendleton, Oregon 97801
(541) 276-4063

3.2.7.2 NPDES Permit 1200-A

Permit Description and Necessity:

The U.S. Environmental Protection Agency has delegated authority to ODEQ to issue NPDES Storm Water Discharge permits for gravel mining and concrete batch plant operations. Rock crushing and batch plant activities may require an NPDES 1200-A permit. IPC will submit, prior to the Final Application for Site Certificate (ASC), a preliminary NPDES 1200-A permit application for the Project to ODEQ and obtain an acknowledgement from ODEQ that the agency received the application. Should an NPDES 1200-A permit be necessary, IPC will obtain it directly from ODEQ and it should not be included in or governed by the site certificate.

Legal Authority:

ORS 468B.050, OAR Chapter 340, Division 45 (Regulations Pertaining to NPDES and Water Pollution Control Facility Permits).

Contact Information:

Same as above.

3.2.7.3 CWA Section 401 Water Quality Certification

Permit Description and Necessity:

The CWA Section 401 Water Quality Certification process may be triggered during the USACE CWA Section 404 permitting process. However, IPC anticipates obtaining a Nationwide 12 permit that has previously received water quality certification.

Legal Authority:

CWA, 33 U.S.C. 1341, OAR Chapter 340, Division 48 (Certification of Compliance with Water Quality Requirements and Standards)

Contact Information:

Same as above.

3.2.7.4 Air Contaminant Discharge Permit

Permit Description and Necessity:

Any operation that can be considered an air contaminant source by the state of Oregon must obtain an Air Contaminant Discharge Permit (ACDP) prior to operation. Rock crushing and batch plant activities may fall under the Basic Air Contaminant Discharge Permit. IPC will submit, prior to the Final ASC, a preliminary ACDP application for the Project to ODEQ and obtain an acknowledgement from ODEQ that the agency received the application. Should an

ACDP be necessary, IPC will obtain it directly from ODEQ and it should not be included in or governed by the site certificate.

Legal Authority:

ORS 468A.040-468A.060, OAR Chapter 340, Division 216 (Air Contaminant Discharge Permits).

Contact Information:

Same as above.

3.2.8 Oregon Parks and Recreation Department – State Historic Preservation Office Permits

The Second Amended Project Order includes the following discussion regarding the Archaeological Excavation Permit:

OPRD-SHPO provides technical review and recommendations related to the Council's Historic, Cultural and Archaeological Resources Standard (OAR 345-022-0090). To the extent information related to this permit is relevant to that standard, the applicant shall incorporate this information into Exhibit S of the site certificate application.

(Second Amended Project Order, Section III(e)).

3.2.8.1 Archaeological Excavation Permit

Permit Description and Necessity:

No entity can excavate or alter an archaeological site on public lands, make an exploratory excavation on public lands to determine the presence of an archaeological site, or remove from public lands any material of an archaeological, historical, prehistorical, or anthropological nature without first obtaining a permit issued by the Oregon Parks and Recreation Department – State Historic Preservation Office. It is likely that an excavation permit(s) will be required for test excavations or data recovery of sites that cannot be avoided. Should IPC need archaeological permits for preconstruction surveys, it will obtain the permits directly from State Historic Preservation Office.

Legal Authority:

ORS 97.745, ORS 358.920, ORS 390.235, OAR Chapter 736, Division 51 (Archeological Permits).

Contact Information:

Mr. Dennis Griffin
State Archaeologist
Oregon Parks and Recreation Department – State Historic Preservation Office
725 Summer St NE, Ste. C
Salem, Oregon 97301
(503) 986-0674

3.2.9 Oregon Public Utility Commission (OPUC) Certificate of Public Convenience and Necessity (CPCN)

Permit Description and Necessity:

If the Project necessitates condemnation of land or an interest in land, IPC will need to petition the OPUC for a CPCN. If necessary, IPC will obtain the CPCN permit directly from the OPUC.

The CPCN should not be included in and governed by the Site Certificate because it relates to IPC's property rights and not to siting.

Legal Authority:

ORS Chapter 758 (Utility Rights of Way).

Contact Information:

Oregon Public Utility Commission
201 High Street SE, Suite 100
Salem, Oregon 97301-3398
(503) 378-6600

3.2.10 Oregon Department of Transportation (ODOT)

The Second Amended Project Order includes the following discussion regarding ODT permit requirements:

Any utility installations within the right of way of a state highway in Oregon will require a Utility Facility Permit issued by the Oregon Department of Transportation (ODOT). It is recommended the applicant review the requirements of OAR 734-055-0080 concerning installation of utilities within interstate highway rights of way and provide adequate evidence to ODOT to demonstrate the need for longitudinal installations, if such installations will be proposed.

The Oversize Load Movement Permit/Load Registration applies to the operation of vehicles transporting loads that exceed legal limits and is issued for vehicles or loads having weight or dimension greater than that allowed by statute. The applicant may need to obtain this permit/registration for movement of construction cranes and other equipment and materials.

Any access from Oregon state highways may require State Highway Approach Permit. It is recommended the applicant contact ODOT directly to determine the requirements for obtaining an access permit, if any are needed.

(Second Amended Project Order, Section III(e)).

3.2.10.1 Permit to Construct a State Highway Approach; Permit to Operate, Maintain, and Use a State Highway Approach

Permit Description and Necessity:

There are two components to state highway approach permitting process—the Permit to Construct a State Highway Approach and the Permit to Operate, Maintain and Use a State Highway Approach. The Project will require construction and operational access off of state highways and IPC will need to obtain both permits mentioned above. IPC will work with ODOT directly to obtain the Permit to Construct a State Highway Approach and the Permit to Operate, Maintain and Use a State Highway Approach, as these approvals involve design and operational issues and are not directly related to siting the facility¹⁰

Legal Authority:

¹⁰ IPC recognizes that the ODOT state highway approach permits could, in the context of a different facility, properly be viewed as “related to siting”; for example, where construction of a generation facility hinged on ODOT’s approval of a particular state highway approach. For the Project, however, IPC anticipates that even if ODOT were to impose conditions or design changes on IPC’s proposed highway approach locations, such minor modifications would not have an impact on the siting of the facility.

ORS Chapter 374 (Control of Access to Public Highways); OAR Chapter 734, Division 51 (Highway Approaches, Access Control, Spacing Standards and Medians).

Contact Information:

Oregon Department of Transportation Region 5
3012 Island Avenue
La Grande, Oregon 97850
(541) 963-3177

3.2.10.2 Oversize Load Movement Permit/Load Registration

Permit Description and Necessity:

This permit/registration applies to the operation of vehicles transporting loads that exceed legal limits and is issued for vehicles or loads having weight or dimension greater than that allowed by statute. Movement of construction cranes and other equipment and materials may require that IPC obtain this permit. If necessary, IPC will obtain this permit directly from ODOT. This permit should not be included in and governed by the Site Certificate because it relates to IPC's operation of vehicles during construction and not to siting.

Legal Authority:

OAR Chapter 734, Division 82 (Variance Permits Issued for Non-Divisible Loads and Road Use Assessment Fees).

Contact Information:

Same as above.

3.2.10.3 Permit to Occupy or Perform Operations Upon a State Highway

Permit Description and Necessity:

Utility installations within the ROW of a state highway in Oregon require a permit issued by the ODOT. No utilities may be installed within an interstate highway ROW. Utilities may cross an interstate highway but may not be sited longitudinally within the operating interstate highway ROW. The Site Boundary for the Project boundary includes crossing the ROW of state and interstate highways, but will not include transmission line structures within highway ROWs. IPC will work with ODOT to obtain both permits. This permit should not be included in and governed by the Site Certificate because it relates to IPC's work within a highway ROW during construction and not to siting.¹¹

Legal Authority:

ORS Chapter 374 (Control of Access to Public Highways); OAR Chapter 734, Division 55 (Pole Lines, Buried Cables, Pipe Lines, Signs, Miscellaneous Facilities and Miscellaneous Operations).

Contact Information:

Same as above.

3.2.11 Oregon Department of Forestry (ODF)

The Second Amended Project Order includes the following discussion regarding ODF permit requirements:

¹¹ IPC recognizes that the ODOT permit to occupy a state highway ROW could, in the context of a different facility, properly viewed as "related to siting"; for example, where construction of a transmission line facility hinged on ODOT's approval of location of the transmission line longitudinally within the state highway ROW. For the Project, however, IPC anticipates that even if ODOT were to impose conditions or design changes on IPC's proposed highway spanning locations, such minor modifications would not have an impact on the siting of the facility.

A portion of the proposed facility will be located on forest land. Construction activities on forest lands require a Permit to Operate Power Driven Machinery from the Oregon Department of Forestry (ODF). This permit does not relate to the siting of the facility and will therefore not be included in or governed by the site certificate. It is recommended the applicant contact ODF to determine the requirements for obtaining this permit, or any other required permits or approvals from ODF.

If the removal of trees would be necessary as part of the proposed project development, and such removal is part of a commercial operation, that activity may be subject to the Oregon Forest Practices Act.

(Second Amended Project Order, Section III(e)).

3.2.11.1 Permit to Operate Power Driven Machinery

Permit Description and Necessity:

Operations inside or within one-eighth of one mile of a forest protection district that uses fire in any form or power driven machinery requires a Permit to Operate Power Driven Machinery (see ORS 477.625). Here, the Project will involve forest clearing and road construction activities in forest lands that will require the operation of power driven machinery. IPC will submit its application for a Permit to Operate Power Driven Machinery to ODF at least 15 days prior to commencing timber harvesting or road construction operations in forest lands.¹² This permit should not be included in and governed by the site certificate because it relates to IPC's forestry operations during construction and not to siting.¹³

Legal Authority:

ORS 477.625 (Permit to Operate Power Driven Machinery).

Contact Information:

Rick Wagner, Stewardship Forester
Oregon Department of Forestry
611 20th Street
La Grande, Oregon 97850
(541) 963-3168

John Tokarczyk – Forest Resources Planning
Oregon Department of Forestry
Salem Headquarters
2600 State Street
Salem, Oregon 97310
(503) 945-7414

3.2.11.2 Burn Permit

Permit Description and Necessity:

¹² ODF provides a single form that comprises both: (a) an application for a Permit to Operate Power Driven Machinery; and (b) a Notification of Operation required to operate in forest lands (see Exhibit E, Section 3.2.11.3).

¹³ IPC recognizes that this Oregon Forest Practices Act notice and prior approval could, in the context of a different facility, be properly viewed as "related to siting"; for example, where construction of a generation facility hinged on ODF's approval of certain clearing activities. For the Project, however, IPC anticipates that even if ODF were to impose conditions or design changes on IPC's proposed, such minor modifications would not have an impact on the siting of the facility.

Logging debris may be disposed of by burning, also known as slash burning. A burn permit is required for slash burning on all ODF protected lands during fire season. Many areas prohibit all burning when fire danger increases. IPC will obtain any necessary burn permits directly from ODF. This permit should not be included in and governed by the Site Certificate because it relates to IPC's work within the ROW during construction and not to siting.

Legal Authority:

OAR 629-043-0040 (Burning Permits).

Contact Information:

Same as above.

3.2.11.3 Notification of Operation

Permit Description and Necessity:

Under the Oregon Forest Practices Act, individuals or entities must notify the ODF before beginning certain activities on forest lands, including timber harvesting and road construction, and obtain prior approval from ODF for those activities. The notification is not a permit. It is only information to ODF of an operator's intent. On state and private land, IPC plans to contract with a qualified timber operator to perform timber removal as needed for the Project. After the construction contractor finalizes the Project design and at least 15 days prior to commencing forestry activities, IPC or its timber contractor will submit the Notification of Operation to ODF. The USFS will manage timber removal on federal lands. The notification should not be included in and governed by the site certificate because it is not a permit and because it relates to IPC's forestry operations during construction and not to siting.¹⁴

Legal Expert:

ORS 527.670 (Notification of Operation).

Contact Information:

Same as above.

3.2.11.4 Plan for an Alternate Practice

Permit Description and Necessity:

The Forest Practices Reforestation Rules (OAR Chapter 629, Division 610) generally require a landowner to replant (or ensuring natural regeneration of) the forest after a timber harvest and maintain the seedlings to the point that they are "free to grow" at a stocking level that meets the Forest Practices Act's (FPA) minimum stocking standards. If forestlands will be converted to a use not compatible with maintaining forest tree cover, the landowner must obtain written approval of a Plan for an Alternate Practice from the State Forester providing an exemption from the FPA's reforestation requirements. The notification should not be included in and governed by the site certificate because it is not a permit and because it relates to IPC's forestry operations during construction and not to siting.

Legal Authority:

OAR Chapter 629, Division 610 (Forest Practices Reforestation Rules).

Contact Information:

Same as above.

¹⁴ IPC recognizes that this Oregon Forest Practices Act notice and prior approval could, in the context of a different facility, be properly viewed as "related to siting"; for example, where construction of a generation facility hinged on ODF's approval of certain clearing activities. For the Project, however, IPC anticipates that even if ODF were to impose conditions or design changes on IPC's proposed, such minor modifications would not have an impact on the siting of the facility.

3.2.12 Morrow County

3.2.12.1 Utility Crossing Permit

Permit Description and Necessity:

This permit is required any time a utility is constructed within or across a public ROW. The Project will cross county ROWs and IPC will apply for a Utility Crossing Permit. IPC will obtain any necessary utility crossing permits directly from the Morrow County Public Works Department. This permit should not be included in and governed by the site certificate because it relates to IPC's work within a road ROW during construction and not to siting.

Legal Authority:

ORS 374.305, MCZO 4.010(B).

Contact Information:

Mr. Matt Scrivner
PO Box 428
Lexington, Oregon 97839
(541) 989-8584

3.2.12.2 Access Approach Site Permit

Permit Description and Necessity:

The Access Approach Site Permit will be required if the Project access roads intersect with public roads, or if necessary upgrades to existing access roads affect a public road. IPC intends to develop access roads that will intersect with public roads, and IPC will obtain any necessary Access Approach Site Permits directly from the Morrow County Public Works Department. This permit should not be included in and governed by the site certificate because it relates to IPC's work within a road ROW during construction and not to siting.

Legal Authority:

ORS 374.305, MCZO 4.010(B).

Contact Information:

Same as above.

3.2.12.3 Construction Permit to Build on Right-of-Way

Permit Description and Necessity:

A construction permit is required to make improvements to access roads that intersect with county road ROWs. Project access roads will intersect with public roads and IPC will obtain any necessary a Construction Permit to Build on Right-of-Way directly from the Morrow County Public Works Department. This permit should not be included in and governed by the site certificate because it relates to IPC's work within a road ROW during construction and not to siting.

Legal Authority:

ORS 374.305, MCZO Section 4.010(B).

Contact Information:

Same as above.

3.2.12.4 Flood Plain Development Permit

Permit Description and Necessity:

Under MCZO 3.100, construction activity within a Special Flood Hazard Area in Morrow County requires a Flood Plain Development Permit. To the extent the Project will include construction activities within a Special Flood Hazard Area, IPC will obtain any necessary Flood Plain Development Permit directly from the Morrow County. This permit should not be included in and governed by the Site Certificate because it relates to IPC's work within a certain flood plain area during construction and not to siting.

Legal Authority:

MCZO 3.100(4).

Contact Information:

Ms. Carla McLane
Planning Director
205 NE Third St.
Irrigon, Oregon 97844
(541) 922-4624

3.2.13 Umatilla County

3.2.13.1 Installation of Utilities on County and Public Roads Permit (Utilities Permit)

Permit Description and Necessity:

Umatilla County requires a utilities permit for any activity that involves having the utility cross a county or state road, pipelines, or installations adjacent to roadway and requiring traffic control. The Project will cross roads and pipelines and IPC will apply for a utilities permit directly from Umatilla County. This permit should not be included in and governed by the Site Certificate because it relates to IPC's work within a road ROW during construction and not to siting.

Legal Authority:

ORS 374.305-374.325.

Contact Information:

Tom Fellows
Department of Public Works
Umatilla County Road Department
3920 Westgate Street
Pendleton, Oregon 97801
(541) 278-5424

3.2.13.2 Road Approach and Crossing Permit

Permit Description and Necessity:

A Road Approach and Crossing Permit from Umatilla County will be required to make improvements to access roads that intersect with county road ROWs. Project access roads will intersect with public roads and IPC will obtain any necessary Road Approach and Crossing Permit directly from Umatilla County. This permit should not be included in and governed by the Site Certificate because it relates to IPC's work within a road ROW during construction and not to siting.

Legal Authority:

ORS 374.305.

Contact Information:

Same as above.

3.2.13.3 Flood Plain Development Permit**Permit Description and Necessity:**

Under UCDC 152.353(D), construction activity within an Area of Special Flood Hazard in Umatilla County requires a Flood Plain Development Permit. To the extent the Project will include construction activities within an Area of Special Flood Hazard, IPC will obtain any necessary Flood Plain Development Permit directly from the Umatilla County. This permit should not be included in and governed by the Site Certificate because it relates to IPC's work within a certain flood plain area during construction and not to siting.

Legal Authority:

UCDC 152.353.

Contact Information:

Mr. Robert Waldher
Planning Director
Department of Land Use Planning
216 SE 4th Street Room 104
Pendleton, Oregon 97801
(541) 278-6252

3.2.14 Union County**3.2.14.1 Union County Public Works Department – Road Approach Permit****Permit Description and Necessity:**

A Road Approach Permit from Union County will be required to make improvements to access roads that intersect with county road ROWs. Project access roads will intersect with public roads and IPC will obtain any necessary Road Approach Permit directly from Union County. This permit should not be included in and governed by the Site Certificate because it relates to IPC's work within a road ROW during construction and not to siting.

Legal Authority:

ORS 374.305.

Contact Information:

Doug Wright
Union County Public Works Department
P.O. Box 1103
La Grande, Oregon 97850
(541) 963-1014

3.2.14.2 Work in County Right-of-Way Permit**Permit Description and Necessity:**

If any activity takes place in a county road ROW within Union County, an application must be submitted for approval by the county prior to the activity being conducted. IPC will apply for this

permit directly from Union County. This permit should not be included in and governed by the Site Certificate because it relates to IPC's work within a road ROW during construction and not to siting.

Legal Authority:

ORS 374.305.

Contact Information:

Same as above.

3.2.14.3 Flood Plain Development Permit

Permit Description and Necessity:

Under UCZSPO Article 17.00, construction activity within a Special Flood Hazard Area in Union County requires a Flood Plain Development Permit. To the extent the Project will include construction activities within a Special Flood Hazard Area, IPC will obtain any necessary Flood Plain Development Permit directly from the Union County. This permit should not be included in and governed by the Site Certificate because it relates to IPC's work within a certain flood plain area during construction and not to siting.

Legal Authority:

UCZSPO Article 17.00.

Contact Information:

Scott Hartell
Planning Department
1001 Fourth Street, Suite C
La Grande, Oregon 97850
(541) 963-1014

3.2.15 Baker County

3.2.15.1 Flood Plain Development Permit

Permit Description and Necessity:

Under the BCZSO 410, construction activity within a Special Flood Hazard Area in Baker County requires review and approval. To the extent the Project will include construction activities within a Special Flood Hazard Area, IPC will obtain any necessary Flood Plain Development Permit directly from Baker County. This permit should not be included in and governed by the Site Certificate because it relates to IPC's work within a certain flood plain area during construction and not to siting.

Legal Authority:

BCZSO 410.

Contact Information:

Ms. Holly Kerns
Interim Planning Director
Baker County Planning Department
1995 Third Street
Baker City, Oregon 97814
(541) 523-8219

3.2.15.2 Road Approach Permit

Permit Description and Necessity:

A Road Approach Permit from Baker County will be required to make improvements to access roads that intersect with county road ROWs. Project access roads will intersect with public roads and IPC will obtain any necessary Road Approach Permit directly from Baker County. This permit should not be included in and governed by the site certificate because it relates to IPC's work within a road ROW during construction and not to siting.

Legal Authority:

ORS 374.305.

Contact Information:

Mr. Jeff Smith
Road Master
Baker County Road Department
3050 E Street
Baker City, Oregon 97814
(541) 523-6417

3.2.15.3 Work in County Right-of-Way Permit

Permit Description and Necessity:

If any activity takes place in a ROW within Baker County, an application must be submitted for approval by the county prior to the activity being conducted. Construction of the Project may require modifications within existing Baker County road ROWs, including improvements to county roads that may be used as access roads. IPC will apply for this permit directly from Baker County. This permit should not be included in and governed by the Site Certificate because it relates to IPC's work within a road ROW during construction and not to siting.

Legal Authority:

ORS 374.305.

Contact Information:

Same as above.

3.2.16 Malheur County

3.2.16.1 Permit to Occupy or Perform Operations upon Public Roads

Permit Description and Necessity:

If any activity takes place in a ROW within Malheur County, an application must be submitted for approval by the county prior to the activity being conducted. Construction of the Project may require modifications within existing Malheur County road ROWs, including improvements to county roads that may be used as access roads and installation of distribution lines across or within a county ROW. IPC will apply for a Permit to Occupy or Perform Operations upon Public Roads directly from Malheur County. This permit should not be included in and governed by the Site Certificate because it relates to IPC's work within a road ROW during construction and not to siting.

Legal Authority:

ORS 374.305.

Contact Information:

Mr. Richard Moulton
Road Master
251 B St. West #8
Vale, Oregon 97918

(541) 473-5191

3.2.16.2 Flood Plain Development Permit**Permit Description and Necessity:**

Under MCC 3K-3, MCC 5-1-2, and MCC 5-2-4, construction of structures or development involving fill and related activities within a Flood Plain Management Zone in Malheur County requires a Flood Plain Development Permit. To the extent the Project will include construction of a structure or fill activities within a Flood Plain Management Zone, IPC will obtain any necessary Flood Plain Development Permit directly from Malheur County. This permit should not be included in and governed by the Site Certificate because it relates to IPC's work within a certain flood plain area during construction and not to siting..

Legal Authority:

MCC 3K-3; MCC 5-1-2; MCC 5-2-4.

Contact Information:

Mr. Alvin Scott
Interim Planning Director
251 B St. West #12
Vale, Oregon 97918
(541) 473-5185

3.3 Federally Delegated Permits

OAR 345-021-0010(1)(e)(D): For federally-delegated permit applications, evidence that the responsible agency has received a permit application and the estimated date when the responsible agency will complete its review and issue a permit decision.

The Council does not determine compliance for permits that are federally delegated. IPC will coordinate the submission of applications for federally delegated permits with the National Environmental Policy Act process currently underway in support of IPC's ROW application on federally managed lands. Table E-2, below, provides a summary of application dates and permit status for federally delegated permits.

Table E-2. Federally Delegated Permit Application Status

Permit	Application Submitted	When Permit Will be Issued
Air Contaminant Discharge Permit	After issuance of the Record of Decision	Prior to ground-disturbing activities
NPDES 1200-A	Preliminary permit application will be submitted prior to Final ASC	Per consultation with ODEQ, permit may be issued two to three weeks following issuance of the site certificate
Clean Water Act Section 401 Water Quality Certification	Triggered by Section 404 permit	Prior to ground-disturbing activities
NPDES 1200-C	Preliminary permit application submitted on May 3, 2012	Per consultation with ODEQ, permit may be issued two to three weeks following issuance of the site certificate

NPDES = National Pollution Discharge Elimination System; ODEQ = Oregon Department of Environmental Quality

3.4 Third-Party Permits

OAR 345-021-0010(1)(e)(E): If the applicant relies on a state or local government permit or approval issued to a third party, identification of any such third-party permit and for each: (i)

Evidence that the applicant has, or has a reasonable likelihood of entering into, a contract or other agreement with the third party for access to the resource or service to be secured by that permit. (ii) Evidence that the third party has, or has a reasonable likelihood of obtaining, the necessary permit. (iii) An assessment of the impact of the proposed facility on any permits that a third party has obtained and on which the applicant relies to comply with any applicable Council standard.

OAR 345-021-0010(1)(e)(F): If the applicant relies on a federally-delegated permit issued to a third party, identification of any such third-party permit and for each: (i) Evidence that the applicant has, or has a reasonable likelihood of entering into, a contract or other agreement with the third party for access to the resource or service to be secured by that permit. (ii) Evidence that the responsible agency has received a permit application. (iii) The estimated the date when the responsible agency will complete its review and issue a permit decision.

3.4.1 State or Local Third-Party Permits

The Second Amended Project Order includes the following discussion regarding third-party permits:

The applicant may rely upon third-party permits in its application for site certificate. If the applicant relies upon a state or local government permit issued to a third party that is related to the siting of the proposed facility, the applicant must identify each third-party permit, and, for each, include evidence that the applicant has, or has a reasonable likelihood of entering into, a contract or other agreement with the third party for access to the resource or service to be secured by that permit; evidence that the third party has or, has a reasonable likelihood of obtaining, the necessary permit; and, an assessment of the impact of the proposed facility on any permits that a third party has obtained and on which the applicant relies to comply with any applicable Council standard (OAR 345-021-0010(1)(e)(E)).

If the applicant relies on a federally-delegated permit issued to a third party that is related to the siting of the proposed facility, the applicant must identify the third-party permit and include evidence that the applicant has, or has a reasonable likelihood of entering into, a contract or other agreement with the third party for access to the resource or service to be secured by that permit. The applicant must provide evidence that the responsible agency has received the permit application, and provide the estimated date when the responsible agency will complete its review and issue a permit decision (OAR 10 345-021-0010(1)(e)(F)).

(Second Amended Project Order, Section III(e)).

3.4.1.1 Identification of State or Local Third-Party Permits

IPC will rely on Umatilla Electric Co-Op, Pacific Power, and Oregon Trail Electric Cooperative to install the distribution lines serving the communication stations (see Exhibit A, Section 3.2). The distribution lines may require the following local permits or approvals depending on the final design and alignment of the distribution lines:

- **Communication Station MO-01, Morrow County, EFU Zone, Utility Crossing Permit**

Communication station MO-01 will be located in the EFU Zone in Morrow County. Utility lines not exceeding 200 feet in height are permitted outright in EFU lands in Morrow County. However, a Utility Crossing Permit is required any time a utility is constructed within or across a public ROW in Morrow County. If the distribution lines serving

Communication Station MO-01 cross or are located in a public ROW in Morrow County, the third-party local service provider will obtain any necessary Utility Crossing Permit from the Morrow County Public Works Department.

- **Communication Station UM-01 and UM-02, EFU Zone, Umatilla County, Utilities Permit**

Communication stations UM-01 and UM-02 will be located in the EFU Zone in Umatilla County. Utility lines that are located on one or more of the following are permitted outright in EFU: (1) a public ROW; (2) land immediately adjacent to a public ROW, provided the written consent of all adjacent property owners has been obtained; or (3) the property to be served by the utility. However, a Utilities Permit is required if a utility line does not meet those criteria and is constructed within or across a public ROW in Umatilla County. If the distribution lines servicing communication stations UM-01 and UM02 require a Utilities Permit, the third-party local service provider will obtain any necessary Utilities Permit from Umatilla County.

- **Communication Stations UN-01 and UN-01 ALT, Timber-Grazing Zone, Union County, Work in County Right-of-Way Permit**

Communication stations UN-01 and UN-01 ALT will be located in the Timber-Grazing Zone in Union County. Local distribution lines and accessory equipment are permitted outright in Timber-Grazing Zone in Union County. However, if any activity will take place in a county road ROW within Union County, an application must be submitted for approval by the county prior to the activity being conducted. If the distribution lines serving communication stations UN-01 and UN-01 ALT cross or are located in a public ROW in Union County, the third-party local service provider will obtain any necessary Work in County Right-of-Way Permit from Union County.

- **Communication Station UN-02, Agriculture-Grazing Zone, Union County, Land Use Decision and Work in County Right-of-Way Permit**

Communication station UN-02 will be located in the Agriculture-Grazing Zone in Union County. Utility facilities may be established in an Agricultural-Grazing Zone subject to a review process. Additionally, if any activity will take place in a county road ROW within Union County, an application must be submitted for approval by the county prior to the activity being conducted. If the distribution lines serving communication station UN-02 crosses or is located in a public ROW in Union County, the third-party local service provider will obtain any necessary Land Use Decision and Work in County Right-of-Way Permit from Union County.

- **Communication Stations BA-01 and BA-02, EFU Zone, Baker County, Right Of Way Activities Permit**

Communication stations BA-01 and BA-02 will be located in the EFU Zone in Baker County. Local distribution utility facilities are permitted outright in EFU Zone in Baker County. However, if any activity takes place in a ROW within Baker County, an application must be submitted for approval by the county prior to the activity being conducted. If the distribution lines serving communication stations BA-01 and BA-02 cross or are located in a public ROW in Baker County, the third-party local service provider will obtain any necessary Right of Way Activities Permit from Baker County.

Other than the local or state permits or authorizations set forth above, IPC will not rely on any state or local permits issued to a third-party.¹⁵

Table E-3 summarizes the permitting requirements for the distribution lines in Morrow, Umatilla, Union, and Baker counties.

Table E-3. Communication Station Distribution Line Permitting

Communication Station	County	Zones or Public Right-of-Way Impacts	Relevant Legal Authority	Permit Requirement
CS MO-01	Morrow	Exclusive Farm Use (EFU)	Morrow County Dev. Code § 3.10.C.16: Utility and transmission lines not exceeding 200 feet in height are permitted outright in EFU	None
		If crossing or located within a public right-of-way	Oregon Revised Statute (ORS) § 374.305	Utility Crossing Permit
CS UM-01 CS UM-02 CS UM-02 ALT	Umatilla	EFU	Umatilla County Dev. Code § 152.056: Utility facility service lines that are located on one or more of the following are permitted outright in EFU: (1) a public right of way; (2) land immediately adjacent to a public right of way, provided the written consent of all adjacent property owners has been obtained; or (3) the property to be served by the utility.	None
		If crossing or located within a public right-of-way and is not permitted outright	ORS §§ 374.305	Utilities Permit

¹⁵ In some circumstances, IPC's construction contractor may obtain permits on behalf of IPC. However, because the construction contractor will obtain these permits as an agent of IPC under IPC's control and direction, such permits are not considered third-party permits for purposes of OAR 345-021-0010(1)(e)(E) or (F).

Communication Station	County	Zones or Public Right-of-Way Impacts	Relevant Legal Authority	Permit Requirement
CS UN-01 CS UN-01 ALT	Union	Timber-Grazing Use A-1	Union County Dev. Code § 5.02.10: Local distribution lines and accessory equipment are permitted outright in Timber-Grazing Zone	None
		If crossing or located within a public right-of-way	ORS § 374.305	Work in County Right-of-Way Permit
CS UN-02	Union	Agricultural-Grazing Use A-2	Union County Dev. Code § 3.03.7: Utility facilities may be established in an Agricultural-Grazing Zone subject to a review process (Planning Director Land Use Decision)	Land Use Decision
		If crossing or located within a public right-of-way	ORS § 374.305	Work in County Right-of-Way Permit
CS BA-01 CS BA-02	Baker	EFU	Baker County Dev. Code § 301.01.C: Local distribution utility facilities are permitted outright in EFU	None
		If crossing or located within a public right-of-way	ORS § 374.305	Right of Way Activities Permit

3.4.1.2 Likelihood Idaho Power Company Will Be Able to Enter into an Agreement with the Local Service Provider

Under Oregon law, a local electrical service provider generally must provide service to requesting customers within the utility's service territory (see *In re Columbia Basin Elec. Coop., Inc. v. PacifiCorp et al.*, Docket No. UM 1670, Order No. 15-110 at 6 (April 10, 2015) ("When an entire load is located within the service territory of a single utility, that utility has the right and obligation to serve that load.")). Because Umatilla Electric Co-Op, Pacific Power, and Oregon Trail Electric Cooperative are required to provide electrical service to IPC for use at the communication stations, IPC has a reasonable likelihood of entering into a contract or agreement with each of them for the installation of the distribution lines.

3.4.1.3 Likelihood the Local Service Provider Will Be Able to Obtain Necessary Permits

The Morrow, Umatilla, and Union County planning departments have indicated to IPC that there is a high likelihood that the local service providers will be able to obtain any necessary authorizations to install the Project's communication station distribution lines in those counties.

3.4.1.4 Impact of Third-Party Permits on Council Standard Compliance

At this time, no third party has obtained any permits related to the Project. Further, IPC will not rely on any third-party permits to comply with any applicable Council standard.

3.4.2 Federally-Delegated Permits

IPC will not rely on any federally-delegated permits issued to a third party.

3.5 Monitoring Program

ORAR 345-021-0010(1)(e)(G): The applicant's proposed monitoring program, if any, for compliance with permit conditions.

To the extent that monitoring may be required for any permit conditions, monitoring programs are discussed in the Exhibit in which the permit is more fully discussed. For example, monitoring for compliance with removal-fill permit conditions is discussed in Exhibit J. For additional information regarding the location of discussion of monitoring programs, see the cross-references to ASC Exhibits provided in Sections 3.2 and 3.3.

4.0 COMPLIANCE CROSS-REFERENCES

Table E-4 identifies the location within the application for site certificate of the information responsive to the application submittal requirements of ORAR 345-021-0010, the Council's Approval standards of ORAR 345-022-0000, and the relevant Second Amended Project Order provisions.

Table E-4. Compliance Requirements and Relevant Cross-References

Requirement	Location
ORAR 345-0210-0010(1)(e)	
Exhibit E. Information about permits needed for construction and operation of the facility, including:	
(A) Identification of all federal, state and local government permits related to the siting of the proposed facility, a legal citation of the statute, rule or ordinance governing each permit, and the name, mailing address, email address and telephone number of the agency or office responsible for each permit.	Exhibit E, Section 3.1 and Section 3.2
(B) A description of each permit, the reasons the permit is needed for construction or operation of the facility and the applicant's analysis of whether the permit should or should not be included in and governed by the site certificate.	Exhibit E, Section 3.1 and Section 3.2
(C) For any state or local government agency permits, licenses or certificates that are proposed to be included in and governed by the site certificate, evidence to support findings by the Council that construction and operation of the proposed facility will comply with the statutes, rules and standards applicable to the permit. The applicant	Exhibit E, Section 3.1

Requirement	Location
<p>may show this evidence:</p> <p>(i) In Exhibit J for permits related to wetlands.</p> <p>(ii) In Exhibit O for permits related to water rights.</p>	
<p>(D) For federally-delegated permit applications, evidence that the responsible agency has received a permit application and the estimated date when the responsible agency will complete its review and issue a permit decision.</p>	Exhibit E, Section 3.3
<p>(E) If the applicant relies on a state or local government permit or approval issued to a third party, identification of any such third-party permit and for each:</p> <p>(i) Evidence that the applicant has, or has a reasonable likelihood of entering into, a contract or other agreement with the third party for access to the resource or service to be secured by that permit.</p> <p>(ii) Evidence that the third party has, or has a reasonable likelihood of obtaining, the necessary permit.</p> <p>(iii) An assessment of the impact of the proposed facility on any permits that a third party has obtained and on which the applicant relies to comply with any applicable Council standard.</p>	Exhibit E, Section 3.4
<p>(F) If the applicant relies on a federally-delegated permit issued to a third party, identification of any such third-party permit and for each:</p> <p>(i) Evidence that the applicant has, or has a reasonable likelihood of entering into, a contract or other agreement with the third party for access to the resource or service to be secured by that permit.</p> <p>(ii) Evidence that the responsible agency has received a permit application.</p> <p>(iii) The estimated the date when the responsible agency will complete its review and issue a permit decision.</p>	Exhibit E, Section 3.4
<p>(G) The applicant's proposed monitoring program, if any, for compliance with permit conditions.</p>	Exhibit E, Section 3.5
<p>Second Amended Project Order Requirements</p>	
<p>Exhibit E shall describe and discuss all state and local permits that the applicant proposes to be included in and governed by the site certificate, as well as state and local permits that are related to the siting, operation, and construction of the proposed facility but are not to be included in and governed by the site certificate. Exhibit E shall also describe required federal and federally-delegated permits. For federally-delegated permits needed for construction or operation, the Applicant must submit a copy of the permit application to the Department, as required under OAR 345-021-000(7).</p>	Exhibit E, Section 3.1 through Section 3.4
<p>Although the Council does not have jurisdiction over the federally-delegated permits, the Council may rely on the determinations of compliance and the conditions in federally-delegated permits in evaluating the application for compliance with Council standards.</p>	Exhibit E, Section 3.3
<p>The following state agency and local government permits and approvals are expected to be required for the proposed B2H facility. This list may not be exhaustive.</p>	Exhibit E, Section 3.0
<p>Oregon Department of Environmental Quality (ODEQ) Permits</p> <p>The U.S. Environmental Protection Agency (EPA) has delegated</p>	Exhibit E, Section 3.2.7; Exhibit I; Exhibit J;

Requirement	Location
<p>authority to ODEQ to issue NPDES Storm Water Discharge permits for construction and operation activities pursuant to OAR 340, Division 45.</p> <p>In accordance with OAR 345-021-0000(7), the applicant shall submit to the Department one copy of the NPDES permit draft application and Section 401 Water Quality Certification draft application, or provide a schedule of the date by which the applicant intends to submit the application. Note that the Department may not be able to find the application for site certificate complete before receiving a copy of the draft permit applications and a response letter from the ODEQ. The ODEQ response letter shall state that the agency has received a permit application from the applicant, identify any additional information the agency is likely to need from the applicant based on the agency's review of the application as submitted, and provide an estimated date when the agency will complete its review and issue a permit decision. The applicant may incorporate this information into Exhibit I (Soils) of the site certificate application or submit it separately in Exhibit BB.</p>	and Exhibit BB
<p>Oregon Department of Fish and Wildlife</p> <p>OAR Chapter 635, Division 412 (Fish Passage) requires upstream and downstream fish passage at all existing or new artificial obstructions in Oregon waters in which migratory native fish are currently or have historically been present, except under certain clearly defined circumstances. A fish passage plan that complies with OAR Chapter 635, Division 412 shall be included in Exhibit BB of the application.</p>	Exhibit E, Section 3.1.3; Exhibit BB, Attachment BB-2
<p>Oregon Parks and Recreation Department – State Historic Preservation Office Permits</p> <p>OPRD-SHPO provides technical review and recommendations related to the Council's Historic, Cultural and Archaeological Resources Standard (OAR 345-022-0090). To the extent information related to this permit is relevant to that standard, the applicant shall incorporate this information into Exhibit S of the site certificate application.</p>	Exhibit E, Section 3.2.8; Exhibit S
<p>Oregon Department of State Lands - Removal-Fill Authorizations</p> <p>The applicant shall include in its application information to support a finding on whether removal-fill permits will be required. The applicant shall incorporate this information into Exhibit J of the site certificate application. A Compensatory Wetland Mitigation Plan which meets the requirements of OAR 141-085-0680 through OAR 141-085-0715 must be provided to replace all lost functions and values previously provided by the impacted wetlands and waterways.</p>	Exhibit E, Section 3.1.2; Exhibit J
<p>Oregon Department of Forestry</p> <p>A portion of the proposed facility will be located on forest land. Construction activities on forest lands require a Permit to Operate Power Driven Machinery from the Oregon Department of Forestry</p>	Exhibit E, Section 3.2.11; Exhibit BB, Section 3.2 and Attachment BB-1

Requirement	Location
<p>(ODF). This permit does not relate to the siting of the facility and will therefore not be included in or governed by the site certificate. It is recommended the applicant contact ODF to determine the requirements for obtaining this permit, or any other required permits or approvals from ODF.</p> <p>If the removal of trees would be necessary as part of the proposed project development, and such removal is part of a commercial operation, that activity may be subject to the Oregon Forest Practices Act.</p>	
<p><i>Oregon Department of Transportation</i></p> <p>Any utility installations within the right of way of a state highway in Oregon will require a Utility Facility Permit issued by the Oregon Department of Transportation (ODOT). It is recommended the applicant review the requirements of OAR 734-055-0080 concerning installation of utilities within interstate highway rights of way and provide adequate evidence to ODOT to demonstrate the need for longitudinal installations, if such installations will be proposed.</p> <p>The Oversize Load Movement Permit/Load Registration applies to the operation of vehicles transporting loads that exceed legal limits and is issued for vehicles or loads having weight or dimension greater than that allowed by statute. The applicant may need to obtain this permit/registration for movement of construction cranes and other equipment and materials.</p> <p>Any access from Oregon state highways may require State Highway Approach Permit. It is recommended the applicant contact ODOT directly to determine the requirements for obtaining an access permit, if any are needed.</p>	Exhibit E, Section 3.2.10
<p><i>Oregon Department of Agriculture, Plant Division - Native Plant Conservation Program</i></p> <p>ODA provides technical review and recommendations regarding compliance with the Council's threatened and endangered species standard (OAR 345-022-0070) as it relates to plant species. The Council's Threatened and Endangered Species standard applies to all land in Oregon, including private and public land. OAR 603-073-0070 contains the state list of endangered and threatened plant species. OAR 603-073-0080 gives ODA the authority to designate candidate plants. If the applicant finds any state-listed threatened or endangered plant species on state-managed land that may be affected by the proposed facility, it must address the requirements of OAR 603-073-0090(5)(d)(A)-(E) in the application for a site certificate.¹⁶</p>	Exhibit E, Section 3.1.4
<p><i>Local Governments: Morrow County; Umatilla County, Union County, Baker County, Malheur County 9 City of North Powder;</i></p>	Exhibit E, Section 3.1.5

¹⁶ OAR 345-022-0070 applies only to state-listed plant and animal species. Note also that OAR 345-022-0070 applies to all lands affected by a proposed facility including state, federal and private lands.

Requirement	Location
<p>City of Huntington</p> <p>The applicant has elected for EFSC to determine compliance with the substantive criteria of all affected local governments' comprehensive plans and land use ordinances under ORS 469.504(1)(b). The above-listed local permits will be included in and governed by the site certificate. The affected local government Special Advisory Groups (SAGs) may have additional permitting requirements that may or may not relate to the construction or operation of the facility. The applicant shall identify those permits or approvals and include an analysis of whether each is required to be included in and governed by the site certificate.</p>	<p>through Section 3.1.11</p>
<p>Third-Party Permits</p> <p>The applicant may rely upon third-party permits in its application for site certificate. If the applicant relies upon a state or local government permit issued to a third party that is related to the siting of the proposed facility, the applicant must identify each third-party permit, and, for each, include evidence that the applicant has, or has a reasonable likelihood of entering into, a contract or other agreement with the third party for access to the resource or service to be secured by that permit; evidence that the third party has or, has a reasonable likelihood of obtaining, the necessary permit; and, an assessment of the impact of the proposed facility on any permits that a third party has obtained and on which the applicant relies to comply with any applicable Council standard (OAR 345-021-0010(1)(e)(E)).</p> <p>If the applicant relies on a federally-delegated permit issued to a third party that is related to the siting of the proposed facility, the applicant must identify the third-party permit and include evidence that the applicant has, or has a reasonable likelihood of entering into, a contract or other agreement with the third party for access to the resource or service to be secured by that permit. The applicant must provide evidence that the responsible agency has received the permit application, and provide the estimated date when the responsible agency will complete its review and issue a permit decision (OAR 10 345-021-0010(1)(e)(F)).</p>	<p>Exhibit E, Section 3.4</p>