

# **APPENDIX K3**

## **STATE**

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**COMMENT(S)**

**RESPONSE(S)**

**S1**

**Idaho Governor’s Office of Energy Resources**

comment@boardmantohemingway.com

**From:** Scott Pugrud <Scott.Pugrud@oer.idaho.gov>  
**Sent:** Thursday, March 19, 2015 9:45 AM  
**To:** tgertsch@blm.gov; comment@boardmantohemingway.com  
**Cc:** John Chatburn; Matt Wiggs; Sharon (sharon.kiefer@idfg.idaho.gov)  
**Subject:** State of Idaho Comments  
**Attachments:** Idaho B2H DEIS Comments.pdf

Please find the attached comments from the State of Idaho on the Boardman to Hemingway Transmission Line Project.

Thank you,

**Scott N. Pugrud | Legal Counsel**  
Office of Energy Resources  
Phone (208) 332-1679 | Fax (208) 332-1661 | Web: [energy.idaho.gov](http://energy.idaho.gov)

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## COMMENT(S)

## RESPONSE(S)

S1

Idaho Governor's Office of Energy Resources (cont.)

## GOVERNOR'S OFFICE OF ENERGY RESOURCES

C. L. "BUTCH" OTTER  
Governor304 N. 8<sup>th</sup> Street, Suite 250, P.O. Box 83720  
Boise, Idaho 83720-0199JOHN CHATBURN  
Administrator(208) 332-1660  
FAX (208) 332-1661

March 19, 2015

Tamara Gertsch, Project Manager  
Boardman to Hemingway Transmission Line Project  
Bureau of Land Management  
P.O. Box 655  
Vale, OR 97918

**RE: State of Idaho's coordinated comments on the Boardman to Hemingway  
Transmission Line Project Draft Environmental Impact Statement and Land Use  
Plan Amendments**

Dear Ms. Gertsch,

The State of Idaho submits the following comments which were developed through a coordinated effort between the Idaho Governor's Office of Energy Resources, the Idaho Department of Lands, the Idaho Department of Fish and Game (IDFG), the Idaho Department of Parks and Recreation, and the Idaho Governor's Office of Species Conservation. The State of Idaho appreciates the opportunity to comment on the Draft Environmental Impact Statement (EIS) and Land Use Plan Amendments for the Boardman to Hemingway Transmission Line Project (B2H Project).

**Introduction**

The Bureau of Land Management (BLM) prepared the Draft EIS in consultation with cooperating agencies and in accordance with the National Environmental Policy Act of 1969. The EIS is in response to an Application for Transportation and Utility Systems and Facilities on Federal Lands (SF 299) and a project Plan of Development (POD) submitted by the Idaho Power Company (IPC), the Applicant, to the BLM, the U.S. Forest Service (USFS), and the U.S. Bureau of Reclamation (Reclamation). IPC submitted its original SF 299 application and POD on December 19, 2007. The BLM determined that approval of the request would be a major federal action requiring the preparation of an EIS; the BLM published a Notice of Intent to prepare the EIS on September 12, 2008, in the Federal Register to formally initiate the EIS process. IPC subsequently submitted a revised SF 299 application and POD in June 2010, and the BLM published a revised Notice of Intent on July 27, 2010. IPC submitted additional revisions to its SF 299 application and POD in February and November 2011.

PacifiCorp, Bonneville Power Administration (BPA), and IPC jointly propose to design, construct, operate and maintain the B2H Project. IPC is leading the permitting process for the

**COMMENT(S)****RESPONSE(S)****S1****Idaho Governor's Office of Energy Resources (cont.)**

B2H Project. The purpose of the EIS is to analyze and disclose the potential impacts of granting a right-of-way across Federal land to the IPC for the purpose of constructing, operating, and maintaining the proposed 500 kilovolt (kV), single-circuit, alternating-current electric transmission line, as well as a rebuild of portions of existing 138 kV and 69 kV transmission lines. The new transmission line would begin at a substation near Boardman, Oregon, and would extend south and east to the existing Hemingway Substation near Marsing, Idaho, a distance of approximately 305 miles. The proposed transmission line would cross federal, state, and private lands in five counties in Oregon and one county in Idaho. The proposed transmission line would cross approximately 93 miles of lands administered by federal agencies, including the BLM and the USFS. The Project would affect lands and assets administered by Reclamation and may potentially affect land and military Special Use Airspace administered by the U.S. Navy.

**Purpose and Need**

The objective for the B2H Project is to provide additional capacity to connect the Pacific Northwest region with the Intermountain region to alleviate existing transmission constraints between the two areas and to ensure sufficient capacity so that Idaho's electricity providers can meet present and forecasted load requirements. The B2H Project would facilitate the transmission of electricity on a regional scale, serve native loads, and enhance grid reliability. The B2H Project is neither required to support any particular new generation source nor justified by any particular existing generation source. Rather, the B2H Project would provide a high-capacity connection between two key points in the existing bulk electricity system that will enhance reliability.

The proposed transmission line is needed to avoid resource capacity deficits during peak usage, which occurs in the summer in Idaho and the winter in the Pacific Northwest. During peak usage, there is:

- No transmission capacity to transfer additional energy from the Pacific Northwest to Idaho and beyond;
- Limited transmission capacity to deliver resources from the Intermountain West into the Pacific Northwest; and
- No existing capacity to integrate new renewable resources proposed for development in eastern Oregon.

The B2H Project would add capacity to transmit electricity during peak usage loading conditions and to accommodate third-party transmission requests. The B2H Project will also improve Idaho's electricity suppliers' ability to provide reliable electrical service to their customers as mandated by federal and state agencies. Transmission systems in the United States are planned, operated, and maintained under North American Electric Reliability Council (NERC) standards. Additionally, Idaho's electrical utilities are also governed by the Western Electricity Coordinating Council (WECC). WECC policy, procedures, criteria, and standards are, in many instances, more stringent than those required by NERC. Transmission systems in the Western Interconnect must be planned, built, and continually operated with sufficient redundancy in order to comply with NERC and WECC standards.

**COMMENT(S)****RESPONSE(S)****S1****Idaho Governor's Office of Energy Resources (cont.)****Key Issues**

The number of customers in IPC's service area is expected to increase from approximately 490,000 in 2009 to over 680,000 by 2029. Firm peak-hour load (the peak hourly electricity that the system must supply when demand is at its highest) has increased from 2,052-megawatts (MW) in 1990 to over 3,000 MW in 2006, 2007, 2008, and 2009. Average firm load (the average annual demand from customers) has increased from 1,200 MW in 1990 to 1,800 MW in 2008. The increase in demand and reliability is a critical issue for the State of Idaho that necessitates immediate and rapid attention.

IPC has received more than 4,000 MW of transmission service requests on the Idaho to Pacific Northwest path between 2005 and 2014. Of the service requests, only 133 MW were granted through 2007 due to the limited available transmission capacity of the system. There are currently active requests in study status that are expected to commence operations when the B2H Project is completed. The development of wind, solar and other renewable resources in response to state renewable portfolio standards is anticipated to further increase the demand for transmission capacity between the Intermountain region and the Pacific Northwest.

IPC's 2013 IRP shows the Boardman to Hemingway transmission line is the least-cost resource analyzed and provides the greatest level of peak-hour capacity. A new transmission line connecting IPC to the Pacific Northwest was first mentioned in the 2000 Integrated Resource Plan (IRP), and the upgrade was specifically identified in the 2006 IPC IRP. The State of Idaho believes that the Boardman to Hemingway transmission line is critical to serve customers and needs to be completed by 2018. However, given the numerous permitting delays that have already occurred, it is likely this project will not become operational until 2020 or beyond. It is imperative that the B2H Project be permitted and completed in a timely manner in order to serve Idaho (and Pacific Northwest) electricity customers.

**Siting**

The Proposed Action spans approximately 23.7 miles across Owyhee County, Idaho. The route crosses 19.2 miles of BLM-managed lands, 2.8 miles of state and municipal lands, and 1.7 miles of privately owned lands. The State of Idaho supports the BLM's identification of Segment 6 (Treasure Valley / Owyhee County) as the Environmentally and Agency Preferred Alternative. This siting has low impacts on resource (wildlife, cultural and historical, visual) land uses, avoids special designation areas, and does not cross any national historic trails.

The State of Idaho supports the Longhorn Variation, located west of Bombing Range Road, as the siting with the least impact to wildlife and cultural resources, land uses and prime farmland in Oregon, and utility customers. IPC and BPA are exploring the potential to remove the existing BPA transmission infrastructure that is currently located on the west side of Bombing Range Road. While this scenario may require a slight expansion of the existing BPA right of way west of Bombing Range Road, it also allows the B2H transmission infrastructure to utilize the existing disturbed footprint currently occupied by the BPA's 69 kV transmission line. Due to utilization of the existing disturbed foot print, there will be minimal impacts to Navy operations, wildlife and cultural resources, prime Oregon farmland, and ratepayers.

**COMMENT(S)**

**RESPONSE(S)**

**S1** **Idaho Governor’s Office of Energy Resources (cont.)**

**Comments Specific to Fish and Wildlife**

S1a

In Section 3.2.4.4, page 3-207, Methodology, no Idaho-specific data source is listed for non-game wildlife, yet they are analyzed as part of the DEIS. The Idaho Fish and Wildlife Information System (IFWIS) is the data source within the IDFG that provides such data. Please list the IFWIS as a data source in this section.

S1a

The methods section for Wildlife (Section 3.2.4.4) was revised to include IFWIS as a data source.

S1b

Section 3.2.4.5, page 3-270, currently includes mule deer and bighorn sheep as big game species present in the analysis area for Segment 6. Please add pronghorn antelope to the list of big game species present in the analysis area for Segment 6. Also, please revise the source listed on page 3-270, line 11, from ODFW to IDFG.

S1b

Recommended change made.

S1c

In section 3.2.4.6, page 3-326, OM-16, please include the IDFG as the appropriate state agency to be notified if sensitive wildlife species are killed or injured within the segment of the project that is in Idaho. In Idaho, most of the BLM sensitive species that would be impacted by this project fall under state authority. Within the same section and page, in regards to PRC 1 and PRC 3, please note that the IDFG does not designate “crucial” winter range for big game, nor have “critical” bighorn sheep lambing areas been identified in Idaho. With that, the current language would suggest that there are no seasonal stipulations for construction on Idaho big game winter ranges or bighorn sheep lambing areas. Please make the appropriate revisions to clarify these stipulations to include designated winter range and bighorn sheep lambing areas in Idaho.

S1c

The specific design features referenced in the comment have been the incorporated into overall project Design Features and Selective Mitigation Measures (refer to Tables 2-7 and 2-13 in Chapter 2). Seasonal stipulations for big game will be included in the Biological Resources Protection Plan in the Plan of Development.

The State of Idaho appreciates the opportunity to submit these comments on the Draft EIS for the B2H Project. Please feel free to contact me with any questions or clarification related to these comments.

Sincerely,



John Chatburn, Administrator  
Idaho Governor’s Office of Energy Resources

**COMMENT(S)**

**RESPONSE(S)**

**S2**

**Oregon Department of Agriculture**

comment@boardmantohemingway.com

**From:** James Wallace Johnson <jjohnson@oda.state.or.us>  
**Sent:** Thursday, March 19, 2015 12:28 PM  
**To:** comment@boardmantohemingway.com  
**Cc:** HOFFMANN Margi \* GOV; Todd Comet; Katy Coba; Daniels, Katherine  
**Subject:** B2H DEIS Comments  
**Attachments:** PastedGraphic-4.tiff; Untitled attachment 11398.txt; B2H DEIS letter.pdf

**Importance:** High

To whom it concerns:

Please accept and enter into the record for consideration the comments of the Oregon Department Agriculture attached below.

Thank you.

Jim Johnson  
Land Use and Water Planning Coordinator  
Oregon Department of Agriculture  
635 Capitol Street N.E.  
Salem, Oregon 97301  
(503)986-4706  
jjohnson@oda.state.or.us

**COMMENT(S)**

**RESPONSE(S)**

**S2**

**Oregon Department of Agriculture (cont.)**



**Oregon**  
Kate Brown, Governor

Department of Agriculture  
635 Capitol St NE  
Salem, OR 97301-2532



March 19, 2014

Tamara Gertsch  
BLM National Project Coordinator  
U.S. Bureau of Reclamation  
P.O. Box 655  
Vale, OR 97918

Via Email

Dear Ms. Gertsch:

The Oregon Department of Agriculture (ODA) has completed it's review on the Draft Environmental Impact Statement (DEIS) for the proposed Boardman to Hemmingway 500 KV transmission line (B2H). The proposed line would transverse approximately 300 miles of land in Oregon, a great deal of which is agricultural land. We offer the following comments for your consideration.

**General Comments**

- 1. The DEIS seems to have given limited, very broad analysis to the implications of the proposed routes to agriculture and it's associated infrastructure. This is evidenced in the table found on page 2-76 and 77 of the DEIS. In this table, the impacts to agriculture for all segments/alternatives are shown to be the same.<sup>1</sup> There is no distinction or variation in the conclusions made related to the impacts to agriculture yet agriculture along the 300 miles of the proposed transmission line is quite distinct and diverse in terms of crops grown, agricultural practices used and the capability of the lands to support agriculture.

- 2. Of particular concern to ODA is the limited recognition of the type

<sup>1</sup> Impact to agriculture is described as "Moderate short term impacts, low long-term impacts."

S2a

S2a

The analysis of impacts on agriculture for alternative routes analyzed in detail in the Final EIS includes a quantitative analysis of important farmland, high-value soils, irrigated farmland, and existing agriculture. Refer to Section 3.2.7.

**COMMENT(S)**

**RESPONSE(S)**

<b>S2</b>	<b>Oregon Department of Agriculture (cont.)</b>
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S2b

of agriculture and any developed infrastructure that serves agriculture in the DEIS analysis of the value/quality of agricultural land. The DEIS seems to be stuck on an analysis of whether or not lands along the route are prime farmland. While looking at soil designation and capability classifications is important, they should not be the sole determinant as to the value of any agricultural land. It is our opinion and experience in conducting similar analyses, that soil capability should only be used as a “sole determinant” when other factors that help define what viable agricultural land are not present. Factors that we believe should be considered include:

- Soils capability, which is best, measured using USDA NRCS agricultural capability class and importance (prime, unique, soils of statewide significance) and the Oregon definition of high-value soils.
- Water availability is very important, especially in the areas under consideration. Lands with existing water rights for irrigation and other agricultural applications are especially important to protect because of the difficulty to acquire new water rights for irrigation and other agricultural uses.

Lands without available water, while potentially prime in some cases, should not be “protected” over lands with existing water rights and a history of irrigated crop production. This situation is evident in areas along the route of the proposed transmission line where irrigation can change poorer (high capability class) soils to prime or high-value status. The best example of this can be found the western end of the proposed route in Morrow and Umatilla Counties. Here, there are lands located south of the existing irrigated cropland and the US Navy Bombing Range that contain soils that are considered to be prime farmland only when irrigated. Without irrigation, these lands produce dry land wheat or provide livestock forage (rangeland). Not all lands located to the north adjacent to and west of Bombing Range Road are considered to be prime when irrigated. Yet they are producing high-value crops and are considered in many

S2b

The analysis of impacts on agriculture for alternative routes analyzed in detail in the Final EIS includes a quantitative and/or qualitative analysis of important farmland, high-value soils, irrigated farmland, and existing agriculture (which includes a discussion of water rights). Refer to Section 3.2.7.

**COMMENT(S)**

**RESPONSE(S)**

**S2 Oregon Department of Agriculture (cont.)**

- S2b instances to be high-value farmland by the State of Oregon.
- S2c
  - Existing agricultural land use. This factor is important because it shows what can and is actually happening based on local management decisions. Existing land use is a very good indicator of the agricultural capability of the subject land. This factor is also important in any analysis pertaining to the compatibility of the proposed transmission line with agricultural operations. As a general rule, farming operations characterized by more intensive practices such as vegetable production and dairy operations have more conflict issues with nonfarm development than do extensive operations such as rangeland grazing and dry land grain production.
  - As stated earlier, the DEIS does little to take into account the differences in agricultural practices occurring along the proposed routes. This is key in any evaluation of the compatibility of this proposed nonfarm development with agriculture. The types of crops grown and the ability (or inability) of farming operations/practices associated with producing these crops to co-exist with the proposed transmission line is key. Conversion of and compatibility with agricultural operations is not just the result of the actual footprint of the proposed development, but also about the shadow the development casts onto area agricultural operations.
  - Agriculture infrastructure is an important consideration. Much investment has been put into the development of agricultural lands in certain areas along the route. Elements such as irrigation delivery and application facilities, transportation, agricultural structures and processing and other production facilities, processing and other service needs and agriculture related special districts (e.g. an irrigation district) are important to the long-term viability of a given area’s agricultural viability. Of particular concern are implications to irrigation delivery and application infrastructure on both ends of the proposed route.

S2c The analysis of impacts on existing agriculture for alternative routes analyzed in detail in the Final EIS has been revised to include a quantitative comparative analysis. Refer to Sections 3.2.7.4 and 3.2.7.6 for revisions.

S2d Based on comments received by the BLM on the Draft EIS, irrigation application types have been digitized using aerial imagery for the 1-mile-wide study corridor. The analysis of impacts on existing agriculture for all alternatives has been revised to include a quantitative comparative analysis. Refer to Section 3.2.7.

**COMMENT(S)**

**RESPONSE(S)**

**S2 Oregon Department of Agriculture (cont.)**

S2e 3. The DEIS should also analyze the cumulative socio-economic impacts of B2H transmission facility and others that will potentially use B2H line in the future on agricultural operations.

S2f 4. Finally, the DEIS should consider the implications of any BLM decision on the Oregon siting process. BLM analysis should be cognizant of the EFSC siting regulations and Oregon’s land use planning program and the implications of proposed routing on public lands on adjacent private lands. A great deal of the intensive, high-value agricultural land found along the proposed route is adjacent to public lands characterized by extensive land use patterns.

**Comments Related to Specific Alternatives/Segments**

S2g 1. On the western end of the proposed route, we suggest that the southerly route, known as Horn Butte Alternative, would have the least adverse implications to agriculture, especially to intensive, high-value operations involving dairy, agricultural tree crops, and irrigated vegetables and fruit. This alternative does not adequately address the option (new variation) of the route extending to the Slatt substation. This southerly route is also closer to many existing and proposed wind power sites that also require transmission capabilities.

The DEIS analysis related to agricultural lands compares the soil capabilities along this southerly route with the Longhorn Variation and the Longhorn Alternative. It is important to note that many of the soils found along this southern route become prime only if irrigated. However, little irrigation is currently available in this area. Yet agricultural land use located adjacent to the Long Horn Alternative and Variation routes is characterized by more intensive, high-value crops and agricultural practices. These areas also contain a great deal of agricultural infrastructure.

S2h 2. There is little if any analysis of an alternative that would leave the proposed action route south of Hermiston and run in a northerly direction to the McNary substation.

S2e The Final EIS has been revised to provide more detailed analysis related to cumulative effects, including socioeconomic effects. Counties and cooperating agencies were contacted and asked to provide additional information regarding reasonably foreseeable future actions to be included in cumulative analysis for the Final EIS. Refer to Sections 3.3 and 3.2.17 for further detail.

S2f This EIS does not specifically address requirements of the state EFSC process. The B2H Project is being permitted concurrently through the Oregon Department of Energy and EFSC. The BLM assumes the B2H Project will comply with land use ordinances and state preservation goals as dictated by the Oregon Department of Energy.

S2g Based on comments received by the BLM on the Draft EIS, collaboration with the counties and their constituents occurred, resulting in a number of recommended routing variations/options, which were incorporated into the network of alternative routes analyzed for the Final EIS. Refer to Sections 2.1.1.3 and 2.5.2. Analysis of the alternative routes is reported throughout Chapter 3.

The analysis of impacts on agriculture for all alternatives in the Final EIS includes a quantitative analysis of important farmland, high-value soils, irrigated farmland, and existing agriculture. Refer to Section 3.2.7 for more information.

S2h Based on comments received by the BLM on the Draft EIS, collaboration with the counties, and on further discussion between the Applicant and landowners, a number of recommended routing options were incorporated into the network of alternative routes analyzed for the Final EIS. Refer to Sections 2.1.1.3 and 2.5.2. Analysis of the alternative routes is reported throughout Chapter 3.

**COMMENT(S)**

**RESPONSE(S)**

<b>S2</b>	<b>Oregon Department of Agriculture (cont.)</b>
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S2i 3. As proposed, the Longhorn Variation proposes a route along the east side of Bombing Range Road. This is problematic as it would impact about 14 miles of irrigated cropland including 3 miles of perennial/permanent crops, 11 miles of circle pivot irrigation units and to the north of I-84, an additional 2 miles of irrigated cropland and 4 pivots. Analysis in this area should include a supplemental or new alternative that evaluates a route that is located to the west of Bombing Range Road.

S2j 4. The DEIS has done a good job looking at alternatives in Malheur County. The proposed routing avoids high-value, intensive agricultural lands and does not commit decisions yet to come to such lands. Earlier proposed routes would have had dramatic implications to irrigated agricultural lands. Similar considerations should be given to other areas of intensive agricultural operations along the proposed route.

Thank you for the opportunity to provide comment. Should you wish to further discuss any of these issues, please feel free to contact us.

Sincerely,

James W. Johnson  
Land Use and Water Planning Coordinator

CC: Margi Hoffmann, Governor's Office  
Todd Cornett, ODOE  
Katy Coba

S2i Based on comments received by the BLM on the Draft EIS, collaboration with the counties and their constituents occurred, resulting in a number of recommended routing variations/options, which were incorporated into the network of alternative routes analyzed for the Final EIS. Refer to Sections 2.1.1.3 and 2.5.2. Analysis of the alternative routes is reported throughout Chapter 3.

S2j Comments noted. Based on comments received by the BLM on the Draft EIS, collaboration with the counties and their constituents occurred, resulting in a number of recommended routing variations/options, which were incorporated into the network of alternative routes analyzed for the Final EIS. Refer to Sections 2.1.1.3 and 2.5.2. Analysis of the alternative routes is reported throughout Chapter 3.

**COMMENT(S)**

**RESPONSE(S)**

**S3**

**Oregon Department of Energy**

[comment@boardmantohemingway.com](mailto:comment@boardmantohemingway.com)

**From:** Woods, Maxwell <maxwell.woods@state.or.us>  
**Sent:** Wednesday, March 18, 2015 3:20 PM  
**To:** comment@boardmantohemingway.com  
**Cc:** HOFFMANN Margi \* GOV; Kaplan, Mike; FRANCE Renee M; Ray Outlaw; Cornett, Todd; Gustafson, Virginia  
**Subject:** Oregon Department of Energy Comments regarding BLM B2H DEIS  
**Attachments:** ODOE Comments - B2H BLM DEIS\_3-18-2015.pdf

Hello,  
Attached please find the Oregon Department of Energy's comments regarding the BLM's draft EIS for the proposed Boardman to Hemingway transmission project.

Thank you,  
Max

**Maxwell Woods**  
Energy Facility Siting Analyst  
Oregon Department of Energy  
625 Marion Street NE  
Salem, OR 97301  
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C: (503) 551-8209

[Oregon.gov/energy](http://Oregon.gov/energy)



## COMMENT(S)

## RESPONSE(S)

S3

## Oregon Department of Energy (cont.)



Oregon

Kate Brown, Governor



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March 18, 2015

Don Gonzalez, Vale District Manager  
Tamara Gertsch, National Project Manager  
Bureau of Land Management  
Sent via email: comment@boardmantohemingway.com

Re: Oregon Department of Energy Comments regarding the Boardman to Hemingway Draft Environmental Impact Statement

Mr. Gonzalez and Ms. Gertsch,

Thank you for the opportunity to provide the Oregon Department of Energy's comments regarding the Boardman to Hemingway Draft Environmental Impact Statement. The Oregon Department of Energy comments are limited to how the BLM has characterized the ODOE-EFSC site certificate process, and other matters related to the characterization of permits and approvals that are under EFSC jurisdiction.

Sincerely,

Maxwell Woods  
Energy Facility Siting Analyst  
maxwell.woods@state.or.us  
(503) 378-5050

Enclosures:

1. Oregon Department of Energy Comments regarding the Boardman to Hemingway Draft EIS
2. 2008 and 2010 EFSC NOI comment letters provided by Malheur, Morrow, Baker, and Union counties to ODOE/EFSC.

cc (via e-mail distribution, with enclosure):

Michael Kaplan, Oregon Department of Energy  
Margi Hoffman, Oregon Governor's Office  
Todd Cornett, Oregon Department of Energy  
Virginia Gustafson, Oregon Department of Energy  
Renee France, Oregon Department of Justice  
Ray Outlaw, EnviroIssues

**COMMENT(S)**

**RESPONSE(S)**

<b>S3</b>	<b>Oregon Department of Energy (cont.)</b>
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Oregon Department of Energy  
March 18, 2015

**Oregon Department of Energy Comments regarding the Boardman to Hemingway Draft Environmental Impact Statement**

I. **Previous comments not addressed.** Oregon Department of Energy commented on the pre-DEIS in September 2014. Some of these comments were not addressed in the DEIS, and some were inadequately addressed. This section discusses these comments:

**A. Water Resources. Section 3.2.2.2 Regulatory Framework, Wetlands, State of Oregon**

Page 3-65. Oregon Department of Energy made the following comment on the pre-DEIS in September:

The pre-DEIS currently states: "The B2H Project is sited under the Oregon Energy Facility Siting Council (EFSC), which requires the submittal of a removal-fill permit. Issuance of the removal-fill permit occurs following the receipt of a complete application; DSL staff coordinates with EFSC during the permitting process. Typically, projects sited under EFSC typically do not require a public-comment period for the removal-fill permit." If the proposed facility would need a removal-fill authorization, the applicant must submit information to EFSC to demonstrate that that DSL should issue a removal-fill permit. Please see OAR 345-021-0010(1)(j) Exhibit J, for the EFSC application requirements related to waters and wetlands. While there is no separate and specific comment period for the removal-fill permit if a facility is in the EFSC siting process, the EFSC process allows multiple opportunities for public comment. The last sentence of this section is misleading and should be deleted.

It is noted and appreciated that the final sentence ("Typically, projects sited under EFSC...") has been deleted as requested. However, the remainder of the comment has not been addressed in the DEIS. The EFSC process only requires the submittal of a removal-fill authorization application if the proposed facility would need a removal-fill authorization. Issuance of the authorization does not occur following receipt of a complete application. Rather, EFSC must make a determination that there is sufficient evidence in the record to support a finding that DSL should issue a removal-fill permit. The Oregon Department of Energy, as staff to EFSC, does work closely with DSL staff during this process. If EFSC determines that a removal-fill permit is necessary and should be issued for a proposed facility, DSL would issue the permit subject only to conditions set forth in the site certificate. Please see OAR 345-021-0010(1)(j) for additional information regarding removal-fill authorization requirements under EFSC rules.

**B. Wildlife Resources. Section 3.2.4.2 Regulatory Framework, Policy, and Management Guidance, Oregon Endangered Species Act.**

Page 3-198. Oregon Department of Energy made the following comment on the pre-DEIS in September:

The pre-DEIS states that "The jurisdiction of the Oregon endangered species list differs from the federal ESA in that it is limited to state-owned land, state-leased land, and land over which the state has a recorded easement." When under an EFSC process, the jurisdiction of state rules and statutes, including protection of threatened and endangered wildlife and plant species, extends to all land in the state regardless of ownership. EFSC rules make no distinction between federal or state owned land. In order to receive a site certificate from EFSC, an applicant must demonstrate compliance with EFSC standards and with other state statutes and regulations identified as applicable to issuance of the site certificate.

S3a

S3b

S3a

Comment noted. Text within the Final EIS has been revised to clarify regulatory requirements under both the DSL and USACE for the removal/fill permit process.

S3b

Text was edited to address the comment.

COMMENT(S)

RESPONSE(S)

S3 Oregon Department of Energy (cont.)

Oregon Department of Energy  
March 18, 2015

S3b This comment was not addressed in the DEIS. Protection of state-listed threatened and endangered species extends to all lands in Oregon regardless of ownership. Please address this comment.

C. Land Use, Agriculture, Recreation, Transportation. Section 3.2.6.2 Regulatory Framework Land Use and Agriculture

- Pages 3-397 to 3-398. The land use section contains a bulleted list of letters submitted by Oregon counties in response to the EFSC application for site certificate, containing county-specific applicable substantive criteria. This list is incorrect and incomplete. The list in the DEIS includes the following letters containing applicable substantive criteria:
  - Morrow County letter to the ODOE dated December 8, 2008
  - Umatilla County letter to the ODOE dated September 15, 2010
  - Union County letter to the ODOE dated October, 2008
  - Baker County letter to the ODOE dated September 22, 2010

S3c The section states that Malheur County did not provide comments on the NOI. The Oregon Department of Energy commented on the pre-DEIS that this was incorrect, and it has not been addressed in the DEIS. In fact, Malheur County provided letters to ODOE with applicable substantive criteria on Dec 2, 2008, Nov 19, 2009, and Dec 8, 2010. As well, ODOE received additional letters in response to the 2008 and 2010 NOI that are not included on the DEIS list from Baker, Morrow, and Union counties, containing applicable substantive criteria. Copies of the letters are included as attachments with these comments.

- Pages 3-397 to 3-398. This section lists and discusses the Oregon counties that would be crossed by the proposed B2H project. As currently understood, the proposed project would also include multi-use areas located in four Oregon cities including La Grande, Island City, Huntington, and North Powder. The multi-use areas are part of the proposed facility boundary under EFSC definition and therefore the applicable substantive criteria from these cities land use planning ordinances and zoning codes would apply. The DEIS should include a brief discussion of this fact and include a list of the cities in this section. The Oregon Department of Energy made this comment on the pre-DEIS in September 2014 and it was not addressed in the DEIS.

D. Land Use, Agriculture, Recreation, Transportation. Section 3.2.6.7 Recreation Regulatory Framework

- Page 3-467. Oregon Department of Energy made the following comment on the pre-DEIS in September:

The section currently states that "neither states nor local governments have regulatory authority over recreational land uses on public lands." Under EFSC rules, OAR 345-022-0100, in order to issue a site certificate, the Council must find that a facility is not likely to result in a significant adverse impact to important recreational opportunities. This includes recreational opportunities on public land. See also OAR 345-021-0010(1)(t) Exhibit T, for the EFSC application requirements related to recreation.

S3d This comment was not addressed in the DEIS. Recreational opportunities on public land, including federal public land and state public land, are included in the EFSC rules and standard. Please address this comment.

S3c Based on comments received by the BLM on the Draft EIS, collaboration with the counties and their constituents occurred, resulting in a number of recommended routing variations/options, which were incorporated into the network of alternative routes analyzed for the Final EIS. Refer to Sections 2.1.1.3 and 2.5.2. The Final EIS has been updated to expand the discussion of compliance with existing land use plans, local permit requirements, and the EFSC permit process and identify any areas where there is a conflict between the B2H Project and existing planning guidance. See Section 3.2.6 for further detail including expanded discussion of the EFSC process.

Revised text in Section 3.2.6.2 to include additional letters sent to the ODOE that included Malheur County's letters.

The B2H Project does not cross through the jurisdictions of La Grande, Island City, Huntington or North Powder.

S3d Text revised as suggested.

**COMMENT(S)**

**RESPONSE(S)**

**S3**

**Oregon Department of Energy (cont.)**

Oregon Department of Energy  
March 18, 2015

**II. New comments on the DEIS.** The Oregon Department of Energy provides the following new comments on the DEIS.

**A. Purpose and Need, Section 1.10 Required Permits, Licenses, and Authorizations.**

1. Page 1-32, Table 1-4 includes a section on the EFSC process, and includes the following description:

In order to issue a site certificate, the EFSC must find that the B2H Project complies with the Oregon Facility Siting statutes, beginning at ORS 469.300, and that the proposed facility meets the standards adopted pursuant to ORS 469.501. If the proposed facility meets the standards, EFSC must issue the site certificate. If the facility does not meet one or more of the standards, EFSC cannot issue the site certificate unless the applicant can show that "the overall public benefits of the facility outweigh the damage to the resources protected by the standards the facility does not meet" as described in Section (2) of Oregon Administrative Rules (OAR) 345-022-0000.

The Oregon Department of Energy has three comments on this section:

a) This paragraph summarizes the EFSC balancing determination authority. While it is correct that EFSC can issue a site certificate for a facility that does not meet one or more of some of the standards if the Council determines that the overall public benefits of the facility outweigh the adverse effect to the resources, it is important to also note that OAR 345-022-0000 (3)(a-f) provides limitations to this balancing determination. Under OAR 345-022-0000 (3)(a-f) the Council cannot apply the balancing determination to the following standards:

- Organizational expertise standard (OAR 345-022-0010)
- Land use standard (OAR 345-022-0030)
- Retirement and financial assurance standard (OAR 345-022-0050)
- Need standards (OAR 345-022-0005)
- Standards for facilities that emit carbon dioxide (OAR 345-024-0500 through OAR 345-024-0720)
- Protected areas standard if statutes or rules governing the management of the protected area prohibit location of the proposed facility in that area (OAR 345-022-0040)

b) In order to issue a site certificate, in addition to compliance with ORS 469.300 and ORS 469.501 as stated, EFSC must find that the B2H project complies with ORS 469.503(3), which states "the facility complies with all other Oregon statutes and administrative rules identified in the project order, as amended, as applicable to the issuance of a site certificate for a proposed facility."

c) While the paragraph in Table 1-4 accurately quotes OAR 345-022-0000(2) ("...the overall public benefits of the facility outweigh the damage to the resources protected by the standards the facility does not meet,") this rule language is not consistent with the current statutory language found at ORS 469.501(3) and ORS 469.503(1) ("...the overall public benefits of the facility outweigh any adverse effects on a resource or interest protected by the applicable standards the facility does not meet"). The Oregon Department of Energy is currently engaging in rulemaking to make the rule language consistent with statutory language. This distinction may be best addressed in the EIS with a footnote.

S3e

S3e [ The text in this table (now Table 1-5) has been revised to note that OAR 345-022-0000 (3)(a-f) provides limitations to this balancing determination.

COMMENT(S)

RESPONSE(S)

<b>S3</b>	<b>Oregon Department of Energy (cont.)</b>
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Oregon Department of Energy  
March 18, 2015

S3f 2. Page 1-36, Table 1-4 includes a section on Oregon counties conditional use permitting process, and includes the following description:

EFSC review would issue a conditional-use permit and other required zoning permits under the Path B option. A conditional-use permit would be required for any facilities located outside of lands zoned for industrial or commercial uses.

The Oregon Department of Energy has two comments regarding this paragraph:

a) As is correctly stated elsewhere in the DEIS (i.e., Section 1.9.1, elsewhere in Table 10-4), it is the counties, not EFSC, that issue conditional use permits, zoning permits, or other county-level permits and authorizations in an EFSC process. In an EFSC process Path B review, EFSC considers county and city land use and zoning requirements when evaluating a site certificate application, and upon EFSC's issuance of a site certificate, the affected counties and cities must issue permits and other approvals addressed in the site certificate, subject only to the site certificate conditions.

b) It is not true that a conditional use permit would always be required for transmission facilities located outside of lands zoned for industrial or commercial uses, and it is not always true that a conditional use permit would not be required for a transmission facility located within lands zoned for industrial or commercial uses. EFSC relies on the affected local jurisdiction(s) to provide the applicable substantive criteria and required permits, based on that jurisdiction's unique land use ordinance requirements.

S3g **B. Visual Resources, Section 3.2.7, Regulatory Framework**

Page 3-534. The paragraph on this page regarding EFSC history seems unnecessary. The section does not include a reference to the EFSC siting rules and standards related to scenic resources. Please see OAR 345-021-0010(1)(r) for a description of the application for site certificate requirements related to scenic resources. The corresponding scenic resource standard that must be met by an applicant for site certificate is at OAR 345-022-0080.

S3h **C. Cultural Resources, Section 3.2.8.2, Regulatory Framework, State Legislation Applicable to Cultural Resources**

Page 3-740. The section lists statutes and rules in Oregon applicable to cultural resources. The list does not include ODOE/EFSC rules related to the protection of cultural resources. The rules governing requirements of an EFSC application for site certificate related to cultural resources are at OAR 345-021-0010(1)(s), and the corresponding standard that must be met is at OAR 345-022-0090.

S3f The statement in this table (now Table 1-5) under Oregon Counties, Land Development Services, has been revised to read "In the Exclusive Farm Use zone, which encompasses the majority of land on which the B2H Project would be sited, transmission facilities under 200 feet in height are a permitted use that requires a less significant review than a conditional-use review, subject only to the standards established in statute. In the EFSC process Path B review, the EFSC considers county and city land-use and zoning requirements when evaluating a site certificate application. When the EFSC issues a site certificate, the affected counties and cities must issue permits and other approvals addressed in the site certificate, where required, subject only to the site certificate conditions. The EFSC relies on the affected local jurisdiction(s) to provide applicable substantive criteria and required permits based on the jurisdictions unique land-use ordinance requirements."

S3g Text removed in the Final EIS as the history of EFSC is unnecessary in this section and duplicative with Section 1.9.1 in the Final EIS.

S3h Regulations have been edited as requested: Oregon EFSC certificate requirements:

- Oregon Administrative Rule 345-021-0010(1)(s), information concerning the location of archaeological sites or objects may be exempt from public disclosure under ORS 192.502(4) or ORS 192.501(11).
- Oregon Administrative Rule 345-022-0090, protects the public interest in preserving places that have historic, cultural or archeological significance, including sites of historic or religious importance to Native American tribes. The standard preserves historic and cultural artifacts and prevents permanent loss of the archaeological record unique to particular sites in the state.

**COMMENT(S)**

**RESPONSE(S)**

**S3**

**Oregon Department of Energy (cont.)**

S3i

**Attachments:**  
Comment letters not referenced in the DEIS, regarding the 2008 and 2010 ODOE/EFSC Notice of Intent for the Boardman to Hemingway Transmission Facility, provided by Malheur, Morrow, Baker, and Union counties to ODOE/EFSC sent between 2008 and 2011.

S3i

Based on comments received by the BLM on the Draft EIS, collaboration with the counties and their constituents occurred, resulting in a number of recommended routing variations/options, which were incorporated into the network of alternative routes analyzed for the Final EIS. Refer to Sections 2.1.1.3 and 2.5.2. The Final EIS has been updated to expand the discussion of compliance with existing land use plans, local permit requirements, and the EFSC permit process and identify any areas where there is a conflict between the B2H Project and existing planning guidance. See Section 3.2.6 for further detail including expanded discussion of the EFSC process.

ATTACHMENT

S3

Oregon Department of Energy (cont.)

B2H-0327

Walker, Mo

From: Oliver, Sue  
Sent: Tuesday, September 20, 2011 4:18 PM  
To: Walker, Mo  
Subject: FW: Boardman to Hemingway

Union City OK

From: Lenzini, Danielle [mailto:Danielle.Lenzini@golder.com]  
Sent: Friday, February 04, 2011 2:40 PM  
To: Gustafson Virginia L; Oliver, Sue  
Cc: Lehman, Laura  
Subject: FW: Boardman to Hemingway

Ginny,

We have been trying to get a hold of Jon (Malheur County) and Carla (Morrow County), with no luck. Laura just called again, but neither are in.

See below for an email from Hanley (Union County).

Danielle

Danielle Lenzini | Senior Project Specialist | Golder Associates Inc.  
9 Monroe Parkway, Suite 270, Lake Oswego, Oregon, USA 97035  
T: +1 (503) 607-1820 | F: +1 (503) 607-1825 | E: [Danielle.Lenzini@golder.com](mailto:Danielle.Lenzini@golder.com) | [www.golder.com](http://www.golder.com)

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Please consider the environment before printing this email.

From: Lehman, Laura  
Sent: Friday, January 21, 2011 9:05 AM  
To: Lenzini, Danielle  
Subject: FW: Boardman to Hemingway

Comment from Hanley Jenkins is below. Still no word from Jon Neal...I will follow up today.

Laura Lehman | Environmental Land Use Planner | Golder Associates Inc.  
9 Monroe Parkway, Suite 270, Lake Oswego, Oregon, USA 97035  
T: +1 (503) 607-1820 | F: +1 (503) 607-1825 | E: [Laura.Lehman@golder.com](mailto:Laura.Lehman@golder.com) | [www.golder.com](http://www.golder.com)

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S3

## Oregon Department of Energy (cont.)

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**From:** Hanley Jenkins [mailto:hjenkins@union-county.org]  
**Sent:** Thursday, January 20, 2011 11:38 AM  
**To:** Lehman, Laura  
**Cc:** Scott Hartell; Steve McClure  
**Subject:** RE: Boardman to Hemingway

Hi Laura,  
 I have checked back and our prior comments are still current on the B2H Project. There have not been any changes to our land use regulations or Comprehensive Land Use Plan over the last two years that would affect this project.  
 Hanley Jenkins, II  
 County Planning Director

**From:** Lehman, Laura [mailto:Laura\_Lehman@golder.com]  
**Sent:** Wednesday, January 19, 2011 10:18 AM  
**To:** hjenkins@union-county.org  
**Subject:** Boardman to Hemingway

Good morning Hanley-

As we discussed on the phone this morning, Golder is following up with Union County to make sure that the County's most up-to-date comments on the revised Boardman to Hemingway transmission line are in the record and incorporated into the Project Order. Are comments submitted by the County previously still valid? Have there been any changes to the land use regulations or Comprehensive Plan that might affect this facility? Thanks very much and have a good day!

Laura

Laura Lehman | Environmental Land Use Planner | Golder Associates Inc.  
 8 Monroe Parkway, Suite 270, Lake Oswego, Oregon, USA 97035  
 T: +1 (503) 607-1820 | F: +1 (503) 607-1825 | E: [Laura\\_Lehman@golder.com](mailto:Laura_Lehman@golder.com) | [www.golder.com](http://www.golder.com)

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S3

## Oregon Department of Energy (cont.)

**Idaho Power Company  
Boardman, Oregon to Hemingway, Idaho  
500kV Transmission Line Project**

Oregon Department of Energy – Energy Facility Siting Council Project Order Response:

**Union County Planning Department**

1001 4<sup>th</sup> St. Suite C

La Grande, OR 97850

(541) 963-1014

Hanley Jenkins, II

Planning Director

[hjenkins@union-county.org](mailto:hjenkins@union-county.org)

Scott Hartell

Associate Planner

[shartell@union-county.org](mailto:shartell@union-county.org)

Applicable Oregon Revised Statutes, Oregon Administrative Rules and Union County Land Use Ordinances

**Oregon Revised Statutes (ORS)**

**ORS 215.283 Uses permitted in exclusive farm use zones in nonmarginal lands counties. rules.**

(1) The following uses may be established in any area zoned for exclusive farm use:

(d) Utility facilities necessary for public service, including wetland waste treatment systems but not including commercial facilities for the purpose of generating electrical power for public use by sale or transmission towers over 200 feet in height. A utility facility necessary for public service may be established as provided in ORS 215.275.

**ORS 215.275 Utility facilities necessary for public service; criteria; rules; mitigating impact of facility.**

(1) A utility facility established under ORS 215.213 (1)(d) or 215.283 (1)(d) is necessary for public service if the facility must be sited in an exclusive farm use zone in order to provide the service.

(2) To demonstrate that a utility facility is necessary, an applicant for approval under ORS 215.213 (1)(d) or 215.283 (1)(d) must show that reasonable alternatives have been considered and that the facility must be sited in an exclusive farm use zone due to one or more of the following factors:

(a) Technical and engineering feasibility;

## ATTACHMENT

S3

## Oregon Department of Energy (cont.)

(b) The proposed facility is locationally dependent. A utility facility is locationally dependent if it must cross land in one or more areas zoned for exclusive farm use in order to achieve a reasonably direct route or to meet unique geographical needs that cannot be satisfied on other lands;

(c) Lack of available urban and nonresource lands;

(d) Availability of existing rights of way;

(e) Public health and safety; and

(f) Other requirements of state or federal agencies.

(3) Costs associated with any of the factors listed in subsection (2) of this section may be considered, but cost alone may not be the only consideration in determining that a utility facility is necessary for public service. Land costs shall not be included when considering alternative locations for substantially similar utility facilities. The Land Conservation and Development Commission shall determine by rule how land costs may be considered when evaluating the siting of utility facilities that are not substantially similar.

(4) The owner of a utility facility approved under ORS 215.213 (1)(d) or 215.283 (1)(d) shall be responsible for restoring, as nearly as possible, to its former condition any agricultural land and associated improvements that are damaged or otherwise disturbed by the siting, maintenance, repair or reconstruction of the facility. Nothing in this section shall prevent the owner of the utility facility from requiring a bond or other security from a contractor or otherwise imposing on a contractor the responsibility for restoration.

(5) The governing body of the county or its designee shall impose clear and objective conditions on an application for utility facility siting under ORS 215.213 (1)(d) or 215.283 (1)(d) to mitigate and minimize the impacts of the proposed facility, if any, on surrounding lands devoted to farm use in order to prevent a significant change in accepted farm practices or a significant increase in the cost of farm practices on the surrounding farmlands.

(6) The provisions of subsections (2) to (5) of this section do not apply to interstate natural gas pipelines and associated facilities authorized by and subject to regulation by the Federal Energy Regulatory Commission. [1999 c.816 §3]

**ORS 772.210** Right of entry and condemnation of lands for construction of service facilities.

(1) Any public utility, electrical cooperative association or transmission company may:

## ATTACHMENT

S3

## Oregon Department of Energy (cont.)

(a) Enter upon lands within this state in the manner provided by ORS 35.220 for the purpose of examining, locating and surveying the line thereof and also other lands necessary and convenient for the purpose of construction of service facilities, doing no unnecessary damage thereby.

(b) Condemn such lands not exceeding 100 feet in width for its lines (including poles, towers, wires, supports and necessary equipment therefore) and in addition thereto, other lands necessary and convenient for the purpose of construction of service facilities. If the lands are covered by trees that are liable to fall and constitute a hazard to its wire or line, any public utility or transmission company organized for the purpose of building, maintaining and operating a line of poles and wires for the transmission of electricity for lighting or power purposes may condemn such trees for a width not exceeding 300 feet, as may be necessary or convenient for such purpose.

(2) Notwithstanding subsection (1) of this section, any public utility, electrical cooperative association or transmission company may, when necessary or convenient for transmission lines (including poles, towers, wires, supports and necessary equipment therefore) designed for voltages in excess of 330,000 volts, condemn land not to exceed 300 feet in width. In addition, if the lands are covered by trees that are liable to fall and constitute a hazard to its wire or line, such public utility or transmission company may condemn such trees for a width not exceeding 100 feet on either side of the condemned land, as may be necessary or convenient for such purpose.

(3) Notwithstanding subsection (1) of this section, a water or gas public utility may condemn such lands, not exceeding 50 feet in width, as may be necessary or convenient for purposes of constructing, laying, maintaining and operating its lines, including necessary equipment therefore.

(4) The proceedings for the condemnation of such lands shall be the same as that provided in ORS chapter 35, provided that any award shall include, but shall not be limited to, damages for destruction of forest growth, premature cutting of timber and diminution in value to remaining timber caused by increased harvesting costs. [Amended by 1963 c.138 §1; 1971 c.655 §241; 1977 c.225 §2; 2001 c.913 §9; 2003 c.477 §10]

#### Oregon Administrative Rules (OAR)

##### Crop and Range Lands

660-033-0130  
Conditional Uses

(16)(a) A utility facility is necessary for public service if the facility must be sited in an exclusive farm use zone in order to provide the service. To demonstrate that a utility facility is necessary, an applicant must show that reasonable alternatives have been considered and that the facility must be sited in an exclusive farm use zone due to one or more of the following factors:

(A) Technical and engineering feasibility;

## ATTACHMENT

S3

## Oregon Department of Energy (cont.)

(B) The proposed facility is locationally dependent. A utility facility is locationally dependent if it must cross land in one or more areas zoned for exclusive farm use in order to achieve a reasonably direct route or to meet unique geographical needs that cannot be satisfied on other lands;

(C) Lack of available urban and nonresource lands;

(D) Availability of existing rights of way;

(E) Public health and safety; and

(F) Other requirements of state and federal agencies.

(b) Costs associated with any of the factors listed in subsection (16)(a) of this considered, but cost alone may not be the only consideration in determining that a utility facility is necessary for public service. Land costs shall not be included when considering alternative locations for substantially similar utility facilities and the siting of utility facilities that are not substantially similar.

(c) The owner of a utility facility approved under this section shall be responsible for restoring, as nearly as possible, to its former condition any agricultural land and associated improvements that are damaged or otherwise disturbed by the siting, maintenance, repair or reconstruction of the facility. Nothing in this subsection shall prevent the owner of the utility facility from requiring a bond or other security from a contractor or otherwise imposing on a contractor the responsibility for restoration.

(d) The governi conditions on an application for utility facility siting to mitigate and minimize the impacts of the proposed facility, if any, on surrounding lands devoted to farm use in order to prevent a significant change in accepted farm practices or a significant increase in the cost of farm pmetices on surrounding farmlands.

(e) In addition to the provisions of subsections 16(a) to (d) of this rule, the establishment or extension of a sewer system as defined farm use zone shall be subject to the provisions of OAR 660-011-0060.

(f) The provisions of subsections 16(a) to (d) of this rule do not apply to interstate natural gas pipelines and associated facilities authorized by and subject to regulation by the Federal Energy Regulatory Commission.

#### Forest Lands

##### 660-006-0025 Uses Authorized in Forest Zones

(4) The following uses may be allowed on forest lands subject to the review standards in section (5) of this rule:

## ATTACHMENT

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## Oregon Department of Energy (cont.)

(q) New electric transmission lines with right of way widths of up to 100 feet as specified in ORS 772.210. New distribution lines (e.g., gas, oil, geothermal, telephone, fiber optic cable) with rights-of-way 50 feet or less in width;

(5) A use authorized by section (4) of this rule may be allowed provided the following requirements or their equivalent are met. These requirements are designed to make the use compatible with forest operations and agriculture and to conserve values found on forestlands:

(a) The proposed use will not force a significant change in, or significantly increase the cost of, accepted farming or forest practices on agriculture or forest lands;

(b) The proposed use will not significantly increase fire hazard or significantly increase fire suppression costs or significantly increase risks to fire suppression personnel; and

(c) A written statement recorded with the deed or written contract with the county or its equivalent is obtained from the land owner which recognizes the rights of adjacent and nearby land owners to conduct forest operations consistent with the Forest Practices Act and Rules for uses authorized in subsections (4)(e), (m), (s), (t) and (w) of this rule.

#### Union County Zoning, Partition and Subdivision Ordinance (UCZPSO)

##### UCZPSO Section 2.07 DEVELOPMENT STANDARDS

The following standards shall apply to all development in an A-1 Exclusive Farm Use Zone.

1. Any proposed division of land included within the A-1 Zone resulting in the creation of one or more parcels of land shall be reviewed and approved or disapproved by the County (ORS 215.263).
2. Setbacks from property lines or road rights-of-way shall be a minimum of 20-foot front and rear yards and 10-foot side yards.

##### UCZPSO Section 5.07 SITING STANDARDS FOR DWELLINGS AND STRUCTURES [OAR 660-06-029]

The following siting standards shall apply to all new dwellings and related structures in the A-4 Zone where the predominant use is forestry [OAR 660-06-050(3)] and where dwellings are on rangeland within one quarter mile of forest land areas. These standards are designed to make such uses compatible with forest operations and agriculture, to minimize wildfire hazards and risks, and to conserve values found on forest lands. The standards in Sections 5.07 and 5.08 shall be considered when identifying the building site.

1. Dwellings and structures shall be sited on the parcel so that:

## ATTACHMENT

S3

## Oregon Department of Energy (cont.)

- a. They have the least impact on nearby or adjoining forest or agricultural lands;
  - b. The siting ensures that adverse impacts on forest operations and accepted farming practices on the parcel will be minimized;
  - c. The amount of forest lands used to site access roads, service corridors, the dwelling and structures is minimized; and
  - d. The risks associated with wildfire are minimized.
2. Siting criteria satisfying subsection 5.07 I. may include setbacks from adjoining properties, clustering near or among existing structures, siting close to existing roads and siting on that portion of the parcel least suited for growing trees.
  3. The applicant shall provide evidence to the governing body that the domestic water supply is from a source authorized in accordance with the Water Resources Department's administrative rules for the appropriation of ground water or surface water and not from a Class II stream as defined in the Forest Practices Rules (OAR Chapter 629). For purposes of this Section, evidence of a domestic water supply means:
    - a. Verification from a water purveyor that the use described in the application will be served by the purveyor under the purveyor's rights to appropriate water; or
    - b. A water use permit issued by the Water Resources Department for the use described in the application; or
    - c. Verification from the Water Resources Department that a water use permit is not required for the use described in the application. If the proposed water supply is from a well and is exempt from permitting requirements under ORS 537.545, the applicant shall submit the well constructor's report to the county upon completion of the well.
  4. As a condition of approval, if road access to the dwelling is by a road owned and maintained by a private party or by the Oregon Department of Forestry, the United States Bureau of Land Management, or the United States Forest Service, then the applicant shall provide proof of a long-term road access use permit or agreement. The road use permit may require the applicant to accept responsibility for road maintenance.
  5. Approval of a dwelling on a predominantly forested parcel shall be subject to the following requirements:
    - a. Approval of a dwelling requires the owner of the tract to plant a sufficient number of trees on the parcel to demonstrate that the tract is reasonably expected to meet Department of Forestry stocking requirements at the time specified in Department of Forestry administrative rules.
    - b. The Planning Department shall notify the county assessor of the above condition at the time the dwelling is approved.

## ATTACHMENT

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## Oregon Department of Energy (cont.)

- e. The property owner shall submit a stocking survey report to the county assessor and the assessor shall verify that the minimum stocking requirements have been met by the time required by Department of Forestry Rules. The assessor shall inform the Department of Forestry in easces where the property owner has not submitted a stocking survey report or where the survey report indicates that minimum stocking requirements have not been met.
- d. Upon notification by the assessor the Department of Forestry shall determine whether the tract meets minimum stocking requirements of the Forest Practices Act. If the Department determines that the tract does not meet those requirements, the Department shall notify the owner and the assessor that the land is not being managed as forest land. The assessor shall then remove the forest land designation pursuant to ORS 321.359 and impose the additional tax pursuant to ORS 321.372.

**5.08 DEVELOPMENT AND FIRE SITING STANDARDS**

The following standards shall apply to all development in an A-4 Timber-Grazing Zone. Fire siting standards (items 5-8) shall apply only to new dwellings and related structures in the A-4 Zone where the predominant use is forestry [OAR 660-06-055(3)] and where dwellings are on rangeland within one quarter mile of forest land areas.

- 1. Any proposed division of land included within the A-4 Zone resulting in the creation of one or more parcels of land shall be reviewed and approved or disapproved by the County (ORS 215.263).
- 2. Setbacks from property lines or road rights-of-way shall be a minimum of 20-foot front and rear yards and 10-foot side yards.
- 3. Animal shelters shall not be located closer than 100 feet to an R-1 or R-2 Zone.
- 4. Signs shall be limited to the following:
  - a. All off-premise signs within view of any State Highway shall be regulated by State regulation under ORS Chapter 377 and receive building permit approval.
  - b. All on-premise signs shall meet the Oregon Administrative Rule regulations for on-premise signs which have the following standards:
    - A. Maximum total sign area for one business is 8% of building area plus utilized parking area, or 2,000 square feet, whichever is less.
    - B. Display area maximum is 825 square feet for each face of any one sign, or half the total allowable sign area, whichever is less.
    - C. Businesses which have no buildings located on the premises or have buildings and parking area allowing a sign area of less than 250 square feet may erect and maintain on-premises signs with the total allowable area of 250 square feet, 125 square feet maximum for any one face of a sign.

7

## ATTACHMENT

S3

## Oregon Department of Energy (cont.)

- d. Maximum height of freestanding signs adjacent to interstate highways is 65 feet, for all other highways is 35 feet, measured from the highway surface or the premises grade, whichever is higher to the top of the sign.
- c. All on-premise signs within view or 660 feet of any State Highway shall obtain permit approval from the Permit Unit, Oregon State Highway Division. No sign shall be moving, revolving or flashing, and all lighting shall be directed away from residential use or zones, and shall not be located so as to detract from a motorists vision except for emergency purposes.
- d. All dwelling addresses shall be uniquely designated in accordance with the Union County Road Naming and Addressing Ordinance (Court Order 1988-03) on signs clearly visible and placed at the intersection of the driveway and named road. Rural address markers provided and installed by the Union County Public Works Department shall not be removed, modified or obstructed.
- e. Signs identifying pertinent information such as "dead end road", "bridge out", and so forth, shall be appropriately placed as designated by Union County.
- f. Signs identifying location of a fire-fighting water source and each assess to that source shall be permanently identified and shall indicate whether it is a fire hydrant, a dry hydrant, or another type of water supply.
5. A new dwelling shall be located upon a parcel within a fire protection district or shall be provided with residential fire protection by contract. If the dwelling is not within a fire protection district, the applicant shall provide evidence that the applicant has asked to be included within the nearest such district. If the governing body or the nearest rural fire protection district determines that inclusion within a fire protection district or contracting for residential fire protection is impracticable, the applicant shall provide an alternate means of protecting the dwelling from fire hazards. The means selected shall include a fire sprinkling system, on site equipment and water storage or other methods which are reasonable, given the site conditions. The applicant shall provide verification from the Water Resources Department that any permits or registrations required for water diversion or storage have been obtained or that permits or registrations are not required for the use. Road access shall be provided to within 15 feet of the water's edge for fire fighting pumping units. The road access shall accommodate the turnaround of fire fighting equipment during the fire season. Permanent signs shall be posted along the access route to indicate the location of the emergency water source.

## ATTACHMENT

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## Oregon Department of Energy (cont.)

In addition to the domestic water source, emergency water storage for dwellings in forested areas during Department of State Forestry designated fire season shall have a minimum capacity of 500 gallons (year-round source) inside rural fire protection districts, 1000 gallons in an enclosed container outside rural fire protection districts or 4,000 gallons for open fire protection districts, with a 20 gallon per minute pump and an adequate length of hose and nozzle or an equivalent supply. A gravity flow system, gas powered pump or generator shall be provided in case of a power failure. Property owner/developer shall document each water source and provide that documentation to the appropriate fire protection agency.

6. Access and Evacuation
  - a. Road Construction – All public and private roads shall be constructed to Union County Zoning, Partition and Subdivision Ordinance Section 25.09, Table 7-2 standards; and
    1. Public Roads, bridges, culverts, road surfaces and other structures in the roadbed shall be constructed and maintained to support a gross vehicle weight of 80,000 pounds.
    2. Private Roads, bridges, culverts, road surfaces and other structures in the roadbed shall be constructed and maintained to support a gross vehicle weight of 50,000 pounds.
  - b. No public or private road shall be constructed with a curve radius of less than 48 feet, measured from the centerline.
  - c. A vertical clearance of 14 feet 6 inches.
  - d. Driveways in excess of 200 feet long require 20 feet wide by 40 feet long turnouts at a maximum spacing of 1/2 the driveway length or 400 feet, whichever is less.
  - e. Dead-end roads over 100 feet in length shall have turnarounds of not less than 48 feet radius or where appropriate, a hammerhead turnaround.
  - f. Road grades shall not exceed an average of 8% with a maximum of 12% on short pitches, except that Union County shall permit steeper grades where they can be reasonably mitigated and agreed upon by the appropriate fire department or rural fire protection district.
7. Defensible Space
  - a. Fuel Load Reduction – Each residential dwelling or structure in forested areas shall maintain a defensible space of not less than 30-feet.
  - b. Ground Fuel – Dead and down material shall be removed. Ground fuel within the defensible space shall be treated (mowed, mulched, converted to compost, etc.) or removed annually or more frequently as directed by the Oregon Department of Forestry.

## ATTACHMENT

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## Oregon Department of Energy (cont.)

- c. Thinning and Pruning – Live vegetation within the defensible space shall have all dead material removed and shall be thinned and pruned to reduce fire intensity and rate of spread.
- d. Dead Trees – Dead trees within a dwelling's defensible space shall be removed.
- e. Ladder Fuels – No ornamental shrubbery, single species trees or similar plants shall provide means of rapidly transmitting fire from native growth to structures. Vegetation under trees, within the defensible space, shall be maintained at a height that will preclude it functioning as a "ladder" for fire to travel from ground vegetation into the tree crown.
- f. Landscaping – Where landscaping is desired, the applicant may choose from a recommended list of recognized fire resistant vegetation, found in the Fire Resistant Plants for Home Landscapes.
- g. Secondary Fuel Breaks – The applicant for a dwelling within a predominantly forested area or within ¼ mile of a predominantly forested area shall contact Oregon Department of Forestry or the applicable Rural Fire Protection District to determine whether it is necessary to establish a secondary fuel break. If required, a secondary fuel break extending a minimum of 100 feet in all directions is required to reduce fuels so that the overall intensity of any wildfire would be lessened. Vegetation within the secondary fuel break shall be pruned and spaced. Small trees, brush and dead fuels underneath and around larger trees shall be removed.
- h. Secondary Fuel Break Maintenance – If the Oregon Department of Forestry or applicable Rural Fire Protection District determines a secondary fuel break is necessary in addition to the defensible space, the property owner shall maintain the fuel modification outside of the defensible space. If the property owner does not permanently reside on the property, then the property owner shall arrange for annual secondary fuel break maintenance.
- i. Defensible Space Maintenance – The property owner shall maintain a defensible space of 30 feet around the primary dwelling. If the property owner does not permanently reside on the property, then the property owner shall arrange for annual defensible space maintenance.
- j. Location – The dwelling shall not be sited on a slope of greater than 40 percent. New dwellings located closer than 30 feet to a vegetated slope may require special mitigation measures as recommended by an Oregon Department of Forestry Forester. Wider breaks, called secondary fuel breaks, may be required on slopes greater than 30 percent on advice of a State Forester.
- 8. Design and Construction – All buildings in identified forestland areas or within one quarter mile of a forestland area shall be designed, located and constructed to comply with Oregon's residential building code and with its fire siting standards. In case of conflict between Oregon's residential building code and these fire siting standards, the more stringent fire protection requirements shall be utilized to mitigate the combustibility of structures exposed to potential wildfire.
- a. Roofing – Only fire-retardant roof covering assemblies rated Class A, B, or C shall be used. Wood shingle and shake roofs are not permitted.

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## ATTACHMENT

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## Oregon Department of Energy (cont.)

- b. Re-roofing or Roofing Repair of Existing Structures and Dwellings – When 50% or more of the roof covering of any building is repaired or replaced within one year, the roof covering shall be made to comply with these fire siting standards. Ventilation shall be made to comply with Oregon's residential building code.
- c. Attic and Sub-floor Ventilation – All vents shall be screened with a corrosion-resistant, noncombustible wire mesh in accordance with Oregon's residential building code.
- d. Eaves – Eaves shall be boxed in with ½ inch nominal sheathing or noncombustible materials.
- e. Overhanging Projections and Buildings – Porches, decks, patios, balconies, similar undersides of overhangs or the underside of overhanging buildings shall be constructed in accordance with Oregon's residential building code using heavy timber, one-hour fire resistive material or noncombustible material.
- f. Chimneys and Flues – Every fire place and wood/pellet stove chimney and flue shall be provided with an approved spark arrestor constructed of a minimum 12-gauge welded wire or woven wire mesh, with the openings not to exceed ½ inch. Vegetation shall not be allowed within 10 feet of a chimney outlet.
- g. Mobile and Manufactured Homes – shall be skirted with noncombustible materials.

**UCZPSO Section 20.08 RIPARIAN ZONE SETBACKS**

In order to maintain vegetative cover along Class I streams, rivers and lakes known as riparian habitat a setback for any new development such as structures or roads shall be required on a sliding scale proportional to one-half the stream width, at right angles to the annual high-water line or mark. A minimum of 25-feet either side of streams will be recognized. Woody vegetation presently existing in the riparian zone shall be maintained, however, thinning or harvesting of merchantable tree species may occur within the riparian zone where 75 percent of the existing shade over the stream is maintained.

**UCZPSO Section 20.09 SIGNIFICANT GOAL 5 RESOURCE AREAS**

- I. Any land use action requiring County zoning or partitioning approval or any activity listed as a conflict in this ordinance which is within 1320 feet of or could have an impact on:
  - A. Significant historical sites or structures,
  - B. Significant scientific or natural areas,
  - C. Significant aggregate resource sites,
  - D. Big game critical wildlife habitat area and big game winter range
  - E. Significant avian habitat
  - F. Significant wetlands, and

## ATTACHMENT

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## Oregon Department of Energy (cont.)

- G. Designated Scenic Waterways identified by the Union County Land Use Plan, shall be reviewed by the Planning Director for appropriate public notification measures and conflict resolution.
2. Affected Land Management Agencies, landowners and interested persons will be notified of the proposed land use action and will be given an opportunity to submit testimony per the applicable application procedure prior to a decision on the land use action.
3. Review Classifications
- A. When a 3A or 3C (limit conflicting uses) decision has been made as indicated in the comprehensive plan, the applicant must, in coordination with the responsible agency, develop a management plan which would allow for both resource preservation and the proposed use. If the responsible agency and the applicant cannot agree on such a management plan, the proposed activity will be reviewed through the conditional use process. 3A sites will be preserved where potential conflicts may develop. Conflicts will be mitigated in favor of the resource on 3C sites.
- B. When a 3B (allow conflicting uses) decision has been made as indicated on Goal 5 inventory sheets, the request shall not be subject to the standards of this Section.
4. Under the conditional use process land use decisions will consider the economic, social, environmental, and energy consequences when attempting to mitigate conflicts between development and resource preservation.
5. The following criteria shall be considered, as applicable, during the appropriate decision making process:
- A. ECONOMIC: The use proposed is a benefit to the community and would meet a substantial public need or provide for a public good which clearly outweighs retention of the resources listed in Section 18.09 (1);
- B. SOCIAL: The proposed development would not result in the loss of or cause significant adverse impact to, a rare, one of a kind or irreplaceable resource as listed in Section 18.09 (1).
- C. ENERGY: The development, as proposed, would support energy efficient land use activities for such things as transportation costs, utilization of urban services, and retention of natural features which create micro climates conducive to energy efficiency.

## ATTACHMENT

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## Oregon Department of Energy (cont.)

- D. ENVIRONMENTAL: If alternative sites in Union County for proposed development are available which would create less of an environmental impact of any of the resources listed in Section 18.09 (1), major consideration should be given to these options.
6. The reviewing *Department of Energy* applicable upon a finding of fact that warrants such restrictions:
- A. SIGNIFICANT AGGREGATE SITES: Residences and uses listed as conditional uses may be required to provide screening, landscaping, and/or setbacks in excess of those required in the zone in which the lot or parcel is located. The required screening, landscaping, and setback shall be determined by the Planning Director after meeting with the applicant and the owner of the aggregate resource land to ensure compatibility between present and future uses on the properties. Such setback shall be no less than 50 feet and no greater than 1320 feet.
- B. WETLANDS AND NATURAL AREAS: Limitations may be required on draining, filling, structural development, and/or removal of vegetation in order to protect and preserve existing trees, vegetation, water resources, wildlife habitat or other significant natural resources.
- C. BIG GAME WINTER RANGE AND BIG GAME CRITICAL HABITAT:  
A proposed new structure requiring a conditional use may be required to:
1. Be located as close as possible to an ADJACENT compatible structure (a compatible structure shall be any structure which does not adversely affect *the structure*)
  2. Share a common access road or where it is impossible to share a common access road, locate as closely as possible to the nearest existing public road in order to minimize the length of access from the nearest road.
- D. AVIAN HABITAT: Any proposed activity permitted outright or conditionally may be required to establish a setback from critical nesting or roosting areas and to preserve existing trees, vegetation, and water resources.
- E. DESIGNATED SCENIC WATERWAYS: The applicant for a proposed use that is to be located within the Minam River Scenic Waterway and that is regulated under the Oregon Scenic Waterways Rules shall obtain a notice to proceed from the State Highway Commission or the time limit for review by the State Highway Commission shall have expired prior to obtaining a zoning or building permit from the County.

## ATTACHMENT

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## Oregon Department of Energy (cont.)

## UCZPSO Section 20.10 SITE PLAN REQUIREMENTS

- A. The applicant shall submit Site Plans to the Planning Department for consideration. These shall be drawn to scale and of sufficient detail to insure their review in compliance with this section. A Site Plan shall include the following:
- (1) Property lines of subject property(ies).
  - (2) Existing and proposed building locations, dimensions and height in respect to the subject property.
  - (3) Off-street parking spaces and loading areas.
  - (4) Existing and proposed points of ingress and egress – including vehicular, bicycle, and pedestrian ways.
  - (5) All proposed screening and landscaping.
  - (6) Existing topographic and preliminary grading plan.
  - (7) Adjacent road rights-of-way and the location of existing and proposed road facilities, including the provision for the connection of proposed roads with existing roads.
  - (8) Existing and proposed lighting including locations.

## UCZPSO Section 20.14 NONFARM USE PARTITIONS

Partition applications to create a parcel for a nonfarm use, except dwellings, shall be processed according to this ordinance's Article 25.00 Land Division Regulations and reviewed through a quasi-judicial land use process per Sections 24.09 through 24.12 and the following criteria:

1. The Planning Commission may allow the creation of new parcels for nonfarm uses as identified in ORS 215.283(2) and as authorized by ORS 215.263(3), except uses listed in subsection (2) below and where the applicant can meet the following:
  - a. The new parcel shall be the minimum size needed to accommodate the use in a manner consistent with other provisions of law;
  - b. The new parcel shall be an adequate size necessary for the public health protection;
  - c. The new parcel will be the minimum size necessary to accommodate the principal use and its accessory uses, structures and facilities.
2. The Planning Commission may not allow the creation of new parcels for dwellings as prescribed by ORS 215.263(3) and ORS 215.284(7), and home occupations identified in ORS 215.283(2)(i).

**ATTACHMENT**

**S3 Oregon Department of Energy (cont.)**

**UCZPSO Section 21.06 GENERAL STANDARDS GOVERNING CONDITIONAL USES**

The following standards and criteria shall govern conditional uses, except as provided in subsection 21.07:

1. A conditional use shall ordinarily comply with the standards of the zone concerned for uses permitted outright except as specifically modified by the Planning Commission in granting the conditional use.
2. Other uses similar to those enumerated within specified zones except in the A-1, A-2, A-3 and A-4 Zones which are consistent with the purposes and intent of the applicable zone may be modified by the Planning Commission if the use is found:
  - A. To be compatible with outright or conditional uses of the applicable zone.
  - B. Not to interfere seriously with established and accepted practices on adjacent lands.
  - C. Not to materially alter the stability of the overall land use pattern of the area.
  - D. That the proposed use can comply with the standards of the zone, and
  - E. To comply with such other conditions as the Planning Commission or its designate considers necessary to carry out the purposes of this ordinance.

**UCZPSO Section 25.09 GENERAL DESIGN & IMPROVEMENT STANDARDS**

- (8) Road Widths and Improvements
  - (a) Road standards shall not be less than those set forth in Table 7-2 in the Transportation System Plan, except where it can be shown that probable future traffic development or physical characteristics are such as to unquestionably justify modification of the standards.
  - (c) Road and related improvements shall be completed or bonded for completion prior to final plat consideration and shall be constructed under the direction of the County Planning Department, according to the minimum Road Standard Table 7-2:

**Table 7-2  
Road Development Standards for Union County**

	ARTERIAL*	COLLECTOR*	LOCAL	PRIVATE EASEMENT
R-O-W	60	60	60	30
Surface width	24	24	24	12 with turnouts**
Base depth & material [shall be gridrolled]	9" deep 4" minus aggregate	8" deep 4" minus aggregate	8" deep 4" minus aggregate	8" deep 4" minus aggregate
Leveling course	4" deep 1.5-¾ minus aggregate	6" deep	6" deep	5" deep

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**S3 Oregon Department of Energy (cont.)**

Overlay material	3" asphalt concrete	¾ minus aggregate***	¾ minus aggregate***	¾ minus aggregate***
Shoulder width	2' pavement + 2' gravel	None	None	None
Shoulder depth & material	Same as base + leveling course	None	None	None
Where designated: sidewalk & bicycle shared shoulder	4' paved + 2' gravel	4' paved	None	None

\*Geotech fabric shall be required between base and subgrade where paved for arterials and collectors.

\*\*Private driveways in excess of 200 feet shall require 20 x 40 turnouts at a maximum spacing of ½ the driveway length or 400 feet, whichever is less.

\*\*\*Crushed gravel for the combined leveling course and overlay material shall be non-alluvial in origin.

(If Idaho Power condemns private property resulting in the creation of new parcels the following County land use regulations would also be applicable)

**UCZPSO Section 25.05 TENTATIVE PLAN REQUIREMENTS**

- (1) A tentative plan map shall be prepared by a registered professional land surveyor for all partitions and subdivisions creating parcels and lots. The boundaries of parcels in partitions greater than 80 acres in size shall be described by a registered professional land surveyor but are not required to be drawn on the tentative plan. [ORS 92.025(3)]
- (2) A tentative plan map shall include or be accompanied by a vicinity map drawn at a small scale, e.g., one inch equals 2000 feet, and shall show:
  - (a) All existing parcel or lot lines and street rights-of-way immediately adjoining the proposed partition or subdivision and the location of the nearest existing public road(s).
  - (b) The manner in which streets and alleys in the proposed partition or subdivision may connect with existing or proposed streets and alleys in neighboring property to produce the most advantageous development of the entire area.
- (3) A tentative plan map shall be prepared at a scale acceptable to the County Surveyor Map of Survey Checklist and drawn on material 18 inches by 24 inches in size, unless otherwise approved by the Planning Department Staff. The tentative plan map shall include the following information:
  - (a) Identification clearly stating the map is a tentative plan.
  - (b) If the tentative plan is for a subdivision the map shall include the proposed subdivision name.
  - (c) The date, north point and scale of the map.

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## Oregon Department of Energy (cont.)

- (d) The location of the proposed development including section, township, range and legal description sufficient to define the location and boundaries of the proposed partition or subdivision.
- (e) The names and addresses of the owner, subdivider, engineer, surveyor, and land planner as applicable.
- (f) The acreage of the proposed development.
- (g) The boundary of all proposed parcels and lots 80 acres or less in size.
- (h) A reference to all parcels and lots greater than 80 acres noting their number and size.
- (i) The location, widths and names of all existing or proposed streets or other public ways, pathways or bike trails within or adjacent to the proposed development; grades of all proposed streets; railroad rights-of-way and other features such as section lines and corners; political subdivisions or corporate lines.
- (j) The location in the adjoining streets or property of existing or proposed sewers and water mains, culverts and drain pipes, electrical conduits or lines proposed to be used or connected to the property to be partitioned or subdivided.
- (k) Contour lines may have the following minimum intervals: two-foot contour intervals for ground slopes of less than 10-percent, 10-foot contour lines for slopes up to 50-percent or greater. Contour lines shall be provided where roads are being created. The elevations of all control points or bench marks to determine the contours shall be on or near the subject property and shall be indicated or described and shall be stated, except where a floodplain is involved the United States Geologic Survey datum shall be used or datum shall be approved by the County Surveyor.
- (l) The approximate location of areas subject to inundation or storm water overflow and elevation of the highest flood of record.
- (m) Location, type and direction of flow of all surface water courses.
- (n) Natural features, such as rock outcroppings, marshes, wooded areas, historic or other unique features.
- (o) Existing use or uses of the property and adjacent property, including approximate location of all existing structures.
- (p) The Land Use Plan and Zoning classifications on land adjacent to the tract.

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## Oregon Department of Energy (cont.)

- (q) Explanation which contains identification of symbols used on the tentative plan map.
- (r) Explanatory Information  
The following information shall be included as part of the tentative plan, but may be submitted in the form of statements in lieu of being drawn or included as part of the detailed map:
- (A) Certification of title showing ownership of the land within the subdivision.
  - (B) Typical cross-sections and typical profiles of all streets within a major partition or subdivision, or sufficient topographical information to establish approximate grades and drainage methods.
  - (C) Proposed locations, typical cross-sections, typical profiles and proposed improvements as required in the General Design and Improvement Standards of this Ordinance (Section 25.09).
  - (D) Proposed deed restrictions in outline form.
  - (E) Proposed classification of each street, e.g., arterial, collector, local or private easement.
  - (F) Proposed source of domestic water supply.
  - (G) Provisions to be made for sewage disposal, storm water drainage, and flood control.
  - (H) Fire protection protective agency.
  - (I) School district.
  - (J) Traffic analysis procedures. If it is determined that a proposed project may impose an undue burden on the public transportation system, then traffic analysis and mitigation must be undertaken. Proposals generating up to 100 vehicle trips per day will be reviewed locally by ODOT, Region 5. Proposals generating between 100 and 400 vehicle trips per day will be reviewed by an ODOT Traffic Engineer. Proposals generating over 400 vehicle trips per day will be required to submit a traffic impact study.
    - For developments that are likely to generate more than 400 average daily motor vehicle trips (ADTs), the applicant shall provide adequate information, such as a traffic impact study or traffic counts, to demonstrate the level of impact to the surrounding street system.

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## Oregon Department of Energy (cont.)

- Standards by which to gauge average daily vehicle trips include: 10 trips per day per single family household; 5 trips per day per apartment; and 30 trips per day per 1,000 square feet of gross floor area which would equal a new supermarket or other retail development. The developer shall be required to mitigate adverse impacts attributable to the project. The determination of impact or effect, with the provider of the affected
- Undue burden on the public transportation system includes any one of the following: 1) changes to the functional classification of an existing or planned transportation facility; 2) changes to standards implementing a functional classification system; 3) allowance of land uses that would result in levels of travel or access that are inconsistent with the functional classification of a transportation facility; or 4) reduction in facility level of service below the minimum acceptable level identified in the Transportation System Plan.

## UCZPSO Section 25.06 FINAL PLAT REQUIREMENTS

- (1) Surveys and final plats of all partitions, subdivisions, property line adjustments and re-plats shall be prepared by a registered professional land surveyor and shall conform to requirements in ORS Chapter 92 (ORS 92.050 - 92.100) and ORS 209.250 and the plat standards of the Union County Surveyor.
- (a) All subdivision lots shall be surveyed.
  - (b) Parcels created through platting 10 acres and less in size shall be surveyed. [ORS 92.060(6)]
  - (c) Parcels created through platting greater than 10 acres and up to and including 80 acres shall be clearly marked "unsurveyed" adjacent to the parcel or lot number, and identified with the approximate acreage. [ORS 92.055]
  - (d) Parcels created greater than 80 acres shall be described by a professional land surveyor but are not required to be drawn on the final plat. [ORS 92.025(3)]
- (2) A final plat for a partition, subdivision or re-plat shall be accompanied by the following where applicable:
- (a) A copy of all covenants and restrictions.

## ATTACHMENT

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## Oregon Department of Energy (cont.)

- (b) Copies of legal documents required for dedication of public facilities or for the creation of a homeowner's association.
- (c) The certification, performance agreement or statement regarding the provision for domestic water and sewage disposal services. All proposed subdivision lots have been approved for sewage disposal in accordance with standards and specifications as prescribed by the Oregon Department of Environmental Quality. [ORS 92.090(4) & (5)].
- (d) Certification from an irrigation district, drainage district, water control district, water improvement district or district improvement company that the partition or subdivision is either entirely excluded from the district or company or is included within the district or company for purposes of receiving services. [ORS 92.090(6)]
- (e) A preliminary title report, lot book report, subdivision guaranty report or equivalent documentation of the ownership of the subject property, issued not more than 30 days prior to the date the final plat is submitted for Clerk recording. Such a report shall also identify all easements of record.
- (f) A copy of new deeds and reference to existing deeds, conveyances or other recorded documents pertaining to any easements which the platted property is subject to.
- (g) Such other information as is deemed necessary by the Director to verify conformance with the conditions of the tentative plan approval.

**UCZPS Section 30.01 AUTHORIZATION TO GRANT OR DENY VARIANCES**

The Planning Commission may authorize variances from the requirements of this Ordinance where it can be shown that, owing to special and unusual circumstances related to a specific piece of property, strict application of the Ordinance would cause an undue or unnecessary physical hardship. No variance shall be granted to allow the use of property for a purpose not authorized within the zone in which the proposed use would be located. In granting a variance, the Planning Commission may attach conditions which it finds necessary to protect the best interest of the surrounding property or vicinity and otherwise achieve the purposes of this Ordinance.

**UCZPSO Section 30.02 CIRCUMSTANCES FOR GRANTING A VARIANCE**

A variance may be granted only in the event that ALL of the following circumstances exist:

1. Exceptional or extraordinary circumstances apply to the property which do not apply generally to other properties in the same zone or vicinity, which conditions are a result of lot size or shape, topography, or other circumstances over which the applicant has no control; and

ATTACHMENT

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Oregon Department of Energy (cont.)

- 2. The interest of the public will be preserved, and such action(s) will not set a trend; and
- 3. That the variance will be the minimum needed to alleviate the hardship on the land, and will not result in an undesirable change in the purposes of this Ordinance and in area land values or property uses, or be otherwise injurious to other property in the area.
- 4. That the hardship on the land is not self-imposed, nor a result from a violation of this Ordinance.

UCZPS Section 30.03 VARIANCE PROCEDURE

The following procedures shall be followed in applying for and acting on a variance:

- 1. A property owner or designated agent may initiate a request for a variance by filing an application with the Planning Director using forms provided. The application shall be accompanied by a site plan drawn to scale showing the condition to be varied and the dimensions and arrangement of the proposed development. The Planning Commission may request other drawings or material essential to an understanding of the variance request.
- 2. Before the Planning Commission may act on a request for a variance, it shall present notice and hold a public hearing as prescribed by Sections 24.03 and 24.04.
- 3. Within five working days after a decision has been rendered with reference to a request for a variance, the Planning Director shall provide the applicant with notice of the Planning Commission's decision.

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Oregon Department of Energy (cont.)

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NOV 19 2008

RESOLUTION R08-27

DEBORAH DE LONG County Clerk

RESOLUTION OF MALHEUR COUNTY COURT IN SUPPORT OF SCENIC PRESERVATION OF MALHEUR BUTTE AND VISTA TURNOUT ON HIGHWAY 20-26 FROM THE SITING OF THE BOARDMAN TO HEMINGWAY TRANSMISSION LINE AND SUNSTONE PIPELINE PROJECT

WHEREAS, one of the most distinctive natural landmarks in Malheur County is the Malheur Butte (aka Kennedy Butte) and

WHEREAS, the Malheur Butte (Butte) has both historical and scenic significance to Malheur County. The Butte is valued for its aesthetic purpose because it is a natural volcano (cinder cone) that rises prominently within lands zoned Exclusive Farm Use. The lands surrounding the Butte are high, productive and open-space farmlands. Together, the farmlands and Butte display a visually stunning view; and

WHEREAS, the Butte played an important part in the historic County. It was used by Native Americans as a vantage point to observe wagon trains on the Oregon Trail in the 1840s; and

WHEREAS, the Butte is privately owned and this resolution is not meant to restrict the landowner's residential, recreational and farm use; and

WHEREAS, the Malheur County Court encourages the protection of the scenic turnout or vista on Highway 20-26 between Vale and Cairo Junction at the top of Trenkel Hill. It encourages tourism within the County while at the same time recognizes that the surrounding land, water, Butte and farming activities are an integral part of our community. Together these features present a unique scenic view; and

WHEREAS, the quality of the Malheur Butte and the vistas scenic resources merit official recognition.

NOW, THEREFORE, THE MALHEUR COUNTY COURT RESOLVES that the scenic value of the Malheur Butte and the vista turnout on Highway 20-26 should remain unobstructed from the Boardman to Hemingway Transmission Line and Sunstone Pipeline Project.

DATED this 19<sup>th</sup> day of November 2008.

Judge Dan P. Joyce absent

Louis M. Wettstein  
Commissioner Louis M. Wettstein

Jim Nakano  
Commissioner Jim Nakano

## ATTACHMENT

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## Oregon Department of Energy (cont.)

Idaho Power Company  
Boardman, Oregon to Hemingway, Idaho  
500kV Transmission Line Project

APPLICABLE STATE AND LOCAL REGULATIONS  
REGARDING UTILITY FACILITIES

Malheur County Code

MCC Chapter 1, PURPOSE AND DEFINITIONS, Section 6-1-3

**UTILITY FACILITIES:** Any major structure or facility owned or operated by a public, private or cooperative electric, fuel, communication, sewage or water company for the generation, transmission, distribution or processing of its product or for the disposal of cooling water, waste or byproducts, and including power transmission lines, wireless telecommunications facilities, transmission tower, major trunk pipelines, power substations, dams, wind and water towers, sewage lagoons, sanitary landfills and similar facilities, but excluding sewer, water, gas, local telephone and power distribution lines and similar minor facilities.

MCC Chapter 3, Article A. Resource Lands, EFU- Exclusive Farm Use, ERU-Exclusive Range Use, EFFU-Exclusive Farm Forest Use

**Section 6-3A-2: PERMITTED USES:**

(A) The following uses may be permitted outright by ministerial permit in each of the three (3) resource zones except as specifically added or excluded :

(14) Utility facilities necessary for public service, including wetland waste treatment systems but not including commercial facilities for the purpose of generating electrical power for public use or sale or transmission towers over two hundred (200) in height. A utility facility necessary for public may be established as provided in ORS 215.275 and section 6-6-8-8 "Wireless Communication Facilities" of this title.

**MALHEUR COUNTY COMPREHENSIVE PLAN POLICIES**  
**GOAL 3: AGRICULTURAL LANDS**

**Goal:** To preserve and maintain the agricultural land in the county for agricultural purposes.

Public and private land classified by the U.S. Soil Conservation Service as being in Capability Classes I through VI, as well as any other lands determined to be suitable and needed for farm use, are considered to be agricultural lands.

## ATTACHMENT

S3

## Oregon Department of Energy (cont.)

1. Whenever possible, land having the highest agricultural capabilities will be given the greatest protection (Class I has the highest capability; Class VI has the least).
2. In addition to the SCS soil classification system, County Assessor's records will be considered in evaluating individual parcels for the purpose of planning and zoning.
3. In addition to the SCS soil classification system, County Assessor's records will be considered in evaluating individual parcels for the purpose of planning and zoning.
8. The county will work closely with the irrigation and drainage districts when land use decisions affect the distribution of water for irrigation purposes.
12. The county will work closely with the irrigation and drainage districts when land use decisions affect the distribution of water for irrigation purposes.
13. The zoning ordinance will establish Exclusive Farm Use (EFU), Exclusive Farm/Forest Use (EFFU), and Exclusive Range Use (ERU) zones to protect agricultural lands, and it will include provisions limiting development of those lands.

## Oregon Revised Statutes (ORS)

ORS 215.283(1) Uses permitted in exclusive farm use zones in nonmarginal lands counties (Malheur County).

(1)(d) "Utility facilities necessary for public service, including wetland waste treatment systems but not including commercial facilities for the purpose of generating electrical power for public sale or transmission to towers over 200 feet in height. A utility facility necessary for public service may be established as provided in ORS 215.275."

ORS 215.275 Utility facilities necessary for public service; criteria; mitigating impact of facility.

(1) A utility facility established under ... ORS 215.283(1)(d) is necessary for public service if the facility must be sited in an exclusive farm use zone in order to provide service.

(2) To demonstrate that a utility facility is necessary, an applicant for approval under ORS 215.283(1)(d) must show that reasonable alternatives have been considered and that the facility must be sited in an exclusive farm use zone due to one or more of the following factors:

- (a) Technical and engineering feasibility;
- (b) The proposed facility is locationally dependent. A utility facility dependent if it must cross land in one or more areas zoned for exclusive farm use in order to achieve a reasonably direct route or to meet unique geographical need that cannot be satisfied on other lands.

## ATTACHMENT

S3

## Oregon Department of Energy (cont.)

- (c) Lack of available urban or noresource lands;
- (d) Availability of existing rights of way;
- (e) Public health and safety; and
- (f) Other requirement of state or federal agencies.

(3) Costs associated with any of the factors listed in subsection (2) of this section may be considered, but cost alone may not be the only consideration in determining that a utility facility is necessary for public service. Land costs shall not be included when considering alternative locations for substantially similar utility facilities. The Land Conservation and Development Commission shall determine by rule how land costs may be considered when evaluating the siting of utility facilities that are not substantially similar.

(4) The owner of a facility approved under ORS 215.213(1)(d) or 215.283(1)(d) shall be responsible for restoring, as nearly as possible, to its former condition any agricultural land and associated improvements that are damaged or otherwise disturbed by siting, maintenance, repair or reconstruction of the facility. Nothing in this section shall prevent the owner of the utility facility from requiring a bond or other security from a contractor or otherwise imposing on a contractor the responsibility for restoration.

(5) The governing body of a county or its designee shall impose clear and objective conditions on an application for utility facility siting under ORS 215.213(1)(d) or 215.283(1)(d) to mitigate and minimize the impacts of the proposed facility, if any, on surrounding lands devoted to farm use in order to prevent a significant change in accepted farm practices or a significant increase in the cost of farm practices on the surrounding farmlands.

(6) The provisions of subsections (2) to (5) of this section do not apply to interstate natural gas pipelines and associated facilities authorized by and subject to regulation by the Federal Energy Regulatory Commission.

ORS 772.210 Right of entry and condemnation of lands for construction of service facilities.

- (1) Any public utility, electrical cooperative association or transmission company may:
  - (a) Enter upon lands within this state in the manner provided by ORS 35.220 for the purpose of examining, locating and surveying the line thereof and also other lands necessary and convenient for the purpose of construction of service facilities, doing no unnecessary damage thereby.
  - (b) Condemn such lands not exceeding 100 feet in width for its lines (including poles, towers, wires, supports and necessary equipment therefor) and in addition thereto, other lands necessary and convenient for the purpose of

## ATTACHMENT

S3

## Oregon Department of Energy (cont.)

construction of service facilities. If the lands are covered by trees that are liable to fall and constitute a hazard to its wire or line, any public utility or transmission company organized for the purpose of building, maintaining and operating a line of poles and wires for the transmission of electricity for lighting or power purposes may condemn such trees for a width not exceeding 300 feet, as may be necessary or convenient for such purpose.

(2) Notwithstanding subsection (1) of this section, any public utility, electrical cooperative association or transmission company may, when necessary or convenient for transmission lines (including poles, towers, wires, supports and necessary equipment therefor) designed for voltages in excess of 330,000 volts, condemn land not to exceed 300 feet in width. In addition, if the lands are covered by trees that are liable to fall and constitute a hazard to its wire or line, such public utility or transmission company may condemn such trees for a width not exceeding 100 feet on either side of the condemned land, as may be necessary or convenient for such purpose.

(3) Notwithstanding subsection (1) of this section, a water or gas public utility may condemn such lands, not exceeding 50 feet in width, as may be necessary or convenient for purposes of constructing, laying, maintaining and operating its lines, including necessary equipment therefor.

(4) The proceedings for the condemnation of such lands shall be the same as that provided in ORS chapter 35, provided that any award shall include, but shall not be limited to, damages for destruction of forest growth, premature culling of timber and diminution in value to remaining timber caused by increased harvesting costs.

Oregon Administrative Rules (OAR)

**OAR 660-033-0130 Minimum Standards Applicable to the Schedule of Permitted and Conditional Uses on Agricultural lands.**

(16)(a) "A utility facility is necessary for public service if the facility must be sited in an exclusive farm use zone in order to provide service. To demonstrate that a utility facility is necessary, and applicant must show that reasonable alternatives have been considered and

## ATTACHMENT

S3

## Oregon Department of Energy (cont.)

that the facility must be sited in an exclusive farm use zone due to one or more of the following factors.

- (A) Technical and engineering feasibility;
- (B) The proposed facility is locationally dependent. A utility is locationally dependent if it must cross land in one or more areas zoned for exclusive farm use in order to achieve a reasonably direct route or to meet a unique geographical needs that cannot be satisfied on other lands;
- (C) Lack of available urban and nonresource lands;
- (D) Availability of existing rights of way;
- (E) Public health and safety; and
- (F) Other requirements of state and federal agencies.

(b) Costs associated with any of the factors listed in subsection (16)(a) of this rule may be considered, but cost alone may not be the only consideration in determining a utility facility is necessary for public service. Land costs shall not be included when considering alternative locations for substantially similar utility facilities and the siting of utility facilities and the siting of facilities that are not substantially similar.

(c) The owner of a utility facility approved under this section shall be responsible for restoring, as nearly as possible, to its former condition any agricultural land and associated improvements that are damaged or otherwise disturbed by the siting, maintenance, repair or reconstruction of the facility. Nothing in this section shall prohibit the owner of the utility facility from requiring a bond or other security from a contractor or otherwise imposing on a contractor the responsibility for restoration.

(d) The governing body of the county or its designee shall impose clear and objective conditions on an application for utility facility siting to mitigate and minimize the impacts of the proposed facility, if any, on surrounding lands devoted to farm use in order to prevent a significant change in accepted farming practices or a significant increase in cost of farm practices on surrounding farmlands.

(e) In addition to the provisions of subsections 16(a) to (d) of this rule, the establishment or extension of a sewer system as defined by OAR 660-011-0060(1)(f) in an exclusive farm use zone shall be subject to the provisions of OAR 660-011-0060.

(f) The provisions of subsections 16(a) to (d) of this rule do not apply to interstate natural gas lines and associated facilities authorized by and subject to regulation by the Federal Energy Regulatory Commission.

ATTACHMENT

S3

Oregon Department of Energy (cont.)

B2H-0194

ORIGINAL RECEIVED  
MAY 21 2012  
ODOE HERMISTON

MALHEUR COUNTY, OR 2010-6953  
MR. COUNTY COURT 12/08/2010 10:57 AM  
DOCUMENT  
Ch# 1 Pgs#3 Total: \$0.00  
00001055201000069530030038  
I, Deborah R. DeLong, County Clerk for Malheur County,  
Oregon certify that the instrument identified herein was  
recorded in the Clerk's records.  
Deborah R. DeLong - County Clerk

ORDINANCE NO. 191

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In the matter of: )  
An Ordinance Relating To Adoption of Amended Goal 3 Policies to the )  
Malheur County Comprehensive Plan )

WHEREAS, agriculture is the leading industry in Malheur County; and,

WHEREAS, the original County comprehensive land use plan Goal 3 Agricultural Lands policies were adopted in 1985 and have not been revised or updated since; and,

WHEREAS, the Malheur County Court commissioned a citizen advisory committee to review the original policies and if necessary make recommendations on updating them to reflect current and anticipated future agricultural practices; and,

WHEREAS, a citizen advisory committee reviewed the original policies and made recommendations to update the policies as commissioned by the court; and,

WHEREAS, these revised policies have been offered for public review and the planning commission conducted a public hearing; and,

WHEREAS, the amended policies applicable to Goal 3, Agricultural Land are listed below in Section 1.

NOW, THEREFORE, BE IT ORDAINED BY THE MALHEUR COUNTY COURT AS FOLLOWS:

SECTION 1. Goal 3. Agricultural Lands Policies

GOAL 3: AGRICULTURAL LANDS

Goal: To preserve and maintain the agricultural land in the county for agricultural purposes.

- 1. Public and private land classified by the Natural Resources Conservation Service (formerly U.S. Department of Agriculture Soil Conservation Service) as being in

## ATTACHMENT

S3

## Oregon Department of Energy (cont.)

- 1 Capability Classes I through VI, as well as High Value Farmland as defined by  
 2 applicable Oregon Revised Statutes and Oregon Administrative Rules and any other  
 3 lands determined to be necessary and required for farm use, are considered to be  
 4 agricultural lands.  
 5
- 6 2. High Value Farmlands (ORS and OAR designated) shall be given the greatest  
 7 protection. Lands classified by the Natural Resources Conservation Service, as  
 8 Capability Classes I through VI shall be afforded the next highest protection with Class I  
 9 having the highest protection and Class VI the least.  
 10
- 11 3. In addition to the Natural Resources Conservation Service classification system,  
 12 county assessor's records may be considered in evaluating individual parcels for the  
 13 purpose of planning and zoning.  
 14
- 15 4. Urban growth boundaries, exclusive farm use zoning, and farm use tax assessment  
 16 will be the major tools used to protect agricultural lands.  
 17
- 18 5. The county will support viable water resource projects for additional storage, power  
 19 generation, water quality, conservation and recreation.  
 20
- 21 6. The county will review and consult with the irrigation and drainage districts on land  
 22 use decisions to assure they will not negatively impact the integrity or operation of water  
 23 for irrigation or drainage purposes.  
 24
- 25 7. In addition to county code and the State of Oregon's land use laws and  
 26 administrative rules for non-farm dwellings, it is the policy of Malheur County that there  
 27 be no net loss of farmlands listed on the High Value Farmlands Soils list or soils  
 28 classified as types I-III by the Natural Resources Conservation Service.  
 29
- 30 8. Current and future accepted farming and ranching practices and activities shall have  
 31 priority and continue without interference.  
 32
- 33 9. Any utility transmission line should avoid adverse impacts on any agricultural  
 34 operation in the entire agricultural area. This protection should prioritize High Value  
 35 Farmland and the Natural Resources Conservation Service soil classes I through III.  
 36
- 37 10. The County Court will appoint a citizens advisory committee on agriculture to  
 38 review the agricultural lands element of the comprehensive plan on an as needed  
 39 basis.  
 40
- 41 11. The county will not discourage the creation of special land use districts so that  
 42 landowners can impose more restrictive land use regulations than those imposed by the  
 43 county.  
 44

ATTACHMENT

S3

Oregon Department of Energy (cont.)

1 **SECTION 7. Effective Date**

2

3 This ordinance shall become effective upon passage

4

5 Passed this 8th day of December 2010

6

7

8

9 Judge Dan P. Joyce

10

11

12

13 Commissioner Louis M. Wettstein

14

15

16

17 Commissioner Jim Nakano

ATTEST:

Kim Mason  
Recording Secretary

**ATTACHMENT**

**S3**

**Oregon Department of Energy (cont.)**

Idaho Power Company  
 Boardman, Oregon to Hemingway, Idaho  
 500kV Transmission Line Project

**APPLICABLE STATE AND LOCAL REGULATIONS  
 REGARDING UTILITY FACILITIES**

Malheur County Code

**MCC Chapter 1, PURPOSE AND DEFINITIONS, Section 6-1-3**

**UTILITY FACILITIES:** Any major structure or facility owned or operated by a public, private or cooperative electric, fuel, communication, sewage or water company for the generation, transmission, distribution or processing of its product or for the disposal of cooling water, waste or byproducts, and including power transmission lines, wireless telecommunications facilities, transmission tower, major trunk pipelines, power substations, dams, wind and water towers, sewage lagoons, sanitary landfills and similar facilities, but excluding sewer, water, gas, local telephone and power distribution lines and similar minor facilities.

**MCC Chapter 3, Article A. Resource Lands, EFU- Exclusive Farm Use, ERU-Exclusive Range Use, EFFU-Exclusive Farm Forest Use**

**Section 6-3A-2: PERMITTED USES:**

(A) The following uses may be permitted outright my ministerial permit in each of the three (3) resource zones except as specifically added or excluded :

(14) Utility facilities necessary for public service, including wetland waste treatment systems but not including commercial facilities for the purpose of generating electrical power for public use or sale or transmission towers over two hundred (200) in height. A utility facility necessary for public may be established as provided in ORS 215.275 and section 6-6-8-8 "Wireless Communication Facilities" of this title.

**MALHEUR COUNTY COMPREHENSIVE PLAN POLICIES  
GOAL 3: AGRICULTURAL LANDS**

**Goal:** To preserve and maintain the agricultural land in the county for agricultural purposes.

Public and private land classified by the U.S. Coil Conservation Service as being in Capability Classes I through VI, as well as any other lands determined to be suitable and needed for farm use, are considered to be agricultural lands.

## ATTACHMENT

S3

## Oregon Department of Energy (cont.)

1. Whenever possible, land having the highest agricultural capabilities will be given the greatest protection (Class I has the highest capability; Class VI has the least).
2. In addition to the SCS soil classification system, County Assessor's records will be considered in evaluating individual parcels for the purpose of planning and zoning.
3. In addition to the SCS soil classification system, County Assessor's records will be considered in evaluating individual parcels for the purpose of planning and zoning.
8. The county will work closely with the irrigation and drainage districts when land use decisions affect the distribution of water for irrigation purposes.
12. The county will work closely with the irrigation and drainage districts when land use decisions affect the distribution of water for irrigation purposes.
13. The zoning ordinance will establish Exclusive Farm Use (EFU), Exclusive Farm/Forest Use (EFFU), and Exclusive Range Use (ERU) zones to protect agricultural lands, and it will include provisions limiting development of those lands.

## Oregon Revised Statutes (ORS)

ORS 215.283(1) Uses permitted in exclusive farm use zones in nonmarginal lands counties (Malheur County).

(1)(d) "Utility facilities necessary for public service, including wetland waste treatment systems but not including commercial facilities for the purpose of generating electrical power for public sale or transmission towers over 200 feet in height. A utility facility necessary for public service may be established as provided in ORS 215.275."

ORS 215.275 Utility facilities necessary for public service; criteria; mitigating impact of facility.

(1) A utility facility established under ... ORS 215.283(1)(d) is necessary for public service if the facility must be sited in an exclusive farm use zone in order to provide service.

(2) To demonstrate that a utility facility is necessary, an applicant for approval under ORS 215.283(1)(d) must show that reasonable alternatives have been considered and that the facility must be sited in an exclusive farm use zone due to one or more of the following factors:

- (a) Technical and engineering feasibility;
- (b) The proposed facility is locationally dependent. A utility facility is locationally dependent if it must cross land in one or more areas zoned for

## ATTACHMENT

S3

## Oregon Department of Energy (cont.)

lighting or power purposes may condemn such trees for a width not exceeding 300 feet, as may be necessary or convenient for such purpose.

(2) Notwithstanding subsection (1) of this section, any public utility, electrical cooperative association or transmission company may, when necessary or convenient for transmission lines (including poles, towers, wires, supports and necessary equipment therefor) designed for voltages in excess of 330,000 volts, condemn land not to exceed 300 feet in width. In addition, if the lands are covered by trees that are liable to fall and constitute a hazard to its wire or line, such public utility

feet on either side of the condemned land, as may be necessary or convenient for such purpose.

(3) Notwithstanding subsection (1) of this section, a water or gas public utility may condemn such lands, not exceeding 50 feet in width, as may be necessary or convenient for purposes of constructing, laying, maintaining and operating its lines, including necessary equipment therefor.

(4) The proceedings for the condemnation of such lands shall be the same as that provided in ORS chapter 35, provided that any award shall include, but shall not be limited to, damages for destruction of forest growth, premature cutting of timber and diminution in value to remaining timber caused by increased harvesting costs.

## Oregon Administrative Rules (OAR)

**OAR 660-033-0130 Minimum Standards Applicable to the Schedule of Permitted and Conditional Uses on Agricultural lands.**

(16)(a) "A utility facility is necessary for public service if the facility must be sited in an exclusive farm use zone in order to provide service. To demonstrate that a utility facility is necessary, and applicant must show that reasonable alternatives have been considered and that the facility must be sited in an exclusive farm use zone due to one or more of the following factors.

- (A) Technical and engineering feasibility;
- (B) The proposed facility is locationally dependent. A utility is locationally dependent if it must cross land in one or more areas zoned for exclusive farm use in order to achieve a reasonably direct route or to meet a unique geographical needs that cannot be satisfied on other lands;
- (C) Lack of available urban and nonresource lands;
- (D) Availability of existing rights of way;
- (E) Public health and safety; and
- (F) Other requirements of state and federal agencies.

(b) Costs associated with any of the factors listed in subsection (16)(a) of this rule may be considered, but cost alone may not be the only consideration in determining a utility facility is necessary for public service. Land costs shall not be included when considering alternative locations for substantially similar utility facilities and the siting of utility facilities and the siting of facilities that are not substantially similar.

(e) The owner of a utility facility approved under this section shall be responsible for

## ATTACHMENT

S3

## Oregon Department of Energy (cont.)

restoring, as nearly as possible, to its former condition any agricultural land and associated improvements that are damaged or otherwise disturbed by the siting, maintenance, repair or reconstruction of the facility. Nothing in this section shall prohibit the owner of the utility facility from requiring a bond or other security from a contractor or otherwise imposing on a contractor the responsibility for restoration.

(d) The governing body of the county or its designee shall impose clear and objective conditions on an application for utility facility siting to mitigate and minimize the impacts of the proposed facility, if any, on surrounding lands devoted to farm use in order to prevent a significant change in accepted farming practices or a significant increase in cost of farm practices on surrounding farmlands.

(e) In addition to the provisions of subsections 16(a) to (d) of this rule, the establishment or extension of a sewer system as defined by OAR 660-011-0060(1)(f) in an exclusive farm use zone shall be subject to the provisions of OAR 660-011-0060.

(f) The provisions of subsections 16(a) to (d) of this rule do not apply to interstate natural gas lines and associated facilities authorized by and subject to regulation by the Federal Energy Regulatory Commission.

**ATTACHMENT**

**S3**

**Oregon Department of Energy (cont.)**

Table 44  
LAND USE CATEGORIES

<u>Plan Maps</u>	<u>Codes</u>	<u>Zoning Maps</u>
Farm Use	F EFU	Exclusive Farm Use
Farm/Forest Use	FF EFFU	Exclusive Farm/Forest Use
Range Use	R ERU	Exclusive Range Use
Rural Residential	RR R-1	Rural Residential
Rural Recreation	REC R-2	Rural Recreation
Rural Service Center	RSC RSC	Rural Service Center
Urban	U UGA	Urban Growth Area
Commercial	C C-1	Commercial
Industrial	I M-1 M-2	Light Industrial Heavy Industrial
Park Use	P PM	Park Management
Geothermal Development	GEO --	(No corresponding zone)
(No corresponding plan designation)	-- FP	Flood Plain Management
	-- AA	Airport Approach

**ATTACHMENT**

**S3**

**Oregon Department of Energy (cont.)**

December 5, 2008

Adam Bless, Energy Facility Analyst  
Oregon Department of Energy  
625 Marion St. NE  
Salem, OR 97301

RE: Baker County Applicable Criteria for Project Order in Response to Idaho Power's  
Notice of Intent to site a 500 KV Transmission Line

Mr. Bless,

Thank you for the opportunity to provide Oregon Department of Energy and the Energy Facility Siting Council information about the land use criteria in Baker County that are relevant to an application to site a transmission line. The sources of relevant land use criteria include the Oregon Revised Statutes, Oregon Administrative Rules, Baker County Comprehensive Land Use Plan, and the Baker County Zoning and Subdivision Ordinance.

This document will primarily address only the criteria unique to Baker County. The criteria addressed in this document are criteria known to apply to an application for a transmission line as proposed by Idaho Power; however, there has been much discussion about the route of the transmission line in Baker County, and the preferred and alternative routes identified may be subject to change. We realize a new route may be proposed at any time during this process, and if a new route is identified that traverses a zone or resource not yet identified, additional criteria may apply. Baker County is in the process of adopting a new Zoning and Subdivision Ordinance. If the new Ordinance is adopted prior to Idaho Power Company filing an application to the Energy Facility Siting Council/ Oregon Department of Energy for the proposed transmission line, criteria from the new ordinance will apply to this project.

## ATTACHMENT

S3

## Oregon Department of Energy (cont.)

Applicable Criteria**Oregon Revised Statutes****215.283 Uses permitted in exclusive farm use zones in nonmarginal lands counties;**

**rules.** (1) The following uses may be established in any area zoned for exclusive farm use:

(d) Utility facilities necessary for public service, including wetland waste treatment systems but not including commercial facilities for the purpose of generating electrical power for public use by sale or transmission towers over 200 feet in height. A utility facility necessary for public service may be established as provided in ORS 215.275.

**215.275 Utility facilities necessary for public service; criteria; rules; mitigating impact of facility.** (1) A utility facility established under ORS 215.213 (1)(d) or 215.283 (1)(d) is necessary for public service if the facility must be sited in an exclusive farm use zone in order to provide the service.

(2) To demonstrate that a utility facility is necessary, an applicant for approval under ORS 215.213 (1)(d) or 215.283 (1)(d) must show that reasonable alternatives have been considered and that the facility must be sited in an exclusive farm use zone due to one or more of the following factors:

(a) Technical and engineering feasibility;

(b) The proposed facility is locationally dependent. A utility facility is locationally dependent if it must cross land in one or more areas zoned for exclusive farm use in order to achieve a reasonably direct route or to meet unique geographical needs that cannot be satisfied on other lands;

(c) Lack of available urban and nonresource lands;

(d) Availability of existing rights of way;

(e) Public health and safety; and

(f) Other requirements of state or federal agencies.

(3) Costs associated with any of the factors listed in subsection (2) of this section may be considered, but cost alone may not be the only consideration in determining that a utility facility is necessary for public service. Land costs shall not be included when considering alternative locations for substantially similar utility facilities. The Land Conservation and Development Commission shall determine by rule how land costs may be considered when evaluating the siting of utility facilities that are not substantially similar.

(4) The owner of a utility facility approved under ORS 215.213 (1)(d) or 215.283 (1)(d) shall be responsible for restoring, as nearly as possible, to its former condition any agricultural land and associated improvements that are damaged or otherwise disturbed by the siting, maintenance, repair or reconstruction of the facility. Nothing in this section shall prevent the owner of the utility facility from requiring a bond or other security from a contractor or otherwise imposing on a contractor the responsibility for restoration.

(5) The governing body of the county or its designee shall impose clear and objective conditions on an application for utility facility siting under ORS 215.213 (1)(d) or 215.283 (1)(d) to mitigate and minimize the impacts of the proposed facility, if any, on surrounding lands devoted to farm use in order to prevent a significant change in accepted farm practices or a significant increase in the cost of farm practices on the surrounding farmlands.

(6) The provisions of subsections (2) to (5) of this section do not apply to interstate natural gas pipelines and associated facilities authorized by and subject to regulation by the Federal Energy Regulatory Commission. [1999 c.816 §3]

## ATTACHMENT

S3

## Oregon Department of Energy (cont.)

**Oregon Administrative Rules****660-033-0130 Minimum Standards Applicable to the Schedule of Permitted and Conditional Uses**

The following standards apply to uses listed in OAR 660-033-0120 where the corresponding section number is shown on the chart for a specific use under consideration. Where no numerical reference is indicated on the chart, this division does not specify any minimum review or approval criteria. Counties may include procedures and conditions in addition to those listed in the chart as authorized by law:

(16)(a) A utility facility is necessary for public service if the facility must be sited in an exclusive farm use zone in order to provide the service. To demonstrate that a utility facility is necessary, an applicant must show that reasonable alternatives have been considered and that the facility must be sited in an exclusive farm use zone due to one or more of the following factors:

(A) Technical and engineering feasibility;

(B) The proposed facility is locationally dependent. A utility facility is locationally dependent if it must cross land in one or more areas zoned for exclusive farm use in order to achieve a reasonably direct route or to meet unique geographical needs that cannot be satisfied on other lands;

(C) Lack of available urban and nonresource lands;

(D) Availability of existing rights of way;

(E) Public health and safety; and

(F) Other requirements of state and federal agencies.

(b) Costs associated with any of the factors listed in subsection (16)(a) of this rule may be considered, but cost alone may not be the only consideration in determining that a utility facility is necessary for public service. Land costs shall not be included when considering alternative locations for substantially similar utility facilities and the siting of utility facilities that are not substantially similar.

(c) The owner of a utility facility approved under this section shall be responsible for restoring, as nearly as possible, to its former condition any agricultural land and associated improvements that are damaged or otherwise disturbed by the siting, maintenance, repair or reconstruction of the facility. Nothing in this subsection shall prevent the owner of the utility facility from requiring a bond or other security from a contractor or otherwise imposing on a contractor the responsibility for restoration.

(d) The governing body of the county or its designee shall impose clear and objective conditions on an application for utility facility siting to mitigate and minimize the impacts of the proposed facility, if any, on surrounding lands devoted to farm use in order to prevent a significant change in accepted farm practices or a significant increase in the cost of farm practices on surrounding farmlands.

**ATTACHMENT**

**S3**

**Oregon Department of Energy (cont.)**

*(e) In addition to the provisions of subsections 16(a) to (d) of this rule, the establishment or extension of a sewer system as defined by OAR 660-011-0060(1)(f) in an exclusive farm use zone shall be subject to the provisions of OAR 660-011-0060.*

*(f) The provisions of subsections 16(a) to (d) of this rule do not apply to interstate natural gas pipelines and associated facilities authorized by and subject to regulation by the Federal Energy Regulatory Commission.*

**Baker County Comprehensive Land Use Plan**

From page V-1 through V -2

**GOAL V**

**OPEN SPACE, SCENIC AND HISTORIC AREAS AND NATURAL RESOURCES**

**OPEN SPACE, SCENIC AND HISTORIC AREAS AND NATURAL RESOURCES**

**GOAL:** To conserve open space and protect natural resources.

**I. OPEN SPACES AND SCENIC AREAS**

**A. State Highway Scenic Routes**

The Oregon State Highway Division has the responsibility for designating scenic areas along State Highways. The designated scenic areas in the County are as follows: (See Plate # 10 of Appendix I)

*Plate # 10 of Appendix I is included as Exhibit A*

**B. Goal V Open Spaces and Scenic Areas Findings**

1. Land needed or desirable for open space includes agricultural and forest lands (public and private); public parks and campgrounds; lakes, streams and reservoirs; and other special purpose lands such as wilderness areas, recreation areas and wildlife areas.

2. “Scenic Views and Sites” are a resource indigenous to Baker County. Of particular significance are those scenic areas identified by the Oregon Department of Transportation and mapped on Plate 10 of Appendix I. The county, in it’s application of the Goal 5 Administrative Rule, identifies these as 2A resources pursuant to OAR 660-10-000.

- - - - -

**ATTACHMENT****S3****Oregon Department of Energy (cont.)****IV. NATURAL AREAS****C. Goal V Natural Areas Policies**

1. Natural Areas designated as 2A sites are to be protected to ensure the preservation of the resource site.

**V. HISTORIC AND CULTURAL SITES, STRUCTURES, DISTRICTS****A. Inventory of Historic and Cultural Sites, Structures and Districts**

*Pages V – 32 through V – 43 are included as Exhibit B*

**Baker County Zoning and Subdivision Ordinance (BCZSO) 83-3****SECTION 401 SETBACKS AND FRONTAGE REQUIREMENTS****B. STANDARDS**

- 1) The minimum land width at the front building lines shall be 220 feet.
- 2) No part of a structure shall be constructed or maintained closer than 60 feet to the center line of a road or street, or 30 feet from any right-of-way in excess of 60 feet.
- 3) No part of a building or other structure, except for a sign, shall be constructed or maintained closer than 10 feet to any property line.
- 4) No part of a building or other structure requiring a building permit or farm use affidavit or a road to access such development, shall be constructed within 50 feet of a naturally occurring riparian area, bog, marsh or waterway.

*If a land partition is required, the following criteria shall apply:*

**ARTICLE 10****SECTION 1001 SUBDIVISIONS, PARTITIONS, AND LOT LINE ADJUSTMENTS**

As authorized by law, subdivisions, major and minor partitions and streets created for the purpose of partitioning land shall be approved in accordance with this Article. This Article applies to all land within the unincorporated territory of the County. A person desiring to subdivide land, to partition land, or to create a street or a private road shall

**ATTACHMENT****S3****Oregon Department of Energy (cont.)**

submit preliminary plans and final documents for approval as provided in this Article and state statutes.

**1001.01 PURPOSE**

Pursuant to Oregon Revised Statutes, Chapters 92, 197 and 215, any person desiring to divide land within any part of Baker County outside of incorporated cities shall submit preliminary plans and final plats for such subdivisions and partitions to the Director for review. Such review of proposed subdivisions and partitions is necessary to allow Baker County to provide for the proper width and arrangement of streets and thoroughfares and their relation to existing or planned streets and thoroughfares; provide for conformity with the Comprehensive Plan regarding patterns for the development and improvement of Baker County; provide for public utilities and the open space or areas necessary for recreation, safety and health; provide for the orderly development of centers of population; and promote the public health, safety and general welfare, as defined in ORS 197 and 215. [ORS 92.046(1)]

**1001.02 SPECIAL DEFINITIONS FOR THIS ORDINANCE****A. General Definitions**

The definitions set forth in Section 108(B) of this Ordinance shall be referred to in this Article.

**B. Special Definitions**

1) "Minor Amendment" means a change which:

- a. Does not increase the number of lots or parcels created by the subdivision or partition;
- b. Does not enlarge the boundaries of subdivided or partitioned area;
- c. Does not change the general location or amount of land devoted to a specific land use; or
- d. Includes only minor shifting of the established lines, location of buildings, proposed public or private streets, pedestrian ways, utility easements, parks or other public open spaces.

2) "Major Amendment" means any change which is not a minor amendment.

**1001.03 GENERAL REQUIREMENTS AND STANDARDS OF DESIGN AND DEVELOPMENT FOR PRELIMINARY PLANS**

The following are the requirements and standards to which the preliminary plan of a subdivision or partition must conform.

## ATTACHMENT

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## Oregon Department of Energy (cont.)

## A. Conformity with the Comprehensive Plan

All divisions of land shall conform with the Comprehensive Plan of Baker County with respect to the type and intensity of use, population densities, locations and sizes of public areas, rights-of-way and improvements of streets, and any other aspects governed by Comprehensive Plan goals, policies or maps.

## B. Conformity with Zoning Article 3

All divisions of land, regardless of the number of lots or parcels, shall conform in all respects with the applicable regulations and specifications of Article 3, including uses of land, lot size and dimensions, space for off-street parking, landscaping and other requirements as may be set forth.

## C. Relation to Adjoining Street System

A subdivision or partition shall provide for the continuation of major and secondary streets existing in adjoining subdivisions or partitions, or for their proper projection when adjoining property is not subdivided or partitioned, and such streets shall be of a width not less than the minimum requirements for streets set forth in these regulations.

## D. Redevelopment Plan

- 1) In subdividing or partitioning land into large lots or parcels which at some future time could be further divided, the Director may require that lots, and parcels shall be of such size and shape, be so divided into lots and parcels, and meet such building site restrictions as will provide for extension and opening of streets at intervals which will permit a subsequent division of any parcel or lot into a smaller size which shall have the minimum lot frontage on a street.
- 2) No lot in a platted subdivision shall be reduced in size from that shown on the recorded plat if the newly created lot will have less than the minimum lot area for the zone in which it is located.
- 3) Any lot in a platted subdivision may be enlarged to approximate more closely the minimum lot area for the zone in which the lot is located, provided that no leftover lot areas shall be less than the minimum lot area for the zone.
- 4) Any person dividing land into large lots or parcels which at some future time could be further divided and still meet the minimum lot or parcel size requirement of the zone in which the land is located shall provide suitable road access to each created lot or parcel so that the future development of each lot or parcel will provide access for redevelopment of the parcels or lots.

## E. Replatting of Partitions and Subdivisions

**ATTACHMENT****S3****Oregon Department of Energy (cont.)**

Replatting shall be required in existing recorded subdivisions or partitions rather than using partitioning procedures.

1) A replat will comply with all the provisions of the subdivision or partition standards for a tentative plan, plat and improvements.

2) If the replatted property is within an established subdivision or partition with streets or roads, and utilities in place on or adjacent to the property, then the improvement requirements may be waived by the Director.

3) In the replatting of a partition, the provision that the partition may only create three new parcels is applicable, but parcels will be consecutively numbered even though the numbers may be greater than three. (For example, partition 1 has parcels 1-3, then parcel 3 is divided into 3 parcels with numbers 3, 4 & 5. Later parcel 2 is divided with parcel numbers 2, 6 & 7 and so on.)

**SECTION 1002 APPLICATIONS FOR APPROVAL OF TENTATIVE PLANS**

A. Any landowner, or landowner's authorized agent or representative, proposing to create a subdivision shall make application to the Planning Department for a public hearing before the Planning Commission for review and approval of the subdivision. Application for a subdivision shall be on forms provided for that purpose and shall be accompanied by the required fee and twenty-one copies of the tentative plan of the proposed subdivision. The tentative plans required by this Section shall meet the standards for such plans as required by this Ordinance and ORS Chapters 92, 197 and 209. Tentative plans for subdivisions can only be approved in nonresource zones. Tentative plans for partitions can be approved in both resource zones and nonresource zones.

B. No plat for any proposed subdivision or resource land partition may be considered for approval by the county governing body until the tentative plan for the subdivision has been reviewed and recommended for approval by the Planning Commission.

C. Before a plat of any subdivision or partition may be recorded with the County Clerk, other County officials shall indicate their approval by signature of the plat in the following order: County Surveyor, Planning Director, Treasurer, and/or County Court.

D. No subdivision plats, or replats may be recorded for lands located within boundaries of an irrigation district, drainage district, water control district or district improvement company until the notice and approval procedures set forth in ORS 92.120 have been implemented.

E. For subdivisions and partitions of land outside the boundaries of an irrigation district, drainage district, water control district or district improvement company, the applicant must file a statement of water rights. If a water right is appurtenant to the lands of the subdivision or partition, the statement of water rights, a signed copy of the Water Rights

**ATTACHMENT****S3****Oregon Department of Energy (cont.)**

Application and a copy of the plan, plat or replat must be submitted to the Oregon Water Resources Department or to the local Watermaster. A copy of the acknowledgment from the Water Resources Department must be submitted with the final plat of the subdivision or partition to the County Clerk for recordation.

F. Copies of all tentative plans of any proposed subdivision or resource land partition shall be made available for review and comment in writing within 45 days to all affected City, County, State and Federal agencies; affected special districts (school, irrigation, fire); utilities (phone, power, cablevision); and all property owners within 250-500 feet of the external boundaries of the land involved.

**SECTION 1006 LAND PARTITIONS****1006.01 APPROVAL OF PRELIMINARY PARTITION PLANS**

An application for a partition in any zone shall be reviewed by the Planning Director, subject to the applicable provisions in this Ordinance, statutory requirements, and the notice requirements contained in ORS 215.416(11). The Planning Director may refer an application to the Planning Commission if the Director determines that the proposal could have significant impacts beyond the abutting properties that are not likely to be adequately addressed by response to the notice requirements under ORS 215.416(11), or that the proposal requires a public hearing to clarify County policy regarding issues of concern raised by the proposal that are not otherwise addressed by this Ordinance.

A. Any landowner, or landowner's authorized agent or representative shall make application to the County Planning Department for review and approval of the partition. Application for a partition shall be on forms provided for that purpose and shall be accompanied by the required fee and eight copies of the proposed Tentative Plan of the Partition. The Tentative Plan required by this Subsection shall meet the standards for such plan as required by this Ordinance.

B. No Tentative Plan of a Partition shall be approved unless such plan complies with the applicable Zoning Ordinance or other regulations of the County that are in effect.

C. An application for preliminary partition plan approval shall be initiated as provided by this Ordinance. Applicants shall file with the Director a copy of the preliminary plan.

D. A preliminary partition plan and supporting documents shall include the following.

- 1) A vicinity map locating the proposed partitioning in relation to adjacent subdivisions, roadways, and other land parcels.
- 2) Location of the parcel by Section, Township and Range.
- 3) North arrow, scale and date.

**ATTACHMENT****S3****Oregon Department of Energy (cont.)**

4) A plan of the proposed partitioning, showing parcel dimensions, bearings of all lines, area of each parcel, and the names of existing and proposed roads.

5) Private streets and all restrictions or reservations relating to private streets.

6) Name and address of the landowners, the applicant and the surveyor, employed to make necessary surveys and prepare the description of each parcel involved.

7) Proposed means and location of water supply and sewage disposal for each parcel.

8) Zoning classification of the land and Comprehensive Plan map designation.

9) Predominant natural features, such as water courses and their flows, marshes, rock outcroppings, and areas subject to flooding, sliding or other natural hazards.

10) Draft of proposed restrictions and covenants affecting the partitioned land.

11) A statement of water right as required in ORS 92.120. If a water right is appurtenant, a copy of the acknowledgment from the State Water Resources Department shall be filed with the final partition map. A signed copy of the Water Right for Partitioning Application shall accompany the preliminary partition plan. Should the Watermaster find requirements, such as an irrigation ditch easement, these necessary requirements shall be a part of the tentative approval and shown on the final map.

E. All road easements created for the purpose of dividing land and/or creating access to said land shall be of no less than 60 feet and shall be recorded with the County Clerk. Until such time as the full easement is needed for development and maintenance of the road, the parties may fence and use the untraveled portion of the easement but shall place no buildings within the 60 foot easement. When fences are built closer than 30 feet from the center line of the access road, they shall be removed at the property owner's expense when the road is accepted for public maintenance.

F. Standards for approval of a preliminary partition plan

1) A decision on a preliminary partition plan application shall be made by the Director as provided in this Section.

2) The preliminary partition plan shall be approved if the Director finds that the information required by this Subsection has been provided and if the design and development standards of this Article have been met.

G. The Director may require dedication or reservation of land and utility or drainage easements, and may impose conditions promoting redevelopment of the parcels if, in view of zoning and Comprehensive Plan map designation, the acreage of a parcel or parcels in contiguous ownership make additional partitioning of the subject property feasible.

**ATTACHMENT****S3****Oregon Department of Energy (cont.)**

H. Duration of approval for preliminary partition plan:

Approval of a preliminary partition plan shall be valid for twenty-four (24) months from the date of tentative approval. During such time, all conditions of approval shall be met and required documentation shall be filed with the Director as an application for final approval, and shall otherwise comply with the provisions of Subsections 1006.01 and 1006.02 of this section.

I. Granting of Extensions

1) An applicant may request an extension of the validity of a preliminary partition plan approval. Such request shall be considered an Administrative Action and shall be submitted to the Director in writing prior to the expiration of such approval, stating the reason why an extension should be granted.

2) The Director may grant an extension of up to twelve (12) months in the validity of a preliminary partition plan approval if it is determined that a change of conditions, for which the applicant was not responsible, would prevent the applicant from obtaining final plan approval within the original time limitation.

**1006.02 APPROVAL OF FINAL PARTITION PLAT**

A. Within twenty-four (24) months from the date of preliminary partition plan approval, the applicant shall initiate a request for final partition plat approval by filing with the Director a final partition plat prepared in accordance to those standards specified in Section 1005 of this chapter.

B. The approval of a final partition plat by the Director is a ministerial action. The Director shall grant final approval if it is determined that:

- 1) the final partition plat and any supporting documents are in substantial conformance with the approved preliminary partition plan;
- 2) any conditions imposed by the Approving Authority have been met; and
- 3) all ad valorem taxes placed on the tax rolls shall be paid prior to filing the final plat map. [ORS 92.095]

Substantial conformance means that any differences between the preliminary and final plans are "minor amendments," as defined in Section 1001 of this ordinance.

C. All access easements created as part of land partitioning shall clearly specify which parcel or parcels it serves and shall be shown on the face of the map along with a written legal description of the easement. If the access easement is preexisting or if the access easement has been filed with the County Clerk prior to the final approval of the land

**ATTACHMENT****S3****Oregon Department of Energy (cont.)**

partition, then the recording number shall appear on the face of the map.

D. The granting of final partition plat approval shall not be affected by a change in the zone or comprehensive plan map designation of the subject property made after approval of the preliminary partition plan.

E. After approval the final partition plat must be prepared by an Oregon Registered Professional Land Surveyor and reviewed by the Baker County Surveyor, the Baker County Treasurer, the Baker County Planning Director, and shall be filed with the Baker County Clerk for recording.

F. All parcels in a partition that exceed ten acres in size need not be surveyed or monumented but a final partition plat prepared by an Oregon registered professional land surveyor is required.

**1006.03 LAND PARTITION PLAT REQUIREMENTS****A. Conformance to Tentative Plan**

The partition plat shall substantially conform to the tentative plan as approved.

**B. Preparation**

All partition plats shall be prepared by a professional land surveyor registered with the State of Oregon and shall otherwise comply with ORS 209.

**C. General Information**

The partition plat shall comply with ORS 209 and contain the following information.

- 1) Location of the parcel by Section, Township, and Range.
- 2) Names of the partitioner, owner, mortgagee, if any, and the registered professional land surveyor preparing the map.
- 3) A declaration stating that the declarant has caused the partition plat to be prepared shall be included on the face of the plat. If the declarant is not the fee owner of the property, the fee owner shall also execute the declaration for the purpose of consenting to the property being partitioned. [ORS 92.075]
- 4) North arrow, scale, and date submitted.
- 5) The names of any streets intersecting or within the parcels.
- 6) All easements provided for public services, utilities, or access must be shown on the face of the partition plat along with the legal description and any limitations of the

## ATTACHMENT

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## Oregon Department of Energy (cont.)

easements. If it is a preexisting easement or if the easement has been filed with the County Clerk prior to the final approval of the land partition, then the recording number shall appear on the face of the partition plat.

7) A surveyor's affidavit and written legal description of the boundary of all land contained in the land partition. Each parcel shall be identified with a parcel designation.

8) Space for date and signatures of the following officials for the final partition plat:

- a. Director
- b. County Surveyor
- c. County Treasurer
- d. County Clerk

9) Narrative per ORS 209.250.

10) Any additional information made a condition of approval of the tentative plan.

11) When parcels are not required to be monumented or surveyed, a schematic diagram shall be included on the face of the final partition plat showing the exterior boundaries of all parcels and their relationship with the parcel(s) requiring monumentation and surveying.

12) A statement of water rights and a copy of the acknowledgement from the State Water Resources Department if this statement indicates a water right is appurtenant.

D. County Surveyor's Fee

The partitioner shall pay a fee to the County Surveyor for checking partition plats if such fee is established by the County Surveyor.

#### Noxious Weeds

In addition to the criteria specific to land use listed above, certain state regulations and Baker County policies on noxious weeds may apply to this proposal.

#### **Oregon Revised Statutes**

*570.500 Legislative findings; need for evaluation. The Legislative Assembly finds and declares that:*

*(1) Noxious weeds are currently invading agricultural land and natural environments and causing severe production losses, increased control costs, negative impacts on native*

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## Oregon Department of Energy (cont.)

*flora and fauna, decreased utilization of recreational areas and decreased value of farm, range and forest lands. Some of those noxious weeds are poisonous or harmful to humans or animals.*

*(2) Noxious weed control programs are carried out by private and public landowners, counties and state agencies.*

*(3) The economic and environmental impacts of noxious weeds in Oregon have not been quantified. Although 92 weeds have been listed by the State Department of Agriculture as restricted noxious weeds or prohibited noxious weeds, only tansy ragwort has been studied for economic and environmental impact. A comprehensive evaluation of other noxious weeds is necessary to determine in which areas, if any, the invasion of noxious weeds is sufficiently severe to justify a declaration by the Director of Agriculture of a weed control emergency.*

*(4) The overall effectiveness and efficiency of the various noxious weed control programs of this state have never been evaluated. Evaluating and coordinating those programs could reduce the need for the director to declare weed control emergencies. [1999 c.472 §1]*

*Note: 570.500 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 570 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.*

**570.505 Necessity of eradication of weeds; cooperation in control and eradication.** *Noxious weeds have become so thoroughly established and are spreading so rapidly on state, county and federally owned lands, as well as on property in individual ownership and in transition to county ownership through tax delinquency, that they hereby are declared a menace to the public welfare. While it is recognized that complete eradication may not be practicable, it hereby is established that steps leading to eradication and control are necessary and that responsibility rests not only on the individual landowner and operator but also on the county, state and federal government, and that the county, state and federal government should cooperate with individual owners in the control and eradication of noxious weed pests. [Amended by 1985 c.621 §1]*

**570.510 State and counties to control noxious weeds.** *The state and the respective counties shall control any weeds designated as noxious by the state or the respective counties in any such county on land under their respective ownerships. [Amended by 1985 c.621 §2]*

**570.535 Owner or occupant to eradicate weeds; disposition of fines.** *(1) Each person, firm or corporation owning or occupying land within the district shall destroy or prevent the seeding on such land of any noxious weed within the meaning of ORS 570.515 to 570.600 in accordance with the declaration of the county court and by the use of the best means at hand and within a time declared reasonable and set by the court, except that no weed declared noxious shall be permitted to produce seed.*

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## Oregon Department of Energy (cont.)

*(2) All moneys collected as fines for violation of ORS 570.515 to 570.600 in any county shall be paid into the county treasury and shall become a part of the weed control fund.*

**570.540 Eradication of weeds on public lands and rights of way.** *The State Highway Commission, the respective county courts, reclamation districts and municipalities shall destroy or prevent the spread or seeding of any noxious weed within the meaning of ORS 570.515 to 570.600 on any land owned by them or constituting the right of way for any highway, county road, drainage or irrigation ditch, power or transmission line, or other purposes under their respective jurisdictions.*

**570.570 Duty to clean machinery before moving; weed infested residue not to be moved.** *No person operating or having control of any threshing machinery, clover huller, hay baler, seed cleaning or treating machinery or other machinery shall move said machinery over any public road or from one farm to another without first thoroughly cleaning it. Before moving it, all hay or bundle racks and all other equipment shall be thoroughly swept and cleaned. All hay, straw or other crop residue infested with noxious weeds under the meaning of ORS 570.515 to 570.600 having partially or fully formed seeds shall not be moved from the land on which grown to other lands not infested with any of the weeds in the field from which such crop material came.*

**570.575 Copy of statute to be posted on machinery; copies furnished by county clerk.** *(1) No person shall operate any threshing machine, clover huller or hay baler, seed cleaning or treating machinery or any other similar machinery within any duly created weed control district in this state without first having posted in a conspicuous place on such machinery a copy of ORS 570.570 and this section.*

*(2) The county clerks of the various counties of this state hereby are authorized and directed to have printed a sufficient number of copies of ORS 570.570 and 570.575 and shall deliver such copies upon request to owners or operators of such machinery.*

**Management Plan**

## BAKER COUNTY'S NOXIOUS WEED MANAGEMENT PLAN

## INTRODUCTION

Noxious weeds are being found in ever-increasing numbers throughout Baker County. The spread of noxious weeds signals the decline of entire plant communities: they severely impact the beauty and plant diversity of occupied environments and cause widespread economic impact. These alien invasive weeds are considered one of the most serious natural resource and economic issues facing Baker County. Without major increased management efforts weeds will continue to spread across the area and degrade productive lands that are Baker County's heritage.

**ATTACHMENT****S3****Oregon Department of Energy (cont.)**

THE PURPOSE of the Baker County Noxious Weed Management Plan is to provide a written strategy that will guide weed management activities now and into the future.

1. Effectively control and reduce the spread of invasive noxious weeds in Baker County.
2. Reduce economic and environmental losses to Baker County landowners/managers caused by noxious weeds.
3. Implement the Weed Policy and Classification System.
4. Display the role and By-Laws for the Baker County Noxious Weed Advisory Committee.
5. Display individual noxious weed management strategies and plans.
6. Identify traditional and non-traditional funding sources for weed programs.
7. Provide public awareness/education of the serious nature of the weed problem.
8. Encourage cooperation and coordination between jurisdictions, agencies, land managers, and private owners.
9. To obtain compliance with federal, state and local laws, regulations, and polices regarding noxious weed control.

**BAKER COUNTY WEED POLICY AND CLASSIFICATION SYSTEM**

"NOXIOUS WEED" means any weed designated by the Baker County Board of Commissioners that is injurious to public health, agriculture, range, recreation, wildlife, or any public or private property; any weed that impacts and displaces desirable vegetation, such as Threatened and Endangered Plant Species, wildlife habitat, livestock, etc.

It is acknowledged that certain noxious weeds have become so thoroughly established and are spreading so rapidly on state, county, and federally owned lands, as well as on private land, that they may have been declared by Oregon Revised Statute 570.505 to be a menace to public welfare. Steps leading to eradication where possible, are necessary. It is further recognized that the responsibility for such eradication and/or intensive control rests not only on the private landowner and operator, but also on the county, state, and federal government.

**WEED CONTROL POLICY**

**ATTACHMENT****S3****Oregon Department of Energy (cont.)**

THEREFORE, IT SHALL BE THE POLICY OF BAKER COUNTY TO:

1. Increase awareness of potential economic loss due to existing and new invading weeds through continuous education with the public.
2. Rate and classify weeds at the county level.
3. Prevent the establishment and spread of noxious weeds.
4. Encourage and implement the control or containment of infestations of designated weed species and, where possible, their eradication. When budgets allow, offer a landowner cost share program for "A" rated weeds, as well as those weeds designated appropriate for cost share assistance by the Board of Commissioners.
5. Manage a biological control of weeds program for yellow starthistle, leafy spurge, St. Johns Wort, Canada thistle, rush skeletonweed, diffuse knapweed, spotted knapweed, and others, in cooperation with ODA's Biological Control of Weeds Program.
6. Cooperate with other states, federal agencies, private citizens, the Tri-County Weed Management Area and other groups in enhancing the Baker County Vegetation Management Program.

**NOXIOUS WEED CONTROL RATING SYSTEM**

Noxious weeds, for the purpose of this system, shall be designated "A", "B", "C".

1. "A" designated weed: a weed of known economic importance which occurs in small enough infestations to make eradication/containment possible; or not known to occur, but its presence in adjacent counties makes future occurrence seem imminent.

RECOMMENDED ACTION: Infestations are subject to intensive control when and where found by Baker County with possible assistance from the Oregon Department of Agriculture.

2. "B" designated weed: a weed of known economic importance, which is locally abundant, but of limited distribution in other counties.

RECOMMENDED ACTION: Moderate to intensive control at the county level.

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## Oregon Department of Energy (cont.)

3. "C" designated weed: a weed of economic importance which is abundant countywide and in adjacent counties.

RECOMMENDED ACTION: Moderate control at the county level.

Baker County "A", "B", "C" and "Watch Weed" Designated Weeds

"Watch List" – Few Known Sites; Controlled by Weed Supervisor County-Wide

- |                       |                            |
|-----------------------|----------------------------|
| 1. Musk Thistle       | <i>Carduus nutans</i>      |
| 2. Mediterranean sage | <i>Salvia aethiops</i>     |
| 3. Dyers Woad         | <i>Istaxis tinctoria</i>   |
| 4. Common bugloss     | <i>Anchusa officinalis</i> |

"A" Designated Weeds – Mandatory Control County-wide

- |                         |                               |
|-------------------------|-------------------------------|
| 1. Tansy ragwort        | <i>Senecio jacobaea</i>       |
| 2. Leafy spurge         | <i>Euphorbia esula</i>        |
| 3. Rush skeletonweed    | <i>Chondrilla juncea</i>      |
| 4. Spotted knapweed     | <i>Centaurea maculosa</i>     |
| 5. Diffuse knapweed     | <i>Centaurea diffusa</i>      |
| 6. Dalmation toadflax   | <i>Linaria dalmatica</i>      |
| 7. Yellow starthistle   | <i>Centaurea solstitialis</i> |
| 8. Perennial pepperweed | <i>Lepidium latifolium</i>    |
| 9. Purple loosestrife   | <i>Lyrum salicaria</i>        |
| 10. Black henbane       | <i>Hyoscyamus niger</i>       |
| 11. Jointed goatgrass   | <i>Aegilops cylindrica</i>    |
| 12. Buffalobur          | <i>Solanum rostratum</i>      |
| 13. Japanese knotweed   | <i>Polygonum cuspidatum</i>   |
| 14. Scotch Thistle      | <i>Onopordum acanthium</i>    |
| 15. Yellow flag iris    | <i>Iris pseudacorus</i>       |
| 16. Salt Cedar          | <i>Tamarix ramosissima</i>    |
| 17. Whitetop            | <i>Lepidium draba</i>         |

Whitetop is listed as an "A" weed in designated areas of the County. Pine Valley and West Baker Valley and Bowen Valley/Sumpster areas are Mandatory Control. Contact Baker County Weed Control for specific information at 523-0618.

"B" Designated Weeds – Widespread and/or of High Concern

Whitetop *Lepidium draba*

NOTE!: Whitetop is a "B" weed in all other areas of the County not listed in the above section.

- |                  |                           |
|------------------|---------------------------|
| Russian knapweed | <i>Centaurea repens</i>   |
| Canada thistle   | <i>Cirsium vulgare</i>    |
| Venice mallow    | <i>Hibiscus trionum</i>   |
| Yellow toadflax  | <i>Linaria vulgaris</i>   |
| Dodder           | <i>Cuscuta campestris</i> |
| Chickory         | <i>Cichorium intybus</i>  |
| Teasel           | <i>Dipsacus fullonum</i>  |

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## Oregon Department of Energy (cont.)

Common Tansy	<i>Tanacetum vulgare</i>
Klamathweed	<i>Hypericum perforatum</i>
Puncturevine	<i>Tribulus terrestris</i>
12. Myrtle spurge	<i>Euphorbia myrsinites</i>
13. Sulfur cinquefoil	<i>Potentilla recta</i>
“C” Designated Weeds – Widespread and/or of Moderate Concern	
1. Poison hemlock	<i>Conium maculatum</i>
2. Morningglory	<i>Convolvulus arvensis</i>
3. Russian thistle	<i>Salsola iberica</i>
4. Medusahead wildrye	<i>Taeniatherum caput-medusae</i>
5. Kochia	<i>Kochia scoparia</i>
6. Common mullein	<i>Verbascum thapsis</i>
7. Moth mullein	<i>Verbascum blattaria</i>
8. Bur buttercup	<i>Ranunculus testiculatus</i>
9. Water hemlock	<i>Cicuta douglasii</i>

## SPECIFIC NOXIOUS WEED MANAGEMENT STRATEGIES

## Leafy Spurge Management

Leafy Spurge is considered one of the worst range weeds in the west because of its ability to spread and to defy control. This weed has caused rangelands to become non-productive and has proven to be a liability to landowners.

## The Strategy:

There shall be an area of the Alder Creek spurge infestation, which shall be referred to as "the containment area" (approximately 80 sections). Responsibility for, and implementation and control of the spurge in this area, shall rest with the landowner/manager. The County Noxious Weed Program may enter into assistance agreements to reduce the spurge within this area. Efforts to control leafy spurge are non-discretionary and landowners/managers must show a good faith effort, or be cited under Oregon Weed Law.

The landowner is encouraged to develop a long-range plan with the help of Baker County's Weed Supervisor, ODA, NRCS, and OSU Extension Agent for grazing, biological and chemical control to reduce the spread, stop its further encroachment and to stop the spread off site. The Noxious Weed Program must take responsibility for keeping spurge off the public use roads in the containment area to stop the threat of spurge movement on vehicles.

The remainder of the county shall consider leafy spurge as an "A" Rated weed to be treated with early detection of new infestations and subsequent eradication as the goal.

## ATTACHMENT

S3

## Oregon Department of Energy (cont.)

An important project that needs to continue is the comprehensive survey and mapping of the areas known to contain spurge. All of the area surrounding Alder Creek and Burnt River should be surveyed and mapped, as well as areas surrounding the small infestations in Pine Valley, Sumpter Valley and the old Ringer Ranch. The small infestations outside of Alder Creek should be treated while this information is being gathered.

All participants in any leafy spurge project must be made aware that this is a very long-term project, but the stakes are high. If we do nothing more than hold our ground we're doing better than most. The alternative is losing the land to the spurge.

## Mediterranean Sage Management

Mediterranean sage is known to occur only on a limited acreage between Haines and North Powder, Pine Creek (Hereford area), and North Pine Creek on the Wallowa Loop Road out of Halfway. Since these are the only known sites in Baker County and there are none elsewhere in northeast Oregon, Mediterranean sage should be targeted for an active eradication program.

## The Strategy:

The Oregon Department of Agriculture and Baker County has done some of the mapping of this site and initiated a containment effort. The infestation appears to have started from road and mining equipment then spread with wind, water and equipment. The Oregon Department of Agriculture and Baker County should cooperatively control this infestation with funding assistance from the Oregon Department of Transportation, BLM, and the private landowner.

## Knapweed Management

Diffuse, Russian and Spotted Knapweed represents a very severe threat to Baker County from a crop, wildlife and livestock prospective. The knapweeds can be found scattered throughout the county at increasing levels. If prompt action is taken, a serious knapweed problem such as exists in northern Union or the Columbia Basin counties can be avoided. Knapweeds should be the focus of an intensive education campaign so that every range and forest user should be looking for it.

## The Strategy:

An active county program to keep knapweeds from reproducing on state and county roads would help stop most of the new infestations. Cost-share control programs with the known acreage on private land would not cost much at this point. An important project to complete is an extensive county-wide survey and mapping effort. This would yield information concerning all of the priority weeds.

## Dalmatian Toadflax Management

**ATTACHMENT****S3****Oregon Department of Energy (cont.)**

Dalmatian Toadflax is another range/pasture invader that is posing a serious threat to Baker County lands. There are scattered infestations around the county which need to be dealt with. Toadflax has an extensive root system and its waxy leaf makes this an extremely difficult plant to control.

The Strategy:

Toadflax is moving into Baker County along Highway 7 from Grant County. At present plants are encountered in and around the Sumpter area and have the potential to takeover the Sumpter Valley Dredge tailings. Cooperation and coordination will be required from Sumpter area residents if this weed is to be controlled.

The old Melhorn Mill site in Halfway is currently being sprayed to stop toadflax. This infestation should remain a top priority.

The gravel pit below Huntington along the Snake River Road and the surrounding range supports the largest known area of toadflax in the county. The gravel area itself must be kept clear of toadflax to avoid spreading the problem to new areas. A cooperative program with the B.L.M. and the private landowners needs to be developed to stop the toadflax from further spread.

#### Yellow Starthistle Management

Yellow starthistle has been the target of various levels of attack for a number of years. At this time it would appear that it is not possible to pursue complete eradication of yellow starthistle in Baker County.

The Strategy:

A containment area (approximately 110 sections) has been developed encompassing the known area where yellow starthistle is being found and an action plan has been formulated with the landowners and area federal land managers to: a) reduce the economic impact of yellow starthistle within the containment zone and, b) stop the spread out of this zone. The remainder of the county should be considered an eradication zone for yellow starthistle.

An integrated approach to controlling yellow starthistle will be necessary within the containment zone, which will include some seeding of more competitive species of grass, grazing management, herbicide use and biological controls. The Weed District, Keating SWCD, BLM, ODA, and the affected landowners should devise an effective containment agreement that would address equipment, livestock, hay and dried plants movement to avoid seed dispersal to other areas.

#### Rush Skeletonweed Management

**ATTACHMENT**

**S3**

**Oregon Department of Energy (cont.)**

There is an explosion of rush skeletonweed occurring in the Panhandle of Baker County. An Extensive inventory has included sighting of this invasive weed over a gross area of more than 70,000 acres.

Skeletonweed is of particular concern because of its ability to spread rapidly over long distances and to degrade rangelands rapidly. The population center is near the junction of the Snake River and the Powder River. Plants are being discovered in Eagle Valley, Pine Valley, Dry Creek, North Pine Creek and Oxbow.

The Strategy:

Field surveys need to occur and be followed by chemical treatment of each plant or group of plants. This plant should not be pulled because of its ability to re-sprout vigorously.

A containment area boundary (approximately 120 sections) has been drawn where sightings have occurred. Area residents are being alerted to this new weed threat and aggressive action taken at all known sites.

Any questions regarding the criteria listed above may be directed to the Baker County Planning Department, (541) 523-8219.

Respectfully Submitted,

Mark Bennett  
Director

**ATTACHMENT**

**S3**

**Oregon Department of Energy (cont.)**



**MALHEUR COUNTY**

PLANNING

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**DEPARTMENT**

251 B Street West, #12 ■ Vale, Oregon 97918 ■ (541) 473-5185 ■ Fax (541) 473-5168

December 2, 2008

Adam Bless  
Energy Facilities Analyst  
Oregon Department of Energy  
625 Marion Street NE  
Salem, OR 97301

RE: Boardman to Hemingway Transmission Line Project

Dear Adam:

Attached are the comprehensive plan policies, substantive land use criteria from the Malheur County land use regulations and the Oregon statutes and rules applicable to the Idaho Power transmission line project in Malheur County. We reserve the to make comments and amend our substantive criteria in accordance with state law any time before the application is filed.

Yours truly,

Jon D. Beal  
Planning Director

**ATTACHMENT****S3****Oregon Department of Energy (cont.)**

Idaho Power Company  
Boardman, Oregon to Hemingway, Idaho  
500kV Transmission Line Project

**APPLICABLE STATE AND LOCAL REGULATIONS  
REGARDING UTILITY FACILITIES**

Malheur County Code

**MCC Chapter 1, PURPOSE AND DEFINITIONS, Section 6-1-3**

**UTILITY FACILITIES:** Any major structure or facility owned or operated by a public, private or cooperative electric, fuel, communication, sewage or water company for the generation, transmission, distribution or processing of its product or for the disposal of cooling water, waste or byproducts, and including power transmission lines, wireless telecommunications facilities, transmission tower, major trunk pipelines, power substations, dams, wind and water towers, sewage lagoons, sanitary landfills and similar facilities, but excluding sewer, water, gas, local telephone and power distribution lines and similar minor facilities.

**MCC Chapter 3, Article A. Resource Lands, EFU- Exclusive Farm Use, ERU-Exclusive Range Use, EFFU-Exclusive Farm Forest Use**

**Section 6-3A-2: PERMITTED USES:**

(A) The following uses may be permitted outright my ministerial permit in each of the three (3) resource zones except as specifically added or excluded :

(14) Utility facilities necessary for public service, including wetland waste treatment systems but not including commercial facilities for the purpose of generating electrical power for public use or sale or transmission towers over two hundred (200) in height. A utility facility necessary for public may be established as provided in ORS 215.275 and section 6-6-8-8 "Wireless Communication Facilities" of this title.

**MALHEUR COUNTY COMPREHENSIVE PLAN POLICIES**

**GOAL 3: AGRICULTURAL LANDS**

**Goal:** To preserve and maintain the agricultural land in the county for agricultural purposes.

Public and private land classified by the U.S. Coil Conservation

## ATTACHMENT

S3

## Oregon Department of Energy (cont.)

Service as being in Capability Classes I through VI, as well as any other lands determined to be suitable and needed for farm use, are considered to be agricultural lands.

1. Whenever possible, land having the highest agricultural capabilities will be given the greatest protection (Class I has the highest capability; Class VI has the least).
2. In addition to the SCS soil classification system, County Assessor's records will be considered in evaluating individual parcels for the purpose of planning and zoning.
3. In addition to the SCS soil classification system, County Assessor's records will be considered in evaluating individual parcels for the purpose of planning and zoning.
8. The county will work closely with the irrigation and drainage districts when land use decisions affect the distribution of water for irrigation purposes.
12. The county will work closely with the irrigation and drainage districts when land use decisions affect the distribution of water for irrigation purposes.
13. The zoning ordinance will establish Exclusive Farm Use (EFU), Exclusive Farm/Forest Use (EFFU), and Exclusive Range Use (ERU) zones to protect agricultural lands, and it will include provisions limiting development of those lands.

## Oregon Revised Statutes (ORS)

ORS 215.283(1) Uses permitted in exclusive farm use zones in nonmarginal lands counties (Malheur County).

(1) (d) "Utility facilities necessary for public service, including wetland waste treatment systems but not including commercial facilities for the purpose of generating electrical power for public sale or transmission towers over 200 feet in height. A utility facility necessary for public service may be established as provided in ORS 215.275."

ORS 215.275 Utility facilities necessary for public service; criteria; mitigating impact of facility.

(1) A utility facility established under ... ORS 215.283(1) (d) is necessary for public service if the facility must be sited in an exclusive farm use zone in order to provide service.

(2) To demonstrate that a utility facility is necessary, an applicant for approval under ORS 215.283(1) (d) must show that reasonable alternatives have been considered and that the facility must be sited in an exclusive farm use zone due to one or more of the following factors:

## ATTACHMENT

S3

## Oregon Department of Energy (cont.)

- (a) Technical and engineering feasibility;
- (b) The proposed facility is locationally dependent. A utility facility is locationally dependent if it must cross land in one or more areas zoned for exclusive farm use in order to achieve a reasonably direct route or to meet unique geographical need that cannot be satisfied on other lands.
- (c) Lack of available urban or nonresource lands;
- (d) Availability of existing rights of way;
- (e) Public health and safety; and
- (f) Other requirement of state or federal agencies.

(3) Costs associated with any of the factors listed in subsection (2) of this section may be considered, but cost alone may not be the only consideration in determining that a utility facility is necessary for public service. Land costs shall not be included when considering alternative locations for substantially similar utility facilities. The Land Conservation and Development Commission shall determine by rule how land costs may be considered when evaluating the siting of utility facilities that are not substantially similar.

(4) The owner of a facility approved under ORS 215.213(1)(d) or 215.283(1)(d) shall be responsible for restoring, as nearly as possible, to its former condition any agricultural land and associated improvements that are damaged or otherwise disturbed by siting, maintenance, repair or reconstruction of the facility. Nothing in this section shall prevent the owner of the utility facility from requiring a bond or other security from a contractor or otherwise imposing on a contractor the responsibility for restoration.

(5) The governing body of a county or its designee shall impose clear and objective conditions on an application for utility facility siting under ORS 215.213(1)(d) or 215.283(1)(d) to mitigate and minimize the impacts of the proposed facility, if any, on surrounding lands devoted to farm use in order to prevent a significant change in accepted farm practices or a significant increase in the cost of farm practices on the surrounding farmlands.

(6) The provisions of subsections (2) to (5) of this section do not apply to interstate natural gas pipelines and associated facilities authorized by and subject to regulation by the Federal Energy Regulatory Commission.

ORS 772.210 Right of entry and condemnation of lands for construction of service facilities.

**ATTACHMENT****S3****Oregon Department of Energy (cont.)**

(1) Any public utility, electrical cooperative association or transmission company may:

(a) Enter upon lands within this state in the manner provided by ORS 35.220 for the purpose of examining, locating and surveying the line thereof and also other lands necessary and convenient for the purpose of construction of service facilities, doing no unnecessary damage thereby.

(b) Condemn such lands not exceeding 100 feet in width for its lines (including poles, towers, wires, supports and necessary equipment therefor) and in addition thereto, other lands necessary and convenient for the purpose of construction of service facilities. If the lands are covered by trees that are liable to fall and constitute a hazard to its wire or line, any public utility or transmission company organized for the purpose of building, maintaining and operating a line of poles and wires for the transmission of electricity for lighting or power purposes may condemn such trees for a width not exceeding 300 feet, as may be necessary or convenient for such purpose.

(2) Notwithstanding subsection (1) of this section, any public utility, electrical cooperative association or transmission company may, when necessary or convenient for transmission lines (including poles, towers, wires, supports and necessary equipment therefor) designed for voltages in excess of 330,000 volts, condemn land not to exceed 300 feet in width. In addition, if the lands are covered by trees that are liable to fall and constitute a hazard to its wire or line, such public utility or transmission company may condemn such trees for a width not exceeding 100 feet on either side of the condemned land, as may be necessary or convenient for such purpose.

(3) Notwithstanding subsection (1) of this section, a water or gas public utility may condemn such lands, not exceeding 50 feet in width, as may be necessary or convenient for purposes of constructing, laying, maintaining and operating its lines, including necessary equipment therefor.

(4) The proceedings for the condemnation of such lands shall be the same as that provided in ORS chapter 35, provided that any award shall include, but shall not be

## ATTACHMENT

S3

## Oregon Department of Energy (cont.)

limited to, damages for destruction of forest growth, premature cutting of timber and diminution in value to remaining timber caused by increased harvesting costs.

## Oregon Administrative Rules (OAR)

OAR 660-033-0130 Minimum Standards Applicable to the Schedule of Permitted and Conditional Uses on Agricultural lands.

(16) (a) "A utility facility is necessary for public service if the facility must be sited in an exclusive farm use zone in order to provide service. To demonstrate that a utility facility is necessary, and applicant must show that reasonable alternatives have been considered and that the facility must be sited in an exclusive farm use zone due to one or more of the following factors.

- (A) Technical and engineering feasibility;
- (B) The proposed facility is locationally dependent. A utility is locationally dependent if it must cross land in one or more areas zoned for exclusive farm use in order to achieve a reasonably direct route or to meet a unique geographical needs that cannot be satisfied on other lands;
- (C) Lack of available urban and nonresource lands;
- (D) Availability of existing rights of way;
- (E) Public health and safety; and
- (F) Other requirements of state and federal agencies.

## ATTACHMENT

S3

## Oregon Department of Energy (cont.)

(b) Costs associated with any of the factors listed in subsection (16) (a) of this rule may be considered, but cost alone may not be the only consideration in determining a utility facility is necessary for public service. Land costs shall not be included when considering alternative locations for substantially similar utility facilities and the siting of utility facilities and the siting of facilities that are not substantially similar.

(c) The owner of a utility facility approved under this section shall be responsible for restoring, as nearly as possible, to its former condition any agricultural land and associated improvements that are damaged or otherwise disturbed by the siting, maintenance, repair or reconstruction of the facility. Nothing in this section shall prohibit the owner of the utility facility from requiring a bond or other security from a contractor or otherwise imposing on a contractor the responsibility for restoration.

(d) The governing body of the county or its designee shall impose clear and objective conditions on an application for utility facility siting to mitigate and minimize the impacts of the proposed facility, if any, on surrounding lands devoted to farm use in order to prevent a significant change in accepted farming practices or a significant increase in cost of farm practices on surrounding farmlands.

(e) In addition to the provisions of subsections 16(a) to (d) of this rule, the establishment or extension of a sewer system as defined by OAR 660-011-0060(1)(f) in an exclusive farm use zone shall be subject to the provisions of OAR 660-011-0060.

(f) The provisions of subsections 16(a) to (d) of this rule do not apply to interstate natural gas lines and associated facilities authorized by and subject to regulation by the Federal Energy Regulatory Commission.

ATTACHMENT

S3

Oregon Department of Energy (cont.)



ORIGINAL PLANNING DEPARTMENT

P. O. Box 40 • Irion, Oregon 97844  
(541) 922-4624 or (541) 676-9061 x 5503  
FAX: (541) 922-3472

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August 18, 2010

Sue Oliver, Energy Facility Siting Officer  
Oregon Department of Energy  
395 E. Highland Avenue  
Hermiston, OR 97838

Dear Ms. Oliver:

This letter is in response to the Notice of Intent dated July 2010 for the Idaho Power 500 kV transmission line project commonly referred to as Boardman to Hemingway. The purpose of this letter is to provide the Morrow County substantive criteria applicable to this project. Future letter(s) will review this criteria as applied to the proposed project, with the intent to provide to the Oregon Department of Energy and the Energy Facility Siting Council Morrow County's interpretation of our local ordinances relative to the project.

**Morrow County Zoning Ordinance:**  
*Exclusive Farm Use*

The proposed use, a transmission line, meets the definition found in Oregon Revised Statute 215.283(1)(d) which states that the following uses may be established in any area zoned for exclusive farm use, specifically, "utility facilities necessary for public service, including wetland waste treatment systems but not including commercial facilities for the purpose of generating electrical power for public use by sale or transmission towers over 200 feet in height. A utility facility necessary for public service may be established as provided in ORS 215.275." In Morrow County this is codified within our Zoning Ordinance as an allowed use in Article 3 Use Zones Section 3.010 Exclusive Farm Use C. Uses Permitted Outright 16. *Utility and transmission towers not exceeding 200 feet in height.* There is another component found in D. Conditional Uses Permitted 17. *Utility facilities "necessary" for public service, excluding commercial utility facilities for the purpose of generating power for public use by sale, and transmission towers over 200 feet in height. A utility facility is necessary for public service if the facility must be sited in an exclusive farm use zone in order to provide the service. To demonstrate that a utility facility is necessary, an applicant must show that reasonable alternatives have been considered and that the facility must be sited in an exclusive farm use zone due to one or more of the factors listed in OAR 660-033-0130(16).* It must be stated that the Morrow County Zoning Ordinance is out of date and does not comply with the Supreme Court decision of *Brentmar v Jackson County* which states that counties can not apply conditional criteria to uses listed in ORS 215.283(1). Therefore Morrow County will apply ORS 215.283(1)(d) directly. Also to be applied directly is ORS 215.275 which has not been codified as part of the Morrow County Zoning Ordinance.

Idaho Power Boardman to Hemingway  
Notice of Intent Substantive Criteria Letter  
Page 1

[www.morrowcountyoregon.com](http://www.morrowcountyoregon.com)

## ATTACHMENT

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## Oregon Department of Energy (cont.)

*General Industrial*

If the application for Boardman to Hemingway is submitted and the current provisions are applied a Conditional Use Permit will be required under the "public or semi-public use" provision under Conditional Uses. Morrow County is initiating changes to the General Industrial use zone and once adopted transmission towers under 200 feet will become an allowed use with a requirement for a Zoning Permit. The General Industrial use zone, Conditional Use Permit and Zoning Permit criteria are attached.

*Space Age Industrial*

Based on previous transmission routing applications Morrow County amended the Space Age Industrial use zone in July 2009 to allow the siting of utility facilities. Transmission towers less than 200 feet in height are treated similarly to transmission towers less than 200 feet on farm land and must meet the criteria found in Oregon Revised Statute 215.275. For towers over 200 feet a Conditional Use Permit is required. The Space Age Industrial use zone criteria is attached.

**Morrow County Comprehensive Plan:***Energy Conservation Element*

This element of the Comprehensive Plan focuses on conservation efforts and renewable energy. There is no specific language directed to transmission or transmission corridors. The element does state, "the primary goals set forth in this element of the 'Plan' are directed at conserving energy, maintaining energy sources and costs, and identification of alternative energy sources." Planning staff would interpret this to be generally supportive of the project proposed by Idaho Power.

*Agricultural Lands*

The Comprehensive Plan Agricultural Lands Element does not address transmission directly, but does state that "relatively cheap hydro-electricity has been a cornerstone for irrigation development in northern Morrow County..." This is further supported in Findings 17 and 19 which both address power and the need for it to be reliable and inexpensive. Finding 17 states "Capital intensive agriculture requires adequate transportation and storage facilities, housing for temporary workers and reliable sources of power, water, supplies, and machinery parts." Finding 19 states "Northern Morrow County's irrigated agricultural economy depends on the continued availability of relatively less expensive hydro-electric power." As distribution of electricity becomes constrained prices could increase. These statements concerning cheap and available power are still relevant today and if the Boardman to Hemingway project can sustain or increase available power and keep it reasonably priced, that would be considered to be in support of the Comprehensive Plan Agricultural Lands Element.

*Natural Hazards Element*

The Natural Hazards Element is outdated, but provides some basic information concerning various hazards generally found in Morrow County. Additional work was done by the County in 2006 when preparing the County's Pre-Disaster Mitigation Plan to comply with FEMA requirements. As the final route is identified in Morrow County an analysis shall be done to determine any conflicts with natural hazards generally and specifically for compliance with the County's Zoning Ordinance Article 3 Section 3.100 Flood Hazard Overlay Zone. This Section can be found on the County's web site.

## ATTACHMENT

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## Oregon Department of Energy (cont.)

*Public Facilities and Services Element*

Utilities are discussed within this element, however the focus is on providers and not transmission. There are some statements about substations that may also be applicable.

The Utility Findings address the need for additional sources of electrical power in the northwest and have some comments towards substations. Utility Findings C and D specifically discuss substations and siting implications and may have applicability. Utility Finding C states "Electrical power substations can create negative environmental impacts on nearby property. Careful site planning and physical design can minimize adverse environmental effects." Utility Finding D states "Power and other energy substations should be centrally located to the area served as much as possible to facilitate economic and energy conservation goals."

General Policy statement F states, "All utility lines and facilities shall be located on or adjacent to existing public or private right-of-way or through generally unproductive lands to avoid dividing existing farm units." The following Utility Policies concerned with substations may be applicable: Utility Policy B states "Power substations should be centrally located to the service area as much as possible to assure economic service and facilitate energy conservation" and Utility Policy C states "Power substations should be planned and designed in a manner which will minimize negative environmental impacts on nearby properties and the public as a whole."

*Natural Resources Element*

An analysis of Goal 5 resources may be in order to identify potential impacts to the Cecil Store (if the alternative route is used) and the Oregon Trail, both identified in the Morrow County Comprehensive Plan and listed under Historic Sites, Structures and Objectives. The Cecil Store is in private ownership on private land; the Oregon Trail traverses both public and private land.

A variety of habitat areas and species are identified within the Comprehensive Plan, but relatively few are mapped. As Idaho Power identifies a final route on-the-ground surveys should be conducted to identify impacts to wildlife and habitat areas. Species to be aware of are: Washington Ground Squirrel; the Long-billed Curlew, Bald and Golden Eagles, particularly nesting sites; and furbearers. There are three Wildlife Management Areas within Morrow County, with the Coyote Springs area near the Coyote Springs generating facility could be impacted by this transmission line. As the route is further defined review of this area, and possibly other areas, should be done to determine any impacts to habitat and species. Other species of concern identified since development of the Comprehensive Plan include: Ferruginous Hawk; Loggerhead Shrike; and Sage Sparrow.

**Other Known Plans:***Transportation System Plan*

The Morrow County Transportation System Plan (TSP) does address Utilities, albeit briefly. In Chapter 3 Existing Conditions and Inventory Utilities are identified and discussed. Future amendments to the TSP will need to include reference to the development of this and other transmission lines. There are no specific policies that would apply to this application, however if the construction of the facility would trigger a Traffic Impact Analysis it is Morrow County's TSP that would provide the basis for that study.

Idaho Power Boardman to Hemingway  
Notice of Intent Substantive Criteria Letter  
Page 3

## ATTACHMENT

S3

## Oregon Department of Energy (cont.)

*Blue Mountain Scenic Byway Interpretive Guide*

The proposed alternative route would cross the Blue Mountain Scenic Byway (Bluway). Morrow County has not adopted any Ordinances concerned with the Bluway, but does include reference to the Bluway when appropriate. There is a "Blue Mountain National Scenic Byway Interpretive Guide" published by the Umatilla National Forest in about 1993 when the Bluway was adopted. This Interpretive Guide is not regulatory and is intended to guide development along and for the Bluway. Morrow County Planning staff can provide a copy of the Interpretive Guide, if necessary. Information about the Bluway can be found on the Internet.

*Pre-Disaster Mitigation Plan*

The Plan was discussed previously as part of the Natural Hazards Element of the Comprehensive Plan. It may have applicability to determine landslide or flood hazards along the final route.

*Solid Waste Management Plan and Ordinance*

Morrow County adopted the current Plan and Ordinance in April 2006. Relevance to the Boardman to Hemingway Transmission Line would be the requirements found in the Solid Waste Ordinance Section 5.000 Public Responsibilities. Both Plan and Ordinance are available on the County web site.

If you have questions concerning this letter or need additional information, please contact me at the number above or by email at [cmclane@co.morrow.or.us](mailto:cmclane@co.morrow.or.us).

Cordially,

Carla McLane  
Planning Director

cc: Keith Georgeson, Idaho Power

Idaho Power Boardman to Hemingway  
Notice of Intent Substantive Criteria Letter  
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## ATTACHMENT

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## Oregon Department of Energy (cont.)

**SECTION 3.070. GENERAL INDUSTRIAL ZONE, M-G**

SECTION 3.070. General Industrial Zone, M-G. In an M-G Zone, the following regulations shall apply:

A. Uses Permitted Outright. In an M-G Zone, the following uses and their accessory uses are permitted outright; except as limited by subsection C of this section. A Zoning Permit is required and projects larger than 100 acres are subject to Site Development Review (Article 4 Supplementary Provisions Section 4.170 Site Development Review).

1. Retail, wholesale or service business establishments except a use set forth in subsection B and subject to the limitations set forth in subsection C of this section.
2. Farming.
3. Residence including a mobile home for caretaker or night watchman on property with an existing industrial use, or for the owner of said industrial use.
4. Freight depot.
5. Contractor's or building materials business, and other construction related businesses including plumbing, electrical, roofing, siding, etc., provided such is wholly enclosed within a building or no outside storage is permitted unless enclosed by sight obscuring fencing.
6. Ice or cold storage plant.
7. Wholesale distribution outlet, including warehousing, but excluding open outside storage.
8. Welding, sheet metal, or machine shop provided such is wholly enclosed within a building or all outside storage is enclosed by sight obscuring fencing.
9. Veterinary clinic or kennel.
10. Laboratory for experiment, research or testing.
11. Compounding, packaging and storage of cosmetics, drugs, perfumes, pharmaceuticals, soap or toiletries, excluding all processes involving refining or rendering of fats and oils.
12. Government buildings including armories, maintenance, repair or storage facilities provided all outside storage is enclosed by sight obscuring fencing.
13. Manufacture, repair or storage of ceramic products, musical instruments, novelties, rubber or metal stamps, toys, optical goods, scientific or electronic supplies and equipment, business machines, pleasure boats, furniture, signs and similar operations provided no outside storage is involved.
14. Processing, packaging and storage of foods and beverages excluding those involving distillation, fermentation, rendering of fats or oils, and slaughtering.

B. Conditional Uses. In an M-G Zone, the following uses and their accessory uses are permitted when authorized in accordance with the provisions of this section and Article 6 of this ordinance:

## ATTACHMENT

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## Oregon Department of Energy (cont.)

1. Any use permitted when authorized by subsection (1) of this section on a lot within a duly platted subdivision or residential zone.
2. Public or semi-public use.
3. The resumption of a residential use including a mobile home where the subject use has previously been conducted and has not been discontinued for a period exceeding six months.
4. Manufacturing, repair, servicing and storage of machinery, implements, equipment, trailers, recreational vehicles or manufactured homes with retail sales and rentals only associated with the primary use.
5. Any use permitted by subsection A of this section where open outside storage is involved.
6. Concrete or ready-mix plant.
7. Automobile and other automotive wrecking yard.
8. Quarry, gravel pit, subsurface or surface mining, including crushing, screening, or washing of extracted materials.
9. Commercial feed lot, stock yard, sales yard, slaughter house, and rendering plant.
10. Railroad trackage and related facilities.
11. Lumber and other wood products manufacturing.
12. Agricultural products storage and processing plants.
13. Any use permitted by subsection (1) of this section which is proposed to exceed or expected to exceed the following standards:
  - a. Occupy more than 70% of the land area designed or designated for said use.
  - b. Generates any odor, fumes, glare, flashing lights or noise which is perceptible from a resident located within 500 feet from the property line of the subject use without instruments.
14. Manufacture, repair or storage of articles manufactured from bone, cellophane, cloth, cork, feathers, felt, fiber, glass, stone, paper, plastic, precious or semi-precious stone or metal, wax, wire, wood, rubber, yarn and similar materials provided such uses do not create a nuisance because of odor, noise, dust, smoke, gas, traffic, or other factors.
15. Solid waste facilities and sites as governed by the Morrow County Solid Waste Plan and Ordinance.
16. Rail loop and spur dependent uses.
17. Other buildings and uses similar to the list above which shall not have any different or more detrimental effect upon the adjoining areas or districts than the buildings and uses specifically listed. Such uses shall only be incidental and directly related to the operation of permitted General Industrial uses.

## ATTACHMENT

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## Oregon Department of Energy (cont.)

C. Use Limitations. In an M-G Zone, the following limitations and standards shall apply to all permitted uses:

1. No use permitted under the provisions of this section that requires a lot area exceeding two (2) acres shall be permitted to locate adjacent to an existing residential lot in a duly platted subdivision, or a lot in a residential zone, except as approved by the Commission.
2. No use permitted under the provisions of this section that is expected to generate more than 20 auto-truck trips during the busiest hour of the day to and from the subject property shall be permitted to locate on a lot adjacent to or across the street from a residential lot in a duly platted subdivision, or a lot in a residential zone.

D. Dimension Requirements. The following Dimensional requirements apply to all buildings and structures constructed, placed or otherwise established in the MG zone.

1. Lot size and frontage: A minimum lot size has not been determined for this zone although the lot must be of a size necessary to accommodate the proposed use, however, it is anticipated that most, if not all uses will be sited on lots of at least two acres. The determination of lot size will be driven by the carrying capacity of the land given the proposed use. Minimum lot frontage shall be 300 feet on an arterial or collector; 200 feet on a local street.
2. Setbacks: No specific side or rear yard setbacks are identified within this zone, but may be dictated by provisions of the Building Code or other siting requirements. The minimum setback between a structure and the right-of-way of an arterial shall be 50 feet. The minimum setback of a structure from the right-of-way of a collector shall be 30 feet, and from all lower class streets the minimum setback shall be 20 feet. There shall be no setback requirement where a property abuts a railroad siding or spur if the siding or spur will be utilized by the permitted use.
3. Stream Setback: All sewage disposal installations such as outhouses, septic tank and drainfield systems shall be set back from the high-water line or mark along all streams and lakes a minimum of 100 feet, measured at right angles to the high-water line or mark. All structures, buildings, or similar permanent fixtures shall be set back from the high-water line or mark along all streams or lakes a minimum of 10 feet measured at right angles to the high-water line or mark.
4. Uses adjacent to residential uses. A slight-obscuring fence shall be installed to buffer uses permitted in the General Commercial Zone from residential uses. Additional landscaping or buffering such as diking, screening, landscaping or an evergreen hedge may be required as deemed necessary to preserve the values of nearby properties or to protect the aesthetic character of the neighborhood or vicinity.

E. Transportation Impacts

1. Traffic Impact Analysis (TIA). In addition to the other standards and conditions set forth in this section, a TIA will be required for all projects generating more than 400 passenger car equivalent trips per day. Heavy vehicles – trucks, recreational vehicles and buses – will be defined as 2.2 passenger car equivalents. A TIA will include: trips generated by the project, trip distribution for the project, identification of intersections for which the project adds 30 or more peak hour passenger car equivalent trips, and level of service assessment, impacts of the project, and, mitigation of the impacts. If the corridor is a State Highway, use ODOT standards. (MC-C-8-98)

## ATTACHMENT

S3

## Oregon Department of Energy (cont.)

## ARTICLE 6. CONDITIONAL USES

## SECTION 6.010. AUTHORIZATION TO GRANT OR DENY CONDITIONAL USES.

A conditional use listed in this ordinance shall be permitted, altered or denied in accordance with the standards and procedures of this ordinance and this article by action of the Planning Commission unless exempted by Section 6.015. In the case of a use existing prior to the effective date of this ordinance and classified in this ordinance as a conditional use, a change in use or in lot area or an alteration of structure shall conform with the requirements for a conditional use.

## SECTION 6.015. REQUIREMENTS UNDER A STATE ENERGY FACILITY SITE CERTIFICATE.

If a holder of a Site Certificate issued by the Oregon Energy Facility Siting Council requests a conditional use permit for an energy facility as outlined under ORS 469.401(3) and pays the requisite fee, the Planning Director shall issue such conditional use permit. The conditional use permit shall incorporate only the standards and conditions in Morrow County's land use and other ordinances as contained in the site certificate. Issuance of the Conditional Use Permit shall be done promptly, not taking more than four weeks once it has been determined that a valid Site Certificate has been issued, the applicant has submitted a complete application and the fee has been received.

SECTION 6.020. GENERAL CRITERIA. In judging whether or not a conditional use proposal shall be approved or denied, the Commission shall weigh the proposal's appropriateness and desirability, or the public convenience or necessity to be served against any adverse conditions that would result from authorizing the particular development at the location proposed and, to approve such use, shall find that the following criteria are either met or can be met by observance of conditions.

A. The proposal will be consistent with the Comprehensive Plan and the objectives of the Zoning Ordinance and other applicable policies and regulations of the County.

## ATTACHMENT

S3

## Oregon Department of Energy (cont.)

B. If located within the Urban Growth Boundary of a city, that said city has had an opportunity to review and comment on the subject proposal.

C. The proposal will not exceed carrying capacities of natural resources or public facilities.

**SECTION 6.030. GENERAL CONDITIONS.** In addition to the standards and conditions set forth in a specific zone, this article, and other applicable regulations, in permitting a new conditional use or the alteration of an existing conditional use, the Commission may impose conditions which it finds necessary to avoid a detrimental impact and to otherwise protect the best interests of the surrounding area or the County as a whole. These conditions may include the following:

A. Limiting the manner in which the use is conducted including restricting the time an activity may take place and restraints to minimize such environmental effects as noise, vibration, air pollution, glare and odor.

B. Establishing a special yard or other open space or lot area or dimension.

C. Limiting the height, size or location of a building or other structure.

D. Designating the size, number, location and nature of vehicle access points.

1. Where access to a county road is needed, a permit from Morrow County Public Works department is required. Where access to a state highway is needed, a permit from ODOT is required.

2. In addition to the other standards and conditions set forth in this section, a Traffic Impact Analysis (TIA) will be required for all projects generating more than 400 passenger car equivalent trips per day. A TIA will include: trips generated by the project, trip distribution for the project, identification of intersections for which the project adds 30 or more peak hour passenger car equivalent trips, and level of

## ATTACHMENT

S3

## Oregon Department of Energy (cont.)

service assessment, impacts of the project, and mitigation of the impacts. If the corridor is a State Highway, use ODOT standards. (MC-C-8-98)

E. Increasing the amount of street dedication, roadway width or improvements within the street right-of-way.

1. It is the responsibility of the land owner to provide appropriate access for emergency vehicles at the time of development. (MC-C-8-98)

F. Designating the size, location, screening, drainage, surfacing or other improvement of a parking area or loading area.

G. Limiting or otherwise designating the number, size, location, height, and lighting of signs.

H. Limiting the location and intensity of outdoor lighting and requiring its shielding.

I. Requiring diking, screening, landscaping or another facility to protect adjacent or nearby property and designating standards for its installation and maintenance.

J. Designating the size, height, location and materials for a fence.

K. Protecting and preserving existing trees, vegetation, water resources, wildlife habitat or other significant natural resources.

L. Other conditions necessary to permit the development of the County in conformity with the intent and purpose of this Ordinance and the policies of the Comprehensive Plan.

**SECTION 6.040. PERMIT AND IMPROVEMENTS ASSURANCE.** The Commission may require an applicant to furnish the County with a performance bond or such other form of assurance that the Commission deems necessary to guarantee development in accordance with the standards established and the conditions attached in granting a conditional use permit.

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## ATTACHMENT

S3

## Oregon Department of Energy (cont.)

C. Time Limitation on Transportation-Related Conditional Use Permits. Authorization of a conditional use permit shall be void after a period specified by the applicant as reasonable and necessary based on season, right-of-way acquisition, and other pertinent factors. This period shall not exceed three years. (MC-C-8-98)

D. Private Streets Outside an Urban Growth Boundary. All private streets providing access from a public roadway to a proposed land division shall meet the following standards:

1. Have a minimum sight distance in compliance with adopted County Standards at any intersection with a public road. Additional sight distance or advance warning signage or other devices may be required where known safety hazards exist.
2. For each private street, there shall be a legal recorded document which includes:
  - a. A legal description of the proposed easement;
  - b. Ownership of the street;
  - c. Use rights; and
  - d. A maintenance and construction agreement which includes Fire Marshal approved street specifications and turn around area (if required) and the allocation and/or method of determining liability for maintenance.
3. Where drainage conditions require it, a private street shall be ditched in conformance with the County Road Standards.
4. Private streets which access public or County roads shall be located, designed and constructed (within the public right-of-way) in accordance with adopted standards for County roads.
5. Prior to establishing a private driveway or a private street, the owner shall obtain an access permit for access to the intersecting public road. As a condition of granting access to a public road, the County may require the applicant to clean the ditch serving the parcel and remove sight obstructing vegetation in the vicinity of the access.

## SECTION 4.165 SITE PLAN REVIEW

Site Plan Review is a non-discretionary or "ministerial" review conducted without a public hearing by the County Planning Director or designee. Site Plan Review is for less complex developments and land uses that do not require site development or conditional use review and approval through a public hearing.

A. Purpose. The purpose of Site Plan Review (ministerial review) is based on clear and objective standards and ensures compliance with the basic development standards of the land use district, such as building setbacks, lot coverage, maximum building height, and similar provisions. Site Plan review also addresses conformity to floodplain regulations, consistency with the Transportation System Plan, and other standards identified below.

## ATTACHMENT

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## Oregon Department of Energy (cont.)

B. Pre-application review. Prior to filing its application for site plan review, the applicant shall confer with the County Planning Director or designee, who shall identify and explain the relevant review procedures and standards.

C. Applicability. Site Plan Review shall be required for all land use actions requiring a Zoning Permit as defined in Section 1.050 of this Ordinance. The approval shall lapse, and a new application shall be required, if a building permit has not been issued within one year of Site Review approval, or if development of the site is in violation of the approved plan or other applicable codes.

D. Review Criteria

1. The lot area shall be adequate to meet the needs of the establishment.
2. The proposed land use is permitted by the underlying land use district.
3. The land use, building/yard setback, lot area, lot dimension, density, lot coverage, building height and other applicable standards of the underlying land use district and any sub-district(s) are met.
4. Development in flood plains shall comply with Section 3.100 Flood Hazard Overlay Zone of the Ordinance.
5. Development in hazard areas identified in the Morrow County Comprehensive Plan shall safely accommodate and not exacerbate the hazard and shall not create new hazards.
6. Off-street parking and loading-unloading facilities shall be provided as required in Section 4.040 and 4.050 of the Morrow County Zoning Ordinance. Safe and convenient pedestrian access to off-street parking areas also shall be provided as applicable.
7. County transportation facilities shall be located, designed and constructed in accordance with the design and access standards in the Morrow County Transportation System Plan.
8. Site planning, including the siting of structures, roadways and utility easements, shall provide, wherever practicable, for the protection of trees eight inch caliper or greater measured four feet from ground level, with the exception of noxious or invasive species, such as Russian olive trees.
9. Development shall comply with Section 3.200 Significant Resources Overlay Zone or 3.300 Historic Buildings and Sites protecting inventoried significant natural and historic resources.
10. The applicant shall determine if compliance is required with Oregon Water Resources Department water quantity and/or Oregon Department of Environmental Quality water quality designations.
11. The applicant shall determine if previous Code Enforcement violations have been cleared as applicable.
12. The applicant shall determine the method of disposal for solid waste, with staff providing information to the applicant about recycling opportunities.
13. The applicant shall obtain the necessary access permit through the Public Works Department as required by Morrow County Resolution R-29-2000.

## ATTACHMENT

S3

## Oregon Department of Energy (cont.)

**E. Submittal Requirements.** A site plan shall be submitted including all of the following information except for specific items determined at the pre-application review not to be applicable. All site plans shall have dimensions clearly indicated. An applicant may provide the information on separate sheets, if necessary or desirable for clarity.

1. North arrow and scale.
2. Location of property boundaries, including adjacent public or private streets and rights of way.
3. Location of existing structures and natural features.
4. Areas affected by the proposed development with slopes in excess of 10 percent.
5. Location of utilities and facilities, or proposed locations (sewer, water, fire hydrants, septic system, storm water facilities, etc.).
6. Proposed landscaping.
7. Exterior lighting.
8. Circulation plan for vehicles, pedestrians, and bicyclists, including existing and proposed points of access and sidewalks.
9. Parking lot layout, with circulation plan and striping details.
10. Sign location and details.

**F. Application Completeness/Request for Additional Information.** The County Planning Director or designee shall determine the application to be complete based on the above standard criteria within 14 days of the application submittal. If the application is found to be incomplete or additional information is needed it may be requested from the applicant. A request for additional information beyond the standard review criteria cannot be used to rule an application incomplete.

**G. Minimum Standards for Roadway Design Plans Submitted for County Review.** Any transportation facility or transportation improvement to be constructed as part of a private development and subsequently dedicated to the County must first receive design approval by the Morrow County Public Works Department, based on applicable design criteria and the rationale for establishing the criteria to be provided by the County. Design approval shall also include all other pertinent issues related to roadway construction and operations, including but not limited to drainage, maintenance, serviceability, and pavement design. Street design plans submitted for County approval shall be stamped by a registered professional engineer with appropriate experience.

**H. Conditions Requiring Variance Application.** In the case of transportation improvement plans that do not meet the above minimum standards, the Morrow County Public Works Department may work with the applicant to determine whether an alternate design standard is appropriate.

## ATTACHMENT

S3

## Oregon Department of Energy (cont.)

(design modification). Design modifications are reviewed and approved by Morrow County Public Works Department staff. If upon mutual agreement it is determined that an alternate design standard cannot be met, an application for a design variance will be required, subject to review and approval by the Morrow County Planning Commission.

**SECTION 4.170 SITE DEVELOPMENT REVIEW (MC-C-1-02)**

A. Purpose. The purposes of site development review are to encourage site planning in advance of development that is permitted under Morrow County's Comprehensive Plan and land use regulations; assure that development is supported with appropriate types and levels of transportation improvements and public facilities and services; and implement the Morrow County Comprehensive Plan and land use regulations with respect to development standards and policies.

B. Preapplication review. Prior to filing its application for site development review, the applicant shall confer with the Planning Director, who shall identify and explain the relevant review procedures and standards.

C. When required.

1. Site development review shall be required for all major developments in industrial and commercial zones. As used in this Section, a "major development" is an industrial development utilizing 100 or more acres of real property. When development is proposed in phases, site development review shall apply to each phase of the development, whether or not the phase meets the site development review threshold.
2. Site development review also shall apply when required by the Planning Commission as a condition of approval of a land use decision not otherwise subject to site development review; provided that, in a condition imposing such a requirement, the Planning Commission may waive one or more site development review information requirements and/or approval standards that the Planning Commission finds the application already has fulfilled or are not relevant or otherwise are not warranted.
3. No building permit shall be issued prior to site development review approval whenever site development review is required by this section. Site development review shall not alter the type and category of uses permitted in affected zoning districts.
4. As used in this Section, "development" means any man-made change to improved or unimproved real property in the County, including but not limited to construction or installation of a building or other structure; major site alterations such as those due to grading; paving; and improvements for use as parking. However, site development review shall not apply to any interior remodeling of any existing building or structure or any modification to an existing building or structure that does not substantially change its exterior appearance.

D. Plans required. A complete application for site development review shall be submitted. The application shall include the following plans and information:

1. A site plan or plans, drawn to scale, containing the following information:

## ATTACHMENT

S3

## Oregon Department of Energy (cont.)

## SECTION 3.072. SPACE AGE INDUSTRIAL ZONE, SAI

SECTION 3.072. PURPOSE. The SAI Zone is intended to recognize those areas devoted to, or most suitable for, space age technology research and development.

SECTION 3.072. PROCEDURES. Lands shown to be zoned SAI are, prior to development, subject to submittal of a detailed plot plan and with reasonable particularity the intended use, activities, structures and facilities to be built. As in the case of all zones, a zoning sign-off is required prior to the issuance of building permits. Facilities proposed adjacent to or near an airport may be subject to Article 3 Sections 3.090 Airport Approach Zone and 3.091 Airport Hazard Zone as found in this Zoning Ordinance. Additionally structures constructed 100 feet or taller are subject to notice to the Department of Defense and the Oregon Military Department relative to impacts to the restricted airspace.

## A. The following uses are allowed without a Zoning Permit.

1. Farm use as defined in Article 1 Section 1.030 Definitions of this Zoning Ordinance. (MC-C-6-96)
2. Utility facility service lines, including accessory facilities or structures that end at the point where the utility service is received by the customer and that are located on one or more of the following: a public right-of-way; land immediately adjacent to a public right-of-way, provided the written consent of all adjacent property owners has been obtained; or the property to be served by the utility.

## B. The following uses are allowed, but require ministerial review and a Zoning Permit. If a use occupies 100 or more acres Site Development Review shall be required as outlined in Article 4 Supplementary Provisions Section 4.170 Site Development Review. Other provisions of Article 4 Supplementary Provisions may apply at the time the Zoning Permit is issued.

1. Buildings and structures (above and below ground) used for space age technology research and development.

## ATTACHMENT

S3

## Oregon Department of Energy (cont.)

2. Aerospace Aircraft and space vehicle testing and related research products.
3. Propulsion testing which includes commercial engines, transatmospheric space plane, remote piloted vehicle, missiles or other space age related vehicles.
4. Electronic, laser and microwave research activities.
5. Contained shock testing.
6. Fire fighting equipment and facilities.
7. Support facilities for on-site staff.
8. Quarry operation on existing sites.
9. Utility facilities necessary for public service, but not commercial facilities for the purpose of generating electrical power for public use by sale or transmission towers over 200 feet in height.
  - a. Utility facilities necessary for public service proposed in the Space Age Industrial Use Zone will need to meet the criteria found in Oregon Revised Statute 215.275.
  - b. The acreage included in the analysis to require Site Development Review would be disturbed, constructed surfaces and parking areas.
  - c. A reclamation plan is required for non-agricultural lands affected by a utility facility necessary for public service.

C. Uses permitted with a Conditional Use Permit. The following uses are allowed with a Conditional Use Permit and other reviews as identified below. If a project is over 100 acres of disturbed and constructed surfaces Site Development Review may also be required.

1. A commercial utility facility for the purpose of generating power for public use by sale, not including wind power generation facilities, subject to Article 4 Supplementary Provisions, Article 6 Conditional Uses, other portions of this code as appropriate and pertinent

## ATTACHMENT

S3

## Oregon Department of Energy (cont.)

sections of Oregon Revised Statute and Oregon Administrative Rule.

2. A wind generation facility subject to the requirements found in Oregon Administrative Rule Chapter 660 Division 33 Agricultural Land, Article 4 Supplementary Provisions, Article 6 Conditional Uses, and other portions of this Zoning Ordinance.
3. Transmission towers over 200 feet in height subject to Article 4 Supplementary Provisions and Article 6 Conditional Uses, and other portions of this Zoning Ordinance.

D. Limitations on use in a SAI Zone

1. A use which has been declared a nuisance by a state statute, by action of the Morrow County Court, or by a court of competent jurisdiction is prohibited.
2. Material shall be stored and grounds shall be maintained in a manner which will not create a health hazard.
3. All related Oregon Revised Statutes shall be complied with, specifically those dealing with radioactive material and hazardous substances.

E. Transportation Impacts

1. Traffic Impact Analysis (TIA). In addition to the other standards and conditions set forth in this section, a TIA will be required for all projects generating more than 400 passenger car equivalent trips per day. Heavy vehicles - trucks, recreational vehicles and buses - will be defined as 2.2 passenger car equivalents. A TIA will include: trips generated by the project, trip distribution for the project, identification of intersections for which the project adds 30 or more peak hour passenger car equivalent trips, and level of service assessment, impacts of the project, and, mitigation of the impacts. If the corridor is a State Highway, use ODOT standards. (MC-C-8-98)

**COMMENT(S)**

**RESPONSE(S)**

**S4**

**Oregon Department of Fish and Wildlife**

comment@boardmantohemingway.com

**From:** Nigel E Seidel <nigel.e.seidel@state.or.us>  
**Sent:** Thursday, March 19, 2015 3:59 PM  
**To:** comment@boardmantohemingway.com  
**Subject:** ODFW DEIS Comments  
**Attachments:** ODFW B2H DEIS Comments 3192015.pdf

Here are the Oregon Dept of Fish & Wildlife DEIS comments.

Thank you  
Nigel

---

**Nigel Seidel**  
East Region Energy Coordinator  
Oregon Dept of Fish & Wildlife  
107 20<sup>th</sup> Street  
La Grande, OR 97850  
Office: 541-962-1840  
Cell: 541-786-9512

## COMMENT(S)

## RESPONSE(S)

S4

## Oregon Department of Fish and Wildlife (cont.)



# Oregon

Kate Brown, Governor

## Department of Fish and Wildlife

East Region  
107 20<sup>th</sup> Street  
La Grande, OR 97850  
(541) 963-2138  
FAX (541) 963-6670

March 19, 2015

Jerome E. Perez  
State Director – Oregon/Washington  
Bureau of Land Management  
P.O. Box 655  
Vale, OR 97918

RE: ODFW Comments on B2H DEIS

Dear Mr. Perez:

The Oregon Department of Fish and Wildlife (Department) appreciates this opportunity to review and comment on the Boardman to Hemmingway Transmission Line (B2H or Project) Environmental Impact Statement (DEIS). Our review focused on the DEIS' consistency with the Department's goals, objectives, and management authorities found in numerous Oregon Revised Statutes (ORS) and Oregon Administrative Rules (OAR), including the Department's Wildlife Policy (ORS 496.012), Endangered Species Act (ORS 496.171-182), Fish Passage Laws (ORS 509.580-645), and Habitat Mitigation Policy (OAR 635.415).

The Department has been involved in B2H planning for some time. We have spent countless hours with the project proponent, Idaho Power Company (IPC), and federal, state and local agencies on B2H, its fish and wildlife impacts and potential mitigation of those impacts. Based on this coordination we are optimistic this project can be successfully permitted and most if not all of its fish and wildlife impacts mitigated.

Below we summarize our comments which are addressed in more detail in the attached table.

### 1. Transmission Line Route Selection

The Department supports the proposed action, however there are several areas where it impacts sage-grouse and Washington ground squirrel (WGS) habitats identified by the Department as Category 1 under our Habitat Mitigation Policy. Selection of the Tub Mountain South, Flagstaff, and Longhorn Variation or Alternative would eliminate nearly all of these impacts.

**COMMENT(S)****RESPONSE(S)****S4****Oregon Department of Fish and Wildlife (cont.)****2. Sage-grouse**

The Greater Sage-Grouse Assessment and Conservation Strategy for Oregon (Strategy, OAR 635.140) has identified sage-grouse core habitat in greatest need of protection. B2H should avoid impacting (both direct and indirect) these core habitats. The Strategy also identifies low density sage-grouse habitat. These habitats should be avoided or minimization measures should be employed where avoidance is not possible.

Any project impacts (either direct or indirect) should be mitigated following guidance in ODFW's Mitigation Framework for Sage-grouse Habitats (March 2012) and the B2H Greater Sage-grouse Mitigation Blueprint (DEIS Appendix E). Additional guidance may be available after SageCon deliberations are completed.

The DEIS does not completely identify project impacts to sage-grouse habitat and nor does it outline mitigation measures in accordance with the above documents.

**3. Big Game**

The proposed and alternative B2H routes travel through important mule deer and Rocky Mountain elk habitat, causing direct impacts to deer and elk winter range. Indirect impacts are also expected in areas where increased public use of project roads leads to displacement of big game from habitat adjacent to roads. The DEIS does not fully identify project impacts to big game habitat and outline mitigation measures to compensate for those impacts.

**4. Washington Ground Squirrel**

Habitats within 785 feet of an active WGS colony are considered Category 1 under the Department's Habitat Mitigation Policy. We recommend avoiding project impact to these habitats.

As written, it is unclear if the DEIS properly identifies and outlines avoidance of these Category 1 habitats.

**5. Mitigation of Projects Impacts**

The DEIS proposes that only those resources with high residual impact will require mitigation. The Department recommends that any project impact, regardless of impact type (direct or indirect), may require mitigation dependent on the nature, extent, and duration of the impact and the type of habitat being impacted not just those characterized by BLM as having high residual impact.

The Mitigation Planning section of the DEIS is incomplete. BLM should utilize the guidance provided in DEIS Appendix D & E mitigation documents to further outline how mitigation requirements will be met. Any land identified as a mitigation area for project impacts, should have protections from development or conflicting use for the life of the project impacts.

**6. Motorized Access Management**

If not managed appropriately increased public use of new and improved project roads will impact to fish and wildlife and their habitats. These impacts can largely be avoided with proper access management

**COMMENT(S)**

**RESPONSE(S)**

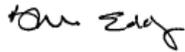
S4

**Oregon Department of Fish and Wildlife (cont.)**

including physical barriers, regulatory closures, and enforcement of closures. The DEIS does not completely address these impacts and should be revised to address how road impacts will be calculated, avoided, and mitigated

Thank you for the opportunity to review and comment on the B2H DEIS. Please feel free to contact Mr. Nigel Seidel at 541 962 1840 if you would like to discuss our comments.

Sincerely,



Bruce Eddy  
East Region Manager

C Margi Hoffmann – Office of Governor Kate Brown  
Roger Furman – ODFW  
Ron Anglin – ODFW

**COMMENT(S)**

**RESPONSE(S)**

**S4 Oregon Department of Fish and Wildlife (cont.)**

Oregon Department of Fish & Wildlife comments on the DEIS for the B2H Transmission Line Project	
General Comments	
	<p><b>Comment 1. Route Specific Recommendations:</b></p> <p><u>Segment 1</u></p> <ul style="list-style-type: none"> <li>The Horn Butte Alternative impacts Category 1 WGS habitat. The Longhorn Variation or Longhorn Alternative should be selected to avoid impacts to WGS.</li> </ul> <p><u>Segment 2</u></p> <ul style="list-style-type: none"> <li>No route specific recommendations.</li> </ul> <p><u>Segment 3</u></p> <ul style="list-style-type: none"> <li>The proposed action and associated alternatives all impact Department Habitat Mitigation Policy Category 1 sage-grouse habitat.</li> <li>The Flagstaff Alternative would have the least impact to sage-grouse habitat.</li> <li>The Department suggests the development of a new alternative in Baker County that avoids sage-grouse Category 1 habitat by following I-84 north from Highway 203 to the boundary of segment 2.</li> <li>The Timber Canyon Alternative should not be considered because it significantly increases the length of the transmission line, impacts Category 1 sage-grouse habitat, and has impacts to deer and elk winter range that can be avoided by selecting other alternatives.</li> <li>The Burnt River Mountain Alternative should not be selected due to its impact to important big game winter range that can be avoided by selecting the proposed action.</li> </ul> <p><u>Segment 4</u></p> <ul style="list-style-type: none"> <li>The proposed action and Willow Creek Alternative should not be considered due to significant impact to Category 1 sage-grouse habitat.</li> <li>The Tub Mountain South Alternative should be selected because it has the least impact to Category 1 sage-grouse habitat.</li> </ul> <p><u>Segment 5 and 6</u></p> <ul style="list-style-type: none"> <li>No route specific recommendations</li> </ul>
S4a	
	<p><b>Comment 2. Analysis Area:</b> The DEIS did not adequately explain the rationale for buffer distances used. This rationale should be included so that reviewers can understand how BLM arrived at its DEIS conclusions.</p> <p>The current analysis buffers are not broad enough to capture indirect impacts to species such as Washington ground squirrel and elk. They should be expanded to fully acknowledge these impacts.</p> <p>Analysis of road impacts is a particular concern. The DEIS should describe how and when Project roads are incorporated into each of the analysis areas.</p>
S4b	
	<p><b>Comment 3. Impact Analysis:</b> It's unclear how BLM used the high, moderate and low impact categories. A more complete description of the process BLM used to select impact categories for individual Project features is needed. In some cases a more complete description of the impact of individual Project features would be helpful in understanding how an impact category was chosen.</p>
S4c	

S4a	<p>Route preference noted. The selection of the agency-preferred alternative route and the addition of new route variations for the Final EIS were made in coordination with the cooperating agencies, including input from ODFW.</p> <p>Based on comments received by the BLM on the Draft EIS, collaboration with the counties, and on further discussion between the Applicant and landowners, a number of recommended routing options were incorporated into the network of alternative routes analyzed for the Final EIS. Refer to Sections 2.1.1.3 and 2.5.2. Analysis of the alternative routes is reported throughout Chapter 3.</p>
S4b	<p>Buffers have been revised to reflect a more consistent and clear boundary that is specific to each resource area. The boundary for transportation is 0.5 mile in each direction to capture roads with the right-of-way as well as those adjacent to the study area.</p> <p>Text in the EIS was edited to indicate that the 0.5 mile buffer for the analysis area was chosen because it was considered large enough to capture the extent of potential direct effects from the B2H Project. Indirect effects are discussed qualitatively for individual species as appropriate. Since exact locations of access roads have not been determined, the effects of access roads on wildlife species are also discussed qualitatively as appropriate.</p>
S4c	<p>Comments on the Draft EIS expressed that not enough information was provided in the Draft EIS to enable the reviewers to understand where impacts would occur and where mitigation would be applied to reduce impacts. Chapter 2, Section 2.5.1 of the Final EIS presents an explanation of the study and analysis approach employed for the B2H Project. Chapter 3 has been expanded to provide more description of the methods for used for analyzing effects associated with each resource (tiered to the overall approach). Chapter 3 also provides more information about the resources, mitigation applied to reduce impacts, and residual impacts on resources along each alternative route by segment. In addition, a map volume of large-scale maps is provided to present resource data and to show the level of residual impact on the resources along all of the alternative routes.</p>

**COMMENT(S)**

**RESPONSE(S)**

**S4 Oregon Department of Fish and Wildlife (cont.)**

Oregon Department of Fish & Wildlife comments on the DEIS for the B2H Transmission Line Project	
General Comments	
S4c	<p>It's difficult to understand the impact of a Project feature when a range (i.e. moderate to high) was used. We suggest BLM use discrete categories and not ranges.</p> <p>The Department recommends the DEIS include better explanations and detailed information about the Project impact assessment process and resulting impact categorizations including:</p> <ul style="list-style-type: none"> <li>• How the analysis was derived.</li> <li>• Number of criteria that have to be triggered to select specific impact intensity.</li> <li>• How categorization analysis accounted for the potential high variation in number of criteria triggered for different project features within the same impact category.</li> <li>• How to interpret the results of the impact categorization.</li> <li>• How the impact assessment takes into account the duration and magnitude of impact effects on fish, wildlife and their habitats through time?</li> </ul>
	<p><b>Comment 4. Project Impacts to Sage-grouse and Sage-grouse habitat:</b> The DEIS assumes that there would be a small increase in Project road use in sage-grouse habitat and as a result this was considered a Low level impact.</p> <p>The basis for this determination was unclear. The DEIS should include:</p> <ul style="list-style-type: none"> <li>• A description of the process and criteria used to analyze potential for increased use of Project roads in sage-grouse habitat.</li> <li>• Present any specific criteria, regulatory mechanisms, land ownership considerations, traffic data, or other data that were used for this determination.</li> </ul>

S4d The criteria for all wildlife species was revised for the Final EIS in coordination with the cooperating agencies. Refer to Section 3.2.4.3.

Oregon Department of Fish & Wildlife comments on the DEIS for the B2H Transmission Line Project			
Comments by Section			
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S4e 3.1.2.1 And 3.2.4.6	5/29-33 And 272/4-5	<p><b>Short and long-term effects:</b> The DEIS defines a short-term effect as one that persists on the landscape for 3 years or less while a long-term effect is one that persists for more than 3 years. Department policy does not differentiate between long and short term impacts; rather we consider impact by their nature, extent, and duration. Duration of impact varies dependent upon the type of impact, species life history and habitat in which it occurs. We are particularly concerned when BLM's short term/long term strategy is applied to short lived species (e.g.</p>	<p><b>Short and long-term effects:</b> Reanalyze the potential effects of anticipated Project impacts relative to habitat recovery times and the functions those habitats provide relative to the life cycle of the species. This method could provide more realistic assessments of habitat impacts on all species (especially short lived species) and provide better context of the significance of Project impacts.</p>

S4e The analysis for the Wildlife section (Section 3.2.4) has been revised for the Final EIS to include additional information on direct and indirect effects of the B2H Project on wildlife species and their habitats. Analysis methods were developed in coordination with ODFW, IDFG, FWS, and other cooperating agencies.

**COMMENT(S)**

**RESPONSE(S)**

**S4 Oregon Department of Fish and Wildlife (cont.)**

Oregon Department of Fish & Wildlife comments on the DEIS for the B2H Transmission Line Project			
Comments by Section			
Section No.	Pg. / line	Issue Identified	Recommended Resolution
S4e		sage-grouse or WGS) where project impacts may be underestimated at a population level if considered only "short term".	
S4f	3.1.2.2 8/2	<b>Correction in Blueprint:</b> The Mitigation Blueprint for Greater Sage-Grouse (Blueprint) provides IPC cohesive guidance on assessing Project impacts to sage-grouse habitat. Guidance in the Blueprint diverges from Department policy in one area. Specifically, the Blueprint states that only new or improved roads outside of the transmission line buffer (i.e. 0.6 mile) will be used to assess impacts. The guidance should indicate that in locations where Project road and transmission line impacts overlap, the mitigation responsibly would be the impact that has that greatest effect on the habitat.	<b>Correction in Blueprint:</b> Revise this error in interpretation of the 2012 Sage-grouse Mitigation Framework.
S4g	3.2.3.5 126	<b>Table 3-39:</b> This table quantifies the total impact acreage to native and non-native grasslands by the Project. This analysis uses a coarse scale, remote sensory GIS approach to determining vegetative cover and habitats. The Department is concerned about the accuracy of these acreages. We have similar concerns with the accuracy and/or precision associated with this analysis technique in determining the impact to other habitat types as well.	<b>Table 3-39:</b> Use a more precise and accurate assessment technique to identify vegetation types and habitats. Remotely sensed data used for analysis should be ground truthed to ensure accuracy.
S4h	3.2.3.5 132/1-17	<b>Noxious Weed Section:</b> This section could benefit by including additional detail. The information provided includes only the total number of noxious weeds for a segment and a brief description of one or two noxious weed species. A more	<b>Noxious Weed Section:</b> Provide information on weed species having the greatest impact in the analysis area. Describe how weed species impact fish and wildlife habitat over time and may be influenced by implementation of the project.

S4e Appendix E- Greater Sage-Grouse Mitigation Blueprint is not included in the Final EIS. This appendix was intended to be used as a placeholder while the BLM finalized its Greater Sage-Grouse Approved Resource Management Plan Amendments (ARMPAs) for Oregon and Idaho. The Greater Sage-Grouse Mitigation Framework has been refined for the Final EIS in Appendix C to provide additional information about BLM's requirements and recommendations for compensatory mitigation.

S4f The EIS has also been revised to include additional discussion of the effectiveness of mitigation measures in reducing impacts to Greater Sage-Grouse, including Applicant-committed design features and site-specific conservation measures that are similar to those included in the ARMPAs. For Greater Sage-Grouse, the BLM will require a hierarchy for mitigation that will achieve a net conservation gain.

S4f As the name suggests, the Mitigation Framework (Appendix C) is intended to be a detailed framework, not a site-specific mitigation plan. The Mitigation Framework (1) establishes how avoidance and minimization have eliminated and/or reduced impacts; (2) identifies residual resource effects that meet criteria for warranting compensatory mitigation; and (3) provides a framework for how the appropriate level and type of compensatory mitigation will be determined for those resource effects.

S4g Upon selection of the final route in the Record of Decision and following final engineering and design, the Compensatory Mitigation Plan will be prepared using the Mitigation Framework as a guide in assessing the direct and indirect impacts based on an engineered and designed alignment, and will identify a suite of site-specific compensatory mitigation projects for selection and implementation under the review and guidance of the cooperating agencies. The final detailed Compensatory Mitigation Plan must be accepted and approved by the cooperating agencies prior to the Notice to Proceed.

S4g Any necessary modifications to the Mitigation Framework will be addressed in the Record of Decision.

S4g Comment noted. The use of a GIS dataset like GAP provides the most consistent, comprehensive approach to classifying vegetation communities across such a large project. Impacts on other habitats, i.e. sage grouse or big game, would be assessed using data specific to the habitat.

S4h The analysis of noxious weeds in the Final EIS has been revised to address effects from weed invasion in greater detail. For each segment, the analysis includes a discussion of existing weeds, potential impacts of weed invasion, and project effects on noxious weeds.

**COMMENT(S)**

**RESPONSE(S)**

**S4 Oregon Department of Fish and Wildlife (cont.)**

Oregon Department of Fish & Wildlife comments on the DEIS for the B2H Transmission Line Project				
Comments by Section				
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S4h		complete analysis would help reviewers better understand habitats already affected by noxious weeds and how fish and wildlife habitat function has been compromised. Identifying weed species that are the most pervasive and the highest priorities for state and federal agencies for treatment would be helpful.		
S4i	3.2.3.6	162	<b>Table 3-42:</b> This table provides criteria for assessing direct and indirect Project impacts to vegetative communities within the analysis area. The last assessment item in the Low intensity impact category is the spread of noxious weeds to previously un-infested areas from Project activities. The potential spread of noxious weeds species is a significant impact and should be analyzed more completely. There is potential for large scale impact considering the amount of direct ground disturbance by the Project and the prolific nature of noxious weeds.	<b>Table 3-42:</b> Re-analyze the Project risk from noxious weeds.
S4j	3.2.3.6	166/28-32	<b>Risk of noxious weed spread:</b> The DEIS suggests the main period of risk for the spread of noxious weeds is during the Project construction phase when most of the ground disturbing activities will occur. Weed transmission will occur throughout the Project operation phase as well from public and IPC use of Project roads.	<b>Risk of noxious weed spread:</b> Analyze future public traffic on project roads as dispersal mechanism for noxious weeds. The analysis should include long-term effects of the continued transmission of weeds from all traffic types (i.e. both IPC and public) and the potential to eliminate those transmission risks.
S4k	3.2.3.6	170	<b>Table 3-44:</b> This table provides acres of native and non-native grassland occurring in the Project analysis area. The analysis does not identify the acres impacted by project roads.	<b>Table 3-44:</b> Revise this table to include the number of acres for each vegetation classification type impacted by Project roads.

- S4i This table (now Table 3-94) which lists criteria used to assess impacts has been revised to more clearly describe impacts and their expected intensity on vegetation resources. This table lists impacts that can quantitatively addressed as miles crossed or acres of disturbance. Impacts resulting from noxious weed invasion are discussed qualitatively by segment. The analysis of noxious weeds in the Final EIS has been revised to address effects from weed invasion in greater detail. For each segment, the analysis includes a discussion of existing weeds, potential impacts of weed invasion, and project effects on noxious weeds.
- S4j The analysis was revised for the Final EIS to include estimated acres of disturbance due to all B2H Project features, including vegetation removal in the right-of-way, access roads, and other structures (refer to the subheading Additional Analysis in Section 3.2.3.4).  
The specific location of access roads have not been identified for all alternative routes; rather, the specific locations of access routes and whether they will be temporary or permanent will be determined for the selected route during final design and engineering. Thus, the additional analysis requested is not feasible. Preconstruction surveys of areas of existing weed infestations would be conducted for the selected route to identify appropriate weed control measures, which could include installation of gates (upon landowner approval) as well as other measures to reduce vehicular transmission of invasive weeds. Noxious weed populations will be monitored and controlled for three years following B2H Project construction, with possible weed control efforts continuing depending on monitoring results. All required weed control activities would be documented in the Plan of Development, which must be approved by BLM and cooperating agencies prior to issuance of the Record of Decision and right-of-way grant. The Plan of Development would be a condition of the Record of Decision and a stipulation of the right-of-way grant.
- S4k The specific location of access roads have not been identified for all alternative routes; rather, the specific locations of access routes and whether they will be temporary or permanent will be determined for the selected route during final design and engineering. Refer to Section 2.5.1.1 of the Final EIS for a description of how the effects associated with access roads are included in the analysis.

**COMMENT(S)**

**RESPONSE(S)**

**S4 Oregon Department of Fish and Wildlife (cont.)**

Oregon Department of Fish & Wildlife comments on the DEIS for the B2H Transmission Line Project			
Comments by Section			
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S4l	3.2.3.6	170/6-9	<p><b>Impacts to special status species:</b> There is no information acknowledging an analysis of the impact of Project roads on special status species and their habitats.</p> <p><b>Impacts to special status species:</b> Analyze the impact of Project roads on special status species and their habitats.</p>
S4m	3.2.3.6	171/5-11	<p><b>Segment description of noxious weeds:</b> The DEIS Environmental Consequences section (page 166) provides a general description of impacts from noxious weeds. It could benefit from additional detail including: the current extent of noxious weeds infestation; potential impacts of specific noxious weed to specified habitat types; potential for noxious weeds to invade the Project area; and the future risk of noxious weeds impacts.</p> <p><b>Segment description of noxious weeds:</b> Add detail to each segment's noxious weed section about the impact of noxious weeds and whether Project features (transmission line, roads, other facilities, etc.) is expected to increase the spread of those weeds.</p>
S4n	3.2.3.6	188/35-40	<p><b>OM-7:</b> OM-7 indicates IPC will rehabilitate significantly disturbed areas. The term "significant" is undefined.</p> <p><b>OM-7:</b> Define the term "significant" and reference the definition in sections of the DEIS that discuss project impacts. Also provide descriptive language for each "significant" Project impact to improve clarity and understanding of its effect on fish, wildlife and their habitats.</p>
S4o	3.2.4.2	198/20	<p><b>Oregon Fish and Wildlife Habitat Mitigation Policy:</b> This section provides a brief description of the Department's Fish and Wildlife Habitat Mitigation Policy (OAR 635-415-0000 through 0025). It doesn't describe the Policy in enough detail so that readers can understand Habitat Categories and how they should be used.</p> <p><b>Oregon Fish and Wildlife Habitat Mitigation Policy:</b> Provide a more complete description of the Department's Fish and Wildlife Habitat Mitigation Policy (OAR 635-415-0025). See <a href="http://www.dfw.state.or.us/lands/mitigation_policy.asp">http://www.dfw.state.or.us/lands/mitigation_policy.asp</a> for more detail.</p>
S4p	3.2.4.5	210/16	<p><b>Black-backed woodpecker:</b> The black-backed woodpecker is the only species identified in this paragraph that is not identified in Table 3-54.</p> <p><b>Black-backed woodpecker:</b> Insert the black-backed woodpecker into Table 3-54 for consistency and documentation of occupancies across Project segments.</p>
S4q	3.2.4.5	246/23-25	<p><b>Washington ground squirrels:</b> This sentence introduces the terms, "primary" and "secondary", to</p> <p><b>Washington ground squirrel:</b> BLM should identify WGS habitat consistent with the Department's Habitat Mitigation Policy</p>

- S4l [ The analysis of impacts to special status plant species in the EIS was revised to include potential impacts from B2H Project roads. Because the specific location of access roads has not been identified for all alternative routes, potential impacts from roads were determined using a predictive model which accounts for existing access roads and difficulty of terrain.
- S4m [ The analysis of noxious weeds in the Final EIS has been expanded to address effects from weed invasion in greater detail. For each segment, the analysis includes a discussion of existing weeds, potential impacts of weed invasion, and project effects on noxious weeds.
- S4n [ See response to Comment S4j. The BLM does not use significance criteria as a tool in environmental analysis. However, the EIS text has been revised to include an expanded description of the types of potential effects on a resource, and criteria for assessing the level of impacts (i.e., low, moderate, high) on each resource. This approach is described in Section 2.5.1.1; and the criteria for assessing the level of impacts are included in the Methods section of each resource section in Chapter 3. In addition, the analysis in the Final EIS has been expanded to include a discussion of known existing weed infestations by segment and potential B2H Project effects on noxious weed spread.
- S4o [ Text was be revised to include a more complete description of the Department's Fish and Wildlife Habitat Mitigation Policy.
- S4p [ Comment noted. The referenced table (now Table 3-145) is designated for federal Endangered Species Act threatened, endangered, proposed, and candidate species; the black-backed woodpecker is not currently listed as a threatened, endangered, proposed, or candidate species under the Endangered Species Act.
- S4q [ Text was revised to refer to the habitat categories analyzed in the EIS.

**COMMENT(S)**

**RESPONSE(S)**

**S4 Oregon Department of Fish and Wildlife (cont.)**

Oregon Department of Fish & Wildlife comments on the DEIS for the B2H Transmission Line Project			
Comments by Section			
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S4q		describe WGS habitat. These terms are not defined in the DEIS. The Department does not recognize primary or secondary as habitat categories.	(OAR 635-415-0025).
S4r	3.2.4.5	255/10	<b>Sage-grouse population estimates:</b> Population estimates for the Baker sage-grouse population in this sentence are outdated.
S4s	3.2.4.6	271/Tab le 3-63	<b>Moderate intensity of Impacts:</b> One of the bulleted items states “Permanent modifications to viewshed for big game”. The terms “permanent” and “viewshed” are undefined.
S4t	3.2.4.6	272/9-13	<b>Impacts to species in peril:</b> This section provides a list of the direct and indirect Project impacts to federally proposed, candidate and listed endangered, threatened species. However, the indirect impact from increased use of Project roads was not listed as a source of impact to these species and their associated habitats.
S4u	3.2.4.6	272/31-33	<b>Short-term direct impacts:</b> According to the DEIS, short-term construction impacts would likely result from actions such as the clearing/use of staging areas or fly yards for storage and assembly of structures. The removal of vegetation in most of the impacted habitats (with the potential exception of grasslands) will likely result in impacts that remain on the landscape for decades due to the regeneration time. Even if the vegetation was not removed in all

S4r [ The updated Baker population estimate was included in the Draft EIS on page 3-255, lines 36 and 37, and this information was carried forward into the Final EIS.

S4s [ The table (now Table 3-139) was revised and does not include the referenced impact criteria. Refer to Section 3.2.4.3 in the Final EIS.

S4t [ Text was edited to include increased use of B2H Project roads as an indirect effect and a qualitative analysis of the increased use of roads on federally proposed, candidate, endangered, and threatened species as indicated.

S4u [ Criteria used to assess impacts on vegetation communities have been revised to account for regeneration times in determining the intensity of potential B2H Project impacts to vegetation communities (refer to Table 3-94 in Section 3.2.3.4).

**COMMENT(S)**

**RESPONSE(S)**

**S4 Oregon Department of Fish and Wildlife (cont.)**

Oregon Department of Fish & Wildlife comments on the DEIS for the B2H Transmission Line Project				
Comments by Section				
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S4u		cases, the crushing of vegetation will degrade the structural components important to many species. The structure of the vegetation would likely return as new growth matures, which could take several decades depending on the habitat type assuming they are not infested with noxious weeds or annual grasses in the meantime. Direct impacts to slow maturing habitat communities from construction should not be classified as short-term.		
	3.2.4.6	274/14-26	<b>Traffic impact on fire and dust:</b> Public and IPC vehicle use during construction and operation can increase fire risk and fugitive dust. A more detailed description of these risks would help DEIS readers.	<b>Traffic impact on fire and dust:</b> The DEIS should more completely evaluate the impacts of increased use of project roads by the public and IPC vehicle on fire risk and fugitive dust.
S4v	3.2.4.6	275/20-22	<b>Definition of mid-term:</b> It's unclear what BLM means by the phrase "mid-term" here.	<b>Definition of mid-term:</b> The phrase "mid-term" should be defined.
S4w	3.2.4.6	280/24-25 and 31	<b>Impacts to grassland:</b> The DEIS indicates construction related impacts to grasslands would recover quickly if protected from grazing although they don't define what this means.  The DEIS could benefit from a more complete evaluation of invasive species infestation risk to grasslands.	<b>Impacts to grassland:</b> Provide less subjective descriptors for quantifying the timeframes for each grassland habitat or various grassland habitat communities. Analysis should consider the anticipated recovery time of the different grassland communities encountered in segment 1. Also address risk of invasive plants becoming established during construction or as a result of construction.
	3.2.4.6	280/2	<b>Washington ground squirrel habitat:</b> The WGS section describes current Department guidance on colonies and identifies the 785 foot buffer around colonies. It does not however indicate that each colony and buffered area are classified as Category 1 habitat or provide rationale (OAR 635-415-0025) as to how Project impacts are to be	<b>Washington ground squirrel habitat:</b> Include clear definitions for Category 1 and 2 WGS habitats that describe mitigation goals and objectives. Describe Project impacts within Category 1 and 2 WGS habitat.

S4v [ Section 3.2.9 has been revised to include discussion of the potential for fugitive dust. Section 3.2.6 has been revised to include expanded discussion of potential fire risks from construction, maintenance, and operation activities.

S4w [ Comment noted. Information regarding the exact recovery times for specific grassland communities are not available for analysis in the Final EIS. The analysis of the risk of weed invasion has been expanded in the Final EIS. Discussion of the risk of weed invasion to grasslands is included in Section 3.2.3.

S4x [ Text was edited to include definitions of Washington ground squirrel Category 1 and Category 2 habitat that describe mitigation goals and objectives and to describe impacts to Category 1 and Category 2 habitat.

**COMMENT(S)**

**RESPONSE(S)**

**S4 Oregon Department of Fish and Wildlife (cont.)**

Oregon Department of Fish & Wildlife comments on the DEIS for the B2H Transmission Line Project			
Comments by Section			
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S4x		avoided in the buffered area. Additionally, there was no acknowledgement of the Department's designation of Category 2 habitat that may be impacted by the Project and the possible implications of those impacts.	
S4y	3.2.4.6 280/19-22	<b>Washington ground squirrel impacts:</b> This sentence describes Project impacts in to Category 1 WGS habitat.	<b>Washington ground squirrel impacts:</b> The Department recommends avoiding impacts to Category 1 WGS habitats (OAR 635-415-0025).
S4z	3.2.4.6 285/13-15	<b>Unauthorized human activity:</b> The DEIS states "Potential impacts to raptors could come from non-Project related, unauthorized human activity along the right-of-way and Project roads."  It suggests that there are regulatory or other mechanisms in place that prevent public access to the protect facilities.	<b>Unauthorized human activity:</b> The Department recommends the BLM: <ul style="list-style-type: none"> <li>• Better define or describe the term "unauthorized".</li> <li>• Describe the regulatory mechanisms that are in place to preclude the general public from accessing Project roads and right-of-way and how those will be enforced.</li> <li>• Use this discussion to address the impact of motorized traffic on Project roads to other resources throughout the DEIS.</li> </ul>
S4aa	3.2.4.6 286/21-28	<b>Indirect impacts to big game:</b> This section acknowledges Indirect impacts to big game from increased human presence.  It should also acknowledge impacts from the introduction of invasive species from human activities.	<b>Indirect impacts to big game:</b> Include information on how human activity can introduce invasive plant species and the potential impact that they may have on big game and their associated habitats.
S4ab	3.2.4.6 286/21-28	<b>Indirect impacts to big game - 2:</b> The Department is near completion of a Rocky Mountain Elk Mitigation Framework document that outlines the impact of motorized access within elk habitat. The document provides impact assessments to identify the magnitude of indirect impact from	<b>Indirect impacts to big game - 2:</b> Utilize the Department's guidance for analyzing indirect impacts to elk, specifically, increased traffic resulting from the Project.

- S4y [ Comment noted. The Applicant has committed to design features and site-specific selective mitigation measures designed to avoid anticipated B2H Project effects to Washington ground squirrel Category 1 habitat, including preconstruction surveys, and avoidance of sensitive features through selective tower placement, spanning sensitive features, or realigning the B2H Project centerline.
- S4z [ Text was revised to remove "unauthorized" from the indicated sentence, as no regulatory mechanism is in place to justify use of the term. The Applicant has committed to a site-specific selective mitigation measure to limit new or improved accessibility to areas previously inaccessible. The accessibility of B2H Project roads and rights-of-way to the public is addressed in analysis of impacts of motorized traffic on wildlife resources (refer to Section 3.2.4 of the Final EIS).
- S4aa [ Text was revised to include information on how human activity can introduce invasive plant species and the potential impact that they may have on big game and their associated habitats.
- S4ab [ The EIS has been revised to implement a model predicting the level of disturbance due to road construction since exact locations of roads have not been determined, and the analysis of elk has been updated to include additional analysis and discussion of indirect effects from the B2H Project on elk.

**COMMENT(S)**

**RESPONSE(S)**

**S4 Oregon Department of Fish and Wildlife (cont.)**

Oregon Department of Fish & Wildlife comments on the DEIS for the B2H Transmission Line Project				
Comments by Section				
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S4ab		new or improve Project roads dependent on the level of traffic or the increase in traffic. The framework also provides a method to calculate the mitigation responsibility for different traffic rates.		
	3.2.4.6	289/3-5 and 298/1-6	<b>Indirect effects to sage-grouse:</b> See General Comment #4.	<b>Indirect effects to sage-grouse:</b> See General Comment #4.
S4ac	3.2.4.6	303/25-31	<b>Impact to Columbia spotted frog:</b> There are several impacts to the Columbia spotted frog outlined in this paragraph, most of which are direct impacts. However, there are other impacts that should be address in this section including: fugitive dust; human interaction; increased traffic rates; introduction of invasive weeds species; and, potential variations in predations rates from altered habitats.	<b>Impact to Columbia spotted frog:</b> Analyze the following additional potential Project impacts: <ul style="list-style-type: none"> <li>• Fugitive dust: will increased traffic produce dust at a rate that may be detrimental to the habitat or reduce forage resources?</li> <li>• Human interactions: will increased human access, traffic, and interactions degrade habitat or cause physical harm to the frogs?</li> <li>• Invasive weeds: will the introduction of invasive weeds potentially alter vegetation composition or habitat structure to the point it becomes unsuitable?</li> <li>• Increased predation rates: will changes in habitat structure or composition alter potential predation rates?</li> </ul>
	3.2.4.7	330/2-3	<b>Compensatory mitigation:</b> This statement indicates that only those resources with a high residual impact will require mitigation. Any impact that results from the implementation of the Project, regardless of impact type (direct or indirect), may require mitigation dependent on the nature, extent, and duration of the impact and the Category of habitat (OAR 635-415-0025) being impacted. The table on page 330 provides the level of residual effect/impact of the project	<b>Compensatory mitigation:</b> All impacts should be mitigated consistent with the Department’s Fish and Wildlife Habitat Mitigation Policy (OAR 635-415-00025).  Department and BLM collaboration is highly recommended to: <ul style="list-style-type: none"> <li>• Streamline similarities and reconcile differences in interpretation of Project impacts</li> <li>• Provide clear and concise information to IPC where applicable</li> </ul>

S4ac [ Text was edited to include analysis of the indicated impacts.

S4ad [ This section has been removed from Chapter 3. Appendix C was revised to include additional details and information on BLM's compensatory mitigation requirements and recommendations.

**COMMENT(S)**

**RESPONSE(S)**

**S4 Oregon Department of Fish and Wildlife (cont.)**

Oregon Department of Fish & Wildlife comments on the DEIS for the B2H Transmission Line Project			
Comments by Section			
Section No.	Pg. / line	Issue Identified	Recommended Resolution
S4ad		on specific wildlife species or groups of species. Big game, migratory birds, and management indicator species all are listed as moderately impacted. This suggests that few or none of the Project impacts to these resources would be mitigated.	<ul style="list-style-type: none"> <li>Request mitigation actions that can fulfill both the federal and state policy requirements whenever possible</li> </ul> The Department recommends BLM also provide further discussion in this section to address the meaning of high residual impacts for various habitats and types of project impacts. Outline the main differences between the Department and federal policies on mitigation in this section.
S4ae	3.2.4.7	330/4	<p><b>Mitigation:</b> This sentence indicates that preservation is one form of mitigation. The Department’s Mitigation Policy does not recognize preservation alone as mitigation. Instead, mitigation should include the improvement of habitat (uplift) that demonstrates durability through proper legal protections (acquisition or easement) or similar mechanisms (laws and enforcement). These protect the improved area from future degradation from anthropogenic disturbances for the life of the project.</p> <p><b>Mitigation:</b> Do not consider preservation as mitigation. Also add details on how the BLM required Project mitigation would satisfy both state and federal requirements.</p>
S4af	3.2.4.7	330/1	<p><b>Mitigation Planning:</b> This section provides reference to the Compensatory Mitigation Plan (CMP) and goes on to describe mitigation guidance for sage-grouse. In the current form, this section of the DEIS is very incomplete. Big game, WGS, migratory birds, and other special status species should be addressed.</p> <p><b>Mitigation Planning:</b> Complete the Mitigation Planning section by providing information on other species impacted by the project.</p>
S4ag	3.2.5.4	338/30-39	<p><b>Streams considered in analysis:</b> This section describes the data sources and stream types that were selected to analyze project impacts. Ephemeral streams were not included in the analysis. However, ephemeral</p> <p><b>Streams considered in analysis:</b> Address impacts to ephemeral streams to capture all potential Project impacts to fish habitat. This would also help identify potential impacts to downstream fish rearing and seasonal use habitats and will</p>

S4ae [ See response to Comment S4ad.

S4af [ See response to Comment S4ad.

S4ag [ The analysis has been revised for the Final EIS to include B2H Project impacts on ephemeral streams and associated downstream fish habitat within 1,000 feet of B2H Project crossings.

**COMMENT(S)**

**RESPONSE(S)**

**S4 Oregon Department of Fish and Wildlife (cont.)**

Oregon Department of Fish & Wildlife comments on the DEIS for the B2H Transmission Line Project			
Comments by Section			
Section No.	Pg. / line	Issue Identified	Recommended Resolution
S4ag		streams can play a vital role in certain life cycle processes of many native migratory fish through adulthood, namely as high-water refugia habitats during severe discharge periods. Any Project impact to ephemeral stream habitats should be analyzed to determine potential effects to fish.	inform better BMP selection and impact minimization efforts. Utilize existing data collected by IPC to analyze potential Project impacts to ephemeral streams.
S4ah	3.2.5.6 338/30-39 And 339/32 And 355-356 And 362/25-29 And 363/13-15	<p><b>Fish passage issues:</b> The Department has identified several fish passage related issues in Section 3.2.5.6.</p> <ul style="list-style-type: none"> <li>Locations where Project roads cross streams (perineal, intermittent, or ephemeral) that have historic or current populations of native migratory fish (OARs 635-412-0005(32)) may trigger state and federal fish passage rules and regulations. The two pages (355-356) that describe impacts for Project proposed Type 2 (fords) and Type 3 (culverts) stream crossings should address Department ORS 509.586 and ORS 509.645 on stream crossing designs. Insert pertinent information from OAR 635-412-0035(1) and OAR 635-412-0035(3) to address the main passage concerns as IPC will have to adhere to state fish passage law as well as federal requirements including BLM standards.</li> <li>The DEIS analysis of Project impacts include all anadromous species and redband trout. The Department has fish passage authority over all native migratory species in Oregon (OARs 635-412-0005(32)) because of their intrinsic value within stream</li> </ul>	<p><b>Fish passage issues:</b> The DEIS should reflect the Department's authority to require fish passage for any Project road/stream crossing on streams with historic or current presence of native migratory fish. The Department recommends additional information about the Department's fish passage authorities be added to the appropriate locations throughout the 3.2.5 Fish section. This additional information should address:</p> <ul style="list-style-type: none"> <li>The Department recommendation for the BLM to condition the right of way application such that fish passage related portions of the proposed Project meet both state and federal crossing design criteria.</li> <li>The Department's authority to assess Project impacts to fish passage in streams where there is a documented historic or current presence of redband trout, salmonids, or other native migratory fish. IPC will be required to provide fish passage for road crossing impacts to streams with migratory fish listed in OARs 635-412-0005(32).</li> <li>The Department's fish passage authority includes Project road/stream crossing impacts to perennial, intermittent, and ephemeral streams that historically or currently contain native migratory</li> </ul>

S4ah

Text has been added to Section 3.2.5 of the Final EIS to include discussions on the following: (1) ODFW will need to approve all fish-bearing stream crossing designs. (2) Type 4 crossings (channel-spanning structures) would be used on streams which support native migratory fish species. (3) State and federal fish passage rules and regulations would be addressed and final crossing plans would be determined through consultation with federal and state agencies where access roads cross streams (perennial, intermittent, or ephemeral) that have historic or current populations of native migratory fish (OARs 635-412-0005(32)). 4) Based on determinations by federal and state agencies regarding presence of migratory fish species and passage needs at specific stream crossings, fish passage plans would be developed for streams that trigger state or federal fish passage laws. B2H Project impacts to perennial, intermittent, and ephemeral streams containing native migratory fish have been analyzed for the Final EIS.

**COMMENT(S)**

**RESPONSE(S)**

**S4 Oregon Department of Fish and Wildlife (cont.)**

Oregon Department of Fish & Wildlife comments on the DEIS for the B2H Transmission Line Project			
Comments by Section			
Section No.	Pg. / line	Issue Identified	Recommended Resolution
		<p>systems and water quality. These fishes inhabit a variety of habitats present in perennial, intermittent, and ephemeral streams. Therefore, project impacts to perennial, intermittent, and ephemeral streams containing any native migratory fish should be included in the analysis.</p> <ul style="list-style-type: none"> <li>The DEIS indicates that at a minimum, IPC will have to adhere to ODFW fish passage designs at new stream crossings of fish bearing streams (page 362). The Department disagrees with that statement as the Department has the authority to require fish passage at <u>any</u> new or improved Project road/stream crossing where Project activities trigger state fish passage law. Therefore, The Department will request that IPC address fish passage, through submittal of fish passage plan applications at any component of a Project road/stream crossing that is constructed or altered in a way that triggers state law pursuant to OAR 635-412-0005 through 0040.</li> <li>The DEIS states that there may be some short-term or long-term effects to fish passage at stream ford-type road crossings for any intermittent streams occupied by seasonally migratory fish species. The Department has not approved any short-term to long-term impacts to fish passage on any stream (perennial, intermittent, or ephemeral) subject to OAR 635-412-0005</li> </ul>	<p>fish.</p> <ul style="list-style-type: none"> <li>The Department has fish passage authority on all new or existing stream crossings used for the Project where Project activities impede the potential movement of historic or current native migratory fish up or downstream pursuant to Department OAR 635-412-0005 through 0040.</li> <li>The importance of frequent and iterative coordination with the Department to help identify when and where road/stream crossings may trigger fish passage pursuant to OAR 635-412-0005 through 0040. Proper coordination will also help streamline the fish passage processes between the Department and federal policies.</li> </ul>

S4ah

S4ai

S4ai [ See response to Comment S4ah.

**COMMENT(S)**

**RESPONSE(S)**

**S4 Oregon Department of Fish and Wildlife (cont.)**

Oregon Department of Fish & Wildlife comments on the DEIS for the B2H Transmission Line Project			
Comments by Section			
Section No.	Pg. / line	Issue Identified	Recommended Resolution
S4ai		through 0040 and suggests it be addressed and remedied through appropriate regulatory process; a submittal of a fish passage plan for review and approval by the Department. The Department will require adequate fish passage at all road/stream crossing locations that will potentially impact historic or current native migratory fish (OARs 635-412-0005(32)) populations.	
S4aj	3.2.5.6	357/11-12 <b>Indirect effects to special status species:</b> Two indirect impacts that were not covered or analyzed in the DEIS are: <ul style="list-style-type: none"> <li>Impacts that would result from the introduction of invasive weeds species adjacent to stream channels.</li> <li>Increase predation of special status species (e.g. chinook, etc.) by other fish and avian predators.</li> </ul>	<b>Indirect effects to special status species:</b> Analyze indirect impacts from the introduction of invasive weeds from Project construction or use of Project roads (IPC and public traffic). Address any indirect impacts to fish that may result from alterations to the adjacent terrestrial habitat that increase potential avian predation of fish or reduce foraging opportunity.
S4ak	3.3.2.1	999 <b>Table 3-313:</b> The rationale provided for impacts to resources described in this table are difficult to understand.	<b>Table 3-313:</b> See comment 2
S4al	3.3.4.4	1064 <b>Table 3-316:</b> The table indicates that the Project has moderate cumulative effects on the Columbia spotted frog. However, the text throughout the wildlife resources section indicates high cumulative impacts.	<b>Table 3-316:</b> Revisit this analysis and rectify inconsistencies in the analysis and conclusions.
S4am	3.3.4.5	1068 <b>Segments are missing:</b> Segments 2 and 3 are missing from the cumulative effects section.	<b>Segments are missing:</b> Include cumulative effects analysis discussion for segments 2 and 3.
S4an	App. D	<b>Compensatory Mitigation Plan:</b> The Compensatory Mitigation Plan (CMP) is based on sound mitigation principles and standards for Project impacts. However, many of the Department's comments provided above will likely result in changes to	<b>Compensatory Mitigation Plan:</b> Address Department concerns expressed in previous comments within the CMP.  The Department recommends continual utilization of the Biological Resources Task Group as a tool for coordinating

ODFW B2H DEIS Comments

Page 13

- S4aj [ Text addressing impacts resulting from the potential introduction of noxious weeds/herbicides and predation has been incorporated to Section 3.2.5 of the Final EIS. The Applicant has committed to updated design features and selective mitigation measures designed to minimize anticipated potential B2H Project impacts from invasive weeds and removal of riparian vegetation on streams. Refer to Section 3.2.5 of the Final EIS. The applicant has also committed to the creation of a Noxious Weed Management Plan and a Reclamation, Revegetation, and Monitoring Plan, which will be included in the Plan of Development. These plans detail the methods used to conduct preconstruction weed surveys, areas requiring ongoing weed control activities both before and after B2H Project construction, and post-construction weed monitoring. Preconstruction surveys of areas of existing weed infestations would be conducted for the selected route to identify appropriate weed control measures, which could include installation of gates (upon landowner approval) as well as other measures to reduce vehicular transmission of invasive weeds.
- S4ak [ Comments on the Draft EIS expressed that not enough information was provided in the Draft EIS to enable the reviewers to understand where impacts would occur and where mitigation would be applied to reduce impacts. Chapter 2, Section 2.5.1 of the Final EIS presents an explanation of the study and analysis approach employed for the B2H Project. Chapter 3 has been expanded to provide more description of the methods for used for analyzing effects associated with each resource (tiered to the overall approach). Chapter 3 also provides more information about the resources, mitigation applied to reduce impacts, and residual impacts on resources along each alternative route by segment, including cumulative effects.  
  
In addition, a map volume of large-scale maps is provided to present resource data and to show the level of residual impact on the resources along all of the alternative routes.
- S4al [ See response to Comment S1ak.
- S4am [ See response to Comment S1ak.
- S4an [ The Compensatory Mitigation Plan was revised to include additional detail and information regarding BLM's requirements and recommendations for compensatory mitigation.

**COMMENT(S)**

**RESPONSE(S)**

<b>S4</b>	<b>Oregon Department of Fish and Wildlife (cont.)</b>
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Oregon Department of Fish & Wildlife comments on the DEIS for the B2H Transmission Line Project			
Comments by Section			
Section No.	Pg. / line	Issue Identified	Recommended Resolution
S4a		the CMP.	agencies to provide valuable input into the development of the CMP.

**COMMENT(S)**

**RESPONSE(S)**

**S5**

**Oregon Department of Land Conservation and Development**

comment@boardmantohemingway.com

**From:** Daniels, Katherine <katherine.daniels@state.or.us>  
**Sent:** Thursday, March 19, 2015 1:14 PM  
**To:** 'comment@boardmantohemingway.com'  
**Cc:** Johnson, Jim; HOFFMANN Margi \* GOV  
**Subject:** B2H DEIS comment letter  
**Attachments:** B2H.lettertoBLM.3-19-15.pdf

To whom it may concern,

Attached please find our letter of comment on the DEIS for the Boardman to Hemingway project. Thank you.

Katherine

**Katherine Daniels, AICP** | Farm and Forest Lands Specialist  
Community Services Division  
Oregon Dept. of Land Conservation and Development  
635 Capitol Street NE, Suite 150 | Salem, OR 97301-2540  
Direct: (503) 934-0069 | Main: (503) 373-0050 | Fax: (503) 378-5518  
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COMMENT(S)

RESPONSE(S)

S5 Oregon Dept. of Land Conservation and Development (cont.)



Oregon

Kate Brown, Governor

Department of Land Conservation and Development

635 Capitol Street, Suite 150

Salem, OR 97301-2540

(503) 373-0050

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March 19, 2015

Renee Straub
Vale District Project Coordinator
PO Box 655
Vale, OR 97918

Dear Ms. Straub,

Thank you for the opportunity to submit comments on the Draft Environmental Impact Statement for the proposed Boardman to Hemingway 500 kv transmission line. Our comments are limited to Segment 1 of the proposal for the transmission line route through Morrow County. Please enter these comments into the record for all proceedings on the matter.

S5a

The Oregon Department of Land Conservation and Development is a statewide land use planning agency with the responsibility, among other activities, to protect Oregon's agricultural land base. Agriculture is the State's number two economic sector and we credit our strong land use protections for much of the continuing strength of our agricultural sector. The Boardman vicinity is home to extensive high-value irrigated agriculture and confined animal feeding operations (CAFOs) that, together with local value-added processing, contribute significantly to the regional as well as State economies. These industries represent considerable capital investments and are also proximate to a vital water source - the Columbia River. The siting of a major transmission line corridor among these operations would have direct and indirect long-term land use and economic impacts. We believe that it is important for the Bureau of Land Management to consider Oregon's strong agricultural land protection policies in its decision making involving the federal EIS process.

S5a

The analysis of impacts on agriculture for alternative routes analyzed in detail in the Final EIS includes a quantitative analysis of important farmland, high-value soils, irrigated farmland, and existing agriculture. This analysis now takes into account high-value soils, Exclusive Farm Use, and Exclusive Range Use as defined by the Land Conservation and Development Commission rules. Refer to Sections 3.2.6.2, 3.2.7.2, and 3.2.7.6 for revisions.

S5b

The route that would appear to have the fewest potential impacts on high-value irrigated agriculture and CAFOs is the Horn Butte Alternative running south of the Naval Training Range and then west. Another potential variation in this area that was discussed at the February 12th meeting in Boardman is a route that would extend beyond the Horn Butte substation to the existing Slatt substation. Neither of these routes would impact high-value irrigated agriculture or CAFOs. Another potential route that was extensively discussed at the February 12th meeting and that would minimize agricultural impacts would run north along the west side of Bombing Range Road. We believe that both of these as-yet-to-be proposed variations should be evaluated as alternative routes and one of the three routes described in this paragraph selected.

S5b

Based on comments received by the BLM on the Draft EIS, collaboration with the counties and their constituents occurred, resulting in a number of recommended routing variations/ options, which were incorporated into the network of alternative routes analyzed in the Final EIS. Refer to Sections 2.1.1.3 and 2.5.2. Analysis of the alternative routes is reported throughout Chapter 3.

S5c

The least desirable routes from our department's perspective are the Longhorn Alternative and the Longhorn Variation, because of the extensive areas of high-value irrigated agriculture or CAFOs that would be lost or impacted by transmission lines. Page 2-77 of the draft EIS states that impacts to agriculture along both of these routes would be "moderate short-term impacts, low long-term impacts." We believe that this assessment significantly understates the potential adverse impacts to agriculture along these routes, and is therefore inaccurate. The draft EIS

S5c

The analysis of impacts on agriculture for alternative routes analyzed in detail in the Final EIS includes a quantitative analysis of important farmland, high-value soils, irrigated farmland, and existing agriculture. Refer to Section 3.2.7 for more information.

S5d

**COMMENT(S)**

**RESPONSE(S)**

**S5**

**Oregon Dept. of Land Conservation and Development (cont.)**

B2H Project  
 March 19, 2015  
 p. 2 of 2

provides an identical assessment of impacts to agriculture for all four alternatives routes, despite significant differences in the types of agricultural operations. While chapter 3 of the DEIS provides a little more detail, the analysis is incomplete for the following reasons:

- It does not note how many fewer acres of irrigated agriculture or prime farmland would be disturbed for the Horn Butte alternative than for the Proposed Action, as it notes for the other alternatives and variations.
- It identifies farmland along the Proposed Action and Horn Butte alternative routes as prime, whereas these lands are mostly nonirrigated NRCS class IV soils. These soils would be prime if irrigated, but they are not irrigated. Soils along the Longhorn alternative and variation routes are considered to be high-value soils by Oregon and Soils of Statewide Significance by the NRCS because they are irrigated. Oregon's high-value designation of these soils should be acknowledged by the DEIS.
- It states that the long-term effects on agricultural operations created by Project operations "would be low in the context of the scale of agricultural activity in the Morrow-Umatilla segment of the project," except for the Longhorn alternative. This statement is unsupported by evidence and is contradicted by data provided by the Northeast Oregon Water Association on the very significant economic contributions of agriculture in the Boardman area.
- There is an incomplete assessment of the potential for conflicts that transmission towers and lines could create for particular types of farming, e.g. sensitivity of livestock to electrical fields, aerial spraying needs, etc. The information provided on aerial spraying does not note along which alternative routes farms utilizing aerial spraying lie.
- There is no assessment of the potential loss of capital investment (e.g. irrigation equipment) or cumulative impacts of the loss of productive farmland resulting in a decrease in value-added production (see data provided by the Northeast Oregon Water Association).

Thank you, again, for the opportunity to offer comments on the proposed routing of the Boardman to Hemingway transmission line through Morrow County. Please let me know if I can provide any additional information or respond to any questions.

Sincerely,



Carrie MacLaren  
 Deputy Director

Cc: Margi Hoffmann

S5d

S5d

The analysis of impacts on agriculture for alternative routes analyzed in detail in the Final EIS includes a quantitative analysis of important farmland, high-value soils, irrigated farmland, and existing agriculture. Refer to Section 3.2.7 for more information.

The economic analysis in Section 3.2.17 includes data on effects to irrigated farmland from the construction and operation of the B2H Project. The analyses assess how surface disturbances may affect crop yields under the alternatives, and how these changes in crop yields may affect local economic conditions.

**COMMENT(S)**

**RESPONSE(S)**

**S6**

**Oregon Department of Transportation**

comment@boardmantohemingway.com

**From:** DAVIS Steven A \* Tech Center Manager <Steven.A.DAVIS@odot.state.or.us>  
**Sent:** Thursday, March 05, 2015 2:19 PM  
**To:** 'comment@boardmantohemingway.com'  
**Cc:** WOODS Maxwell; HOFFMANN Margi \* GOV; BUCHANAN Michael R; GROVE Monte; HOLT Marilyn M; JONASSON Sheryl; PENNINGER Teresa B; SIPP Craig A; SMITH Donald R; WOODWORTH Paul D  
**Subject:** ODOT R5 response to Draft B2H EIS  
**Attachments:** B2H Feb 15 comments.pdf

To whom it may concern,  
Attached are comments from the Oregon Department of Transportation Region 5 office regarding the Boardman to Hemingway Draft EIS. If you have any questions, please contact me directly.  
Thank you,

Steven A. Davis, M.S., C.E.G., OPMA  
Region 5 Tech Center Manager  
3012 Island Ave. LaGrande OR 97850  
Steven.A.DAVIS@odot.state.or.us  
541-963-1585 Office  
541-910-0355 cell

**COMMENT(S)**

**RESPONSE(S)**

<b>S6</b>	<b>Oregon Department of Transportation (cont.)</b>
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**Oregon**  
Kate Brown, Governor

Department of Transportation  
Region 5 Tech Center  
3012 Island Avenue  
La Grande, OR 97850  
(541) 963-3177  
FAX (541) 963-9079

March 5, 2015

Idaho Power

Boardman to Hemingway Transmission Line Project

P.O. Box 655

Vale, OR 97918

RE: Draft Environmental Impact Statement  
Boardman to Hemingway Transmission Line

The Oregon Department of Transportation (ODOT) has the responsibility to preserve the operational safety, integrity, and function of state highway facilities. ODOT must also ensure that improvements to the highway system can be accomplished without undue impacts to or damage to utilities within the highway right-of-way. The Department understands that the proposed Boardman to Hemingway Transmission Line project could or will interface with state highways by crossing the highway, occupying state highway right of way, running parallel to the highway within the right-of-way, or running parallel to the highway just outside of the right-of-way.

Construction that may impact the State right-of-way is subject to Oregon Revised Statute (ORS) 374.305 under which no person, firm or corporation may place, build or construct on any State highway right-of-way, any approach road, structure, pipeline, ditch, cable or wire, or any other facility, thing or appurtenance without first obtaining written permission from ODOT. Idaho Power must also meet the requirements in Oregon Administrative Rule (OAR) 734 Division 051 & 055. Idaho Power is required to consult with ODOT Region 5 to ensure that construction plans reflect stipulations and other requirements therein related to construction and future maintenance.

Generally, concern exists where the proposed location of the facility occupies, crosses or connects to state rights of way; or is adjacent to a current or future mining operation on lands owned or controlled by the Agency. ODOT will work with Idaho Power to develop plans and specifications that meet Agency standards for design, construction and maintenance. No work or construction access will be permitted within the I-84 right of way, but both are generally permitted, with restrictions at all other locations. Permits will be issued by the District office where the impact and work will occur.

Coordination with other utilities will be the responsibility of Idaho Power. ODOT District offices can be of assistance by providing information on current permitted utilities within its right of way.

S6a

S6a

The use of and crossing of existing roads would be analyzed during final design of the B2H Project. If an action alternative is selected, the Applicant would coordinate with the Department of Transportation and document the outcome in the Applicant's Plan of Development (to be finalized prior to the Record of Decision) and associated Traffic and Transportation Management Plan. See Section 3.2.9 for further detail.

**COMMENT(S)**

**RESPONSE(S)**

**S6**

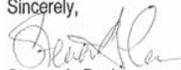
**Oregon Department of Transportation (cont.)**

S6b

Other federal, state and local permits or clearances are likely to be needed. Idaho Power is responsible to secure these, whether or not they involve Agency property or controlled right of way.

Thank you for allowing ODOT to comment on the proposed development. Please contact me if you have any questions regarding our comments.

Sincerely,



Steven A. Davis  
541-963-1585

On behalf of:  
Monte Grove  
Region 5 Manager  
ODOT Transportation  
3012 Island Ave.  
LaGrande, OR 97850

c.c. Margi Hoffman, Office of the Governor, Max Woods, ODOE, Susan White, ODOT

S6b

See response to Comment S6a.

COMMENT(S)

RESPONSE(S)

S7

Oregon Parks and Recreation Department – SHPO



Parks and Recreation Department
State Historic Preservation Office
725 Summer St NE, Ste C
Salem, OR 97301-1266
Phone (503) 986-0690
Fax (503) 986-0793
www.oregonheritage.org



March 4, 2015

Mr. Donald Gonzales
U.S. Bureau of Land Management
PO Box 655
Vale, OR 97918

RE: Oregon SHPO comments for the Draft Environmental Impact Statement (EIS) and Land Use Plan Amendments (LUPAs) for the Boardman to Hemingway Transmission Line Project (Project) SHPO Case No. 08-2232

Dear Mr. Gonzales:

The Oregon State Historic Preservation Office (SHPO) appreciates the opportunity to comment on the Draft Environmental Impact Statement (EIS) and Land Use Plan Amendments (LUPAs) for the Boardman to Hemingway Transmission Line Project (Project). The Oregon SHPO has been involved with the Project since 2008 and worked with the lead federal agency, project proponent, and other consulting parties on the development of a Programmatic Agreement (PA) since 2011. While the PA is not yet finalized, many of our concerns regarding historic properties (as defined in 36CFR800.16) are addressed in the most recent draft. In any event, our comments for the EIS below are specific to the identification and evaluation of cultural resources within the Area of Potential Effect (APE) and the potential direct and indirect effects of the Project on these resources under the authority of Section 106 of the 1966 National Historic Preservation Act, and its implementing regulations (36CFR800).

S7a

In a previous letter dated February 18, 2014, our office indicated that we are "satisfied that historic properties in urban areas, such as within or surrounding the large communities of Baker City, Ontario, and La Grande, or that are physically separated from the B2H project by an interstate highway or other significant visual interruption are unlikely to be adversely affected by the B2H Project." We expect to see a more detailed analysis of those properties that may be impacted by the Project and that are already identified in the Visual Assessment of Historic Properties Study Plan (VHAP), including the noted segments of the Oregon Trail and associated alternative routes, in the forthcoming Intensive Level Survey (ILS), and we expect that the results of this study will be included in the Final EIS.

S7b

The Oregon SHPO concurs with the broad conclusions of the EIS that the Project, including the Environmentally Preferred Alternative, will adversely affect the historic character-defining features of the Oregon Trail and, to a lesser extent, associated alternative routes. The Oregon Trail and associated routes are a singularly-unique nationally-significant resource; however, continued development along the trail corridor, including highways and other infrastructure, have negatively impacted the historic integrity of some segments of the Trail. As such, specific actions and further cumulative impacts have the potential to significantly diminish the Trail as a historic resource. In order to sharpen the findings presented in the EIS we ask that the Bureau of Land Management (BLM) re-examine the working definition of adverse effect provided in the EIS; more specifically define eligible historic properties; provide a more comprehensive assessment of cumulative adverse effects to historic trails within the APE; and develop more specific treatment measures to address adverse effects.

S7a

The Intensive Level Survey will be completed following the Record(s) of Decision on any agency-selected alternative. This Intensive Level Survey report is referenced in the EIS regarding the Oregon National Historic Trail. It is not the purpose of the EIS to provide determinations of eligibility of individual segments for listing in the National Register of Historic Places or to identify contributing and non-contributing segments where no prior identification has been made. The EIS will document the current state of the Oregon National Historic Trail through review of existing data and existing determinations of eligibility. The Final EIS addresses cumulative effects on the Oregon National Historic Trail within the B2H Project area.

S7b

Comment noted. The definition of adverse effect provided in the EIS has been reviewed and edited to reflect the criteria of adverse effect as set forth in 36 CFR 800.5 (a)(1). Under the law, an adverse effect is found when an undertaking may alter, directly or indirectly, any of the characteristics of a historic property that qualify the property for inclusion in the National Register in a manner that would diminish the integrity of the property's location, design, setting, materials, workmanship, feeling, or association. By definition a historic property is an eligible property and could therefore be subject to adverse effects. By definition sites evaluated as not eligible for inclusion in the National Register of Historic Places are not subject to adverse effects. The cumulative impacts of the B2H Project on the Oregon National Historic Trail will be analyzed and reported specific to each alternative analyzed in the Final EIS. Standard approaches to treatment identified in the EIS focus on the avoidance or minimization of potential adverse effects resulting from the B2H Project. Once a route has been selected for construction, additional opportunities for avoidance or minimization of effects would be explored. Specific treatment measures for the mitigation of adverse residual effects would then be developed in consultation with the applicable state and federal agencies and consulting parties as required under the Programmatic Agreement for the B2H Project and BLM Manual 6280. These treatments would then be incorporated into the Historic Properties Management Plan and carried out during the mitigation phase of the B2H Project.

COMMENT(S)

RESPONSE(S)

S7 Oregon Parks and Recreation Department – SHPO (cont.)

S7c

As defined, the definition for “Negligible” and “Low” impacts is problematic and calls into question the methods for determining project effects. Chapter 3 identifies and discusses the methods for assessing impacts on National Trails on pages 3-836-3-849, which is neatly summarized in table 3-253 on page 3-844. In the table, “Negligible” impacts, which are for the purposes of the analysis not included in the assessment of effects, are defined as resulting in “some degree of diminishment to the aspects of [National Register of Historic Places] integrity (Location, design, setting, materials, workmanship, feeling, setting, and association.)” A similar phrase is used to define “Low” impacts, which are also not included in the assessment, and the text notes that for both negligible and low impacts that “this degree of alteration would not create an adverse effect.” While the Oregon SHPO does not believe that all visual, or even physical, impacts are adverse, the definition given in the EIS for negligible and low impacts is, by legal definition provided by the Advisory Council on Historic Preservation, an adverse effect to historic resources. Federal code, 36 CFR 800 (a)(1) states “An adverse effect is found when an undertaking may alter, directly or indirectly, any of the characteristics of a historic property that qualify the property for inclusion in the National Register in a manner that would diminish the integrity of the property’s location, design, setting, materials, workmanship, feeling, or association.” We surmise that the described methodology is intended to differentiate between a finding of “adverse effect” versus “no adverse effect” as defined in the code referenced above, and the confusion may be a misalignment between the federal regulations and BLM Manual 6280, referenced in the text. To avoid confusion, we strongly recommend reviewing the definitions for findings of effect provided by the ACHP and revising Chapter 3 as appropriate.

S7d

As noted in previous correspondence, the National Park Service provided the Oregon State Historic Preservation Office a grant to prepare a National Register of Historic Places (NRHP) Multiple Property Document (MPD) for the Oregon Trail in Oregon and to nominate to the NRHP three associated properties, including the White Swan and Flagstaff Hill Segments, which are located within the APE. Cultural resources staff from the BLM, U.S. Forest Service, and U.S. Navy, National Park Service Historic Trail Staff, and the Governor-appointed citizen-staffed State Advisory Committee on Historic Preservation (SACHP) have all read and approved the current draft of this document, which will be sent to the National Park Service for acceptance within the next few months. Given the level of review already provided to this document and its comprehensive sweep, we ask that this document be identified and used in the EIS as the primary source for determining the eligibility of individual segments for listing in the Register and for identifying and determining the impact of the Project. We also recommend that for the purposes of analysis that the Final EIS specifically identify contributing and non-contributing segments and the justification for this determination.

S7e

While understanding that the forthcoming intensive Level Survey and Final EIS will include more complete information and that it is certainly appropriate to study the impacts of the Project by segment, our office finds that the EIS fails to adequately address cumulative impacts to the Oregon Trail and associated alternate routes. The Oregon Trail, while segmented by modern intrusions, is a single historic resource united under a single historic context and is not a compilation of distinct parts. As such, it is important to evaluate the cumulative impact of the project on the entire length of the Trail. As

Sincerely,  
  
Ian P. Johnson, M.A., Historian  
(503) 986-0678 or [ian.johnson@oregon.gov](mailto:ian.johnson@oregon.gov)

cc: Margi Hoffman, Energy Policy Advisor, Office of Governor Kate Brown

Boardman to Hemingway Transmission Line Project Draft EIS Comments

2 of 2 | Page

S7c

Comment noted. Visual impact thresholds have been updated to describe characteristics and settings that would be modified but their ability to contribute to NRHP eligibility would not be affected. Direct effects on historic properties are not anticipated.

The definition of adverse effect provided in the EIS has been reviewed and edited to reflect the criteria of adverse effect as set forth in 36 CFR 800.5 (a)(1). Under the law, an adverse effect is found when an undertaking may alter, directly or indirectly, any of the characteristics of a historic property that qualify the property for inclusion in the National Register in a manner that would diminish the integrity of the property’s location, design, setting, materials, workmanship, feeling, or association.

Adverse effects as defined in 36CFR 800.5 (A1) have been reviewed in context with the standards defined in BLM Manual 6280 with regard to trails and clarifications have been made to the text of the EIS as necessary.

S7d

This National Register nomination is referenced in the EIS regarding the Oregon National Historic Trail. It is not the purpose of the EIS to provide determinations of eligibility of individual segments for listing in the National Register of Historic Places or to identify contributing and non-contributing segments where no prior identification has been made. The EIS will document the current state of the Oregon National Historic Trail through review of existing data and existing determinations of eligibility. The Final EIS addresses cumulative effects on the Oregon National Historic Trail within the B2H Project area.

S7e

The Cumulative Effects section (Section 3.3) was expanded to include effects from the B2H Project in consideration with past, present, and reasonably foreseeable future projects along the high potential historic sites and segments to facilitate a more accurate acknowledgment of effects on the Oregon NHT. Impacts on the entire Oregon NHT would be beyond the scope of the B2H Project and the area impacts by the B2H Project. The impacts on trail nature and purpose describe these overall trail impacts, which were drafted for each alternative.

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