

Exhibit J Waters of the State

Boardman to Hemingway Transmission Line Project



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Preliminary Application for Site Certificate

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ACRONYMS AND ABBREVIATIONS

Note: Not all acronyms and abbreviations listed will appear in this Exhibit.

°C	degrees Celsius
4WD	4-wheel-drive
A	ampere
A/ph	amperes/phase
AC	alternating current
ACDP	Air Contaminant Discharge Permit
ACEC	Area of Critical Environmental Concern
ACSR	aluminum conductor steel reinforced
AIMP	Agricultural Impact Mitigation Plan
AMS	Analysis of the Management Situation
aMW	average megawatt
ANSI	American National Standards Institute
APE	Area of Potential Effect
APLIC	Avian Power Line Interaction Committee
ARPA	Archaeological Resource Protection Act
ASC	Application for Site Certificate
ASCE	American Society of Civil Engineers
ASP	Archaeological Survey Plan
AST	aboveground storage tank
ASTM	American Society of Testing and Materials
ATC	available transmission capacity
ATV	all-terrain vehicle
AUM	animal unit month
B2H	Boardman to Hemingway Transmission Line Project
BCCP	Baker County Comprehensive Plan
BCZSO	Baker County Zoning and Subdivision Ordinance
BLM	Bureau of Land Management
BMP	best management practice
BPA	Bonneville Power Administration
BOR	Bureau of Reclamation
C and D	construction and demolition
CAA	Clean Air Act
CadnaA	Computer-Aided Noise Abatement
CAFE	Corona and Field Effects
CAP	Community Advisory Process
CBM	capacity benefit margin
CFR	Code of Federal Regulations
CH	critical habitat
CIP	critical infrastructure protection
CL	centerline
cm	centimeter
cmil	circular mil
COA	Conservation Opportunity Area
CO ₂ e	carbon dioxide equivalent
COM Plan	Construction, Operations, and Maintenance Plan
CPCN	Certificate of Public Convenience and Necessity
cps	cycle per second

CRP	Conservation Reserve Program
CRT	cathode-ray tube
CRUP	Cultural Resource Use Permit
CSZ	Cascadia Subduction Zone
CTUIR	Confederated Tribes of the Umatilla Indian Reservation
CWA	Clean Water Act of 1972
CWR	Critical Winter Range
dB	decibel
dBA	A-weighted decibel
DC	direct current
DoD	Department of Defense
DOE	U.S. Department of Energy
DOGAMI	Oregon Department of Geology and Mineral Industries
DPS	Distinct Population Segment
DSL	Oregon Department of State Lands
EA	environmental assessment
EDRR	Early Detection and Rapid Response
EIS	Environmental Impact Statement (DEIS for Draft and FEIS for Final)
EFSC or Council	Energy Facility Siting Council
EFU	Exclusive Farm Use
EHS	extra high strength
EMF	electric and magnetic fields
EPA	Environmental Protection Agency
EPC	Engineer, Procure, Construct
EPM	environmental protection measure
EPRI	Electric Power Research Institute
ERO	Electric Reliability Organization
ERU	Exclusive Range Use
ESA	Endangered Species Act
ESCP	Erosion and Sediment Control Plan
ESU	Evolutionarily Significant Unit
EU	European Union
FAA	Federal Aviation Administration
FCC	Federal Communication Commission
FEMA	Federal Emergency Management Agency
FERC	Federal Energy Regulatory Commission
FFT	find, fix, track, and report
FLPMA	Federal Land Policy and Management Act
Forest Plan	Land and Resource Management Plan
FPA	Forest Practices Act
FSA	Farm Services Agency
FWS	U.S. Fish and Wildlife Service
G	gauss
GeoBOB	Geographic Biotic Observation
GF	Grazing Farm Zone
GHG	greenhouse gas
GHz	gigahertz
GIL	gas insulated transmission line
GIS	geographic information system
GPS	Global Positioning System

GRMW	Grande Ronde Model Watershed
GRP	Grassland Reserve Program
HAC	Historic Archaeological Cultural
HCNRA	Hells Canyon National Recreation Area
HPFF	high pressure fluid-filled
HPMP	Historic Properties Management Plan
HUC	Hydrologic Unit Code
Hz	hertz
I-84	Interstate 84
ICC	International Code Council
ICES	International Committee on Electromagnetic Safety
ICNIRP	International Commission on Non-Ionizing Radiation Protection
IDAPA	Idaho Administrative Procedures Act
IDEQ	Idaho Department of Environmental Quality
IDFG	Idaho Department of Fish and Game
IDWR	Idaho Department of Water Resources
ILS	intensive-level survey
IM	Instructional Memorandum
INHP	Idaho Natural Heritage Program
INRMP	Integrated Natural Resources Management Plan
IPC	Idaho Power Company
IPUC	Idaho Public Utilities Commission
IRP	integrated resource plan
IRPAC	IRP Advisory Council
ISDA	Idaho State Department of Agriculture
JPA	Joint Permit Application
KCM	thousand circular mils
kHz	kilohertz
km	kilometer
KOP	Key Observation Point
kV	kilovolt
kV/m	kilovolt per meter
kWh	kilowatt-hour
Ldn	day-night sound level
Leq	equivalent sound level
lb	pound
LCDC	Land Conservation and Development Commission
LDMA	Lost Dutchman's Mining Association
LiDAR	light detection and ranging
LIT	Local Implementation Team
LMP	land management plan
LOLE	Loss of Load Expectation
LRMP	land and resource management plan
LUBA	Land Use Board of Appeals
LWD	large woody debris
m	meter
mA	milliampere
MA	Management Area
MAIFI	Momentary Average Interruption Frequency Index
MCC	Malheur County Code
MCCP	Morrow County Comprehensive Plan

MCE	Maximum Credible Earthquake
MCZO	Morrow County Zoning Ordinance
mG	milligauss
MHz	megahertz
mm	millimeter
MMI	Modified Mercalli Intensity
MP	milepost
MPE	maximum probable earthquake
MRI	magnetic resonance imaging
MVAR	megavolt ampere reactive
Mw	mean magnitude
MW	megawatt
µV/m	microvolt per meter
N ₂ O	nitrous oxide
NAIP	National Agriculture Imagery Program
NED	National Elevation Dataset
NEMS	National Energy Modeling System
NEPA	National Environmental Policy Act of 1969
NERC	North American Electric Reliability Corporation
NESC	National Electrical Safety Code
NF	National Forest
NFPA	National Fire Protection Association
NFS	National Forest System
NGDC	National Geophysical Data Center
NHD	National Hydrography Dataset
NHOTIC	National Historic Oregon Trail Interpretive Center
NHT	National Historic Trail
NIEHS	National Institute of Environmental Health Sciences
NIST	National Institute of Standards and Technology
NOAA	National Oceanic and Atmospheric Administration
NOAA Fisheries	National Oceanic and Atmospheric Administration Fisheries Division
NOI	Notice of Intent to File an Application for Site Certificate
NOV	Notice of Violation
NPDES	National Pollutant Discharge Elimination System
NRCS	Natural Resources Conservation Service
NRHP	National Register of Historic Places
NSR	noise sensitive receptor
NTTG	Northern Tier Transmission Group
NWGAP	Northwest Regional Gap Analysis Landcover Data
NWI	National Wetlands Inventory
NWPP	Northwest Power Pool
NWR	National Wildlife Refuge
NWSRS	National Wild and Scenic Rivers System
NWSTF	Naval Weapons Systems Training Facility
O ₃	ozone
O&M	operation and maintenance
OAIN	Oregon Agricultural Information Network
OAR	Oregon Administrative Rules
OATT	Open Access Transmission Tariff
ODA	Oregon Department of Agriculture

ODEQ	Oregon Department of Environmental Quality
ODF	Oregon Department of Forestry
ODFW	Oregon Department of Fish and Wildlife
ODOE	Oregon Department of Energy
ODOT	Oregon Department of Transportation
OHWG	overhead ground wire
OHV	off-highway vehicle
OPGW	optical ground wire
OPRD	Oregon Parks and Recreation Department
OPS	U.S. Department of Transportation, Office of Pipeline Safety
OPUC	Public Utility Commission of Oregon
OR	Oregon (State) Highway
ORBIC	Oregon Biodiversity Information Center
ORS	Oregon Revised Statutes
ORWAP	Oregon Rapid Wetland Assessment Protocol
OS	Open Space
OSDAM	Oregon Streamflow Duration Assessment Methodology
OSHA	Occupational Safety and Health Administration
OSSC	Oregon Structural Specialty Code
OSWB	Oregon State Weed Board
OWC	Oregon Wetland Cover
P	Preservation
PA	Programmatic Agreement
pASC	Preliminary Application for Site Certificate
PAT	Project Advisory Team
PCE	Primary Constituent Element
PEM	palustrine emergent
PFO	palustrine forested
PGA	peak ground acceleration
PGE	Portland General Electric
PGH	Preliminary General Habitats
Pike	Pike Energy Solutions
PNSN	Pacific Northwest Seismic Network
POD	Plan of Development
POMU	Permit to Operate, Maintain and Use a State Highway Approach
PPH	Preliminary Priority Habitats
Project	Boardman to Hemingway Transmission Line Project
PSD	Prevention of Significant Deterioration
PSS	palustrine scrub-shrub
R	Retention
R-F	removal-fill
RCM	Reliability Centered Maintenance
RCRA	Resource Conservation and Recovery Act
ReGAP	Regional Gap Analysis Project
RFP	request for proposal
RLS	reconnaissance-level survey
RMP	resource management plan
ROD	Record of Decision
ROE	right of entry
RNA	research natural area
ROW	right-of-way

SAIDI	System Average Interruption Duration Index
SAIFI	System Average Interruption Frequency Index
SC	Sensitive Critical
SEORMP	Southeastern Oregon Resource Management Plan
SF6	sulfur hexafluoride
Shaw	Shaw Environmental and Infrastructure, Inc.
SHPO	State Historic Preservation Office
SLIDO	Statewide Landslide Inventory Database for Oregon
SMS	Scenery Management System
SMU	Species Management Unit
SPCC	Spill Prevention, Containment, and Countermeasures
SRMA	Special Recreation Management Area
SRSAM	Salmon Resources and Sensitive Area Mapping
SSURGO	Soil Survey Geographic Database
STATSGO	State Soil Geographic Database
SUP	special-use permit
SV	Sensitive Vulnerable
SWPPP	Stormwater Pollution Prevention Plan
T/A/Y	tons/acre/year
TDG	Total Dissolved Gas
TES	threatened, endangered, and sensitive (species)
TG	Timber Grazing
TMIP	Transmission Maintenance and Inspection Plan
TNC	The Nature Conservancy
tpy	tons per year
TSD	treatment, storage, and disposal
TV	television
TVES	Terrestrial Visual Encounter Surveys
TVMP	Transmission Vegetation Management Program
UBAR	Umatilla Basin Aquifer Restoration
UBWC	Umatilla Basin Water Commission
UCDC	Umatilla County Development Code
UCZPSO	Union County Zoning, Partition and Subdivision Ordinance
UDP	Unanticipated Discovery Plan
U.S.	United States
USACE	U.S. Army Corps of Engineers
U.S.C.	United States Code
USDA	U.S. Department of Agriculture
USFS	U.S. Department of Agriculture, Forest Service
USGS	U.S. Geological Survey
UWIN	Utah Wildlife in Need
V/C	volume to capacity
V	volt
VAHP	Visual Assessment of Historic Properties
VMS	Visual Management System
VQO	Visual Quality Objective
VRM	Visual Resource Management
WAGS	Washington ground squirrel
WCU	Wilderness Characteristic Unit
WECC	Western Electricity Coordinating Council
WHO	World Health Organization

WMA	Wildlife Management Area
WOS	waters of the state
WOUS	waters of the United States
WPCF	Water Pollution Control Facility
WR	winter range
WRCC	Western Regional Climate Center
WRD	(Oregon) Water Resources Division
WRP	Wetland Reserve Program
WWE	West-wide Energy
XLPE	cross-linked polyethylene

Exhibit J

Waters of the State

1.0 INTRODUCTION

Exhibit J provides information regarding wetlands and other jurisdictional waters of the state (WOS)¹ and waters of the United States (WOUS)² (in combination, “wetlands and other waters”) for the Oregon portion of the Boardman to Hemingway Transmission Line Project (Project) as required by Oregon Administrative Rule (OAR) 345-021-0010(1)(J), paragraphs (A) through (F).

This exhibit contains substantial evidence to support a determination by the Energy Facility Siting Council (EFSC or Council) that the Oregon Department of State Lands (DSL) should issue a removal-fill (R-F) permit for the Project. It includes the information required for a R-F permit in the form required by DSL and OAR 141-085-0550 (Application Requirements for Individual Removal-Fill Permit). As explained in this Exhibit, the Project will impact both WOS and WOUS, and will therefore require both an Oregon State R-F permit and a federal Clean Water Act Section 404 permit. Accordingly, Idaho Power Company (IPC) will prepare a Joint Permit Application (JPA) for submittal to ODOE, DSL, and the United States Army Corps of Engineers (USACE).

2.0 APPLICABLE RULES AND STATUTES

2.1 Required Contents of Exhibit J

In accordance with OAR 345-021-0010(1)(j), Exhibit J must include the following:

- (A) A description of all areas within the site boundary that might be waters of this state and a map showing the location of these features.
- (B) An analysis of whether construction or operation of the proposed facility would adversely affect any waters of this state.
- (C) A description of the significance of potential adverse impacts to each feature identified in (A), including the nature and amount of material the applicant would remove from or place in the waters analyzed in (B).
- (D) If the proposed facility would not need a removal-fill authorization, an explanation of why no such authorization is required for the construction and operation of the proposed facility.
- (E) If the proposed facility would need a removal-fill authorization, information to support a determination by the Council that the Oregon Department of State Lands should issue a removal-fill permit, including information in the form required by the Department of State Lands under OAR Chapter 141 Division 85.
- (F) A description of proposed actions to mitigate adverse impacts to the features identified in (A) and the applicant’s proposed monitoring program, if any, for such impacts.

¹ See definition in Section 2.2 below.

² See definition in Section 2.2 below.

2.2 Definitions

The six subsections of OAR 345-021-0010(1)(j)(A) relating to impacts to “waters of the state” (WOS) must be read in conjunction with applicable definitions from state and federal law.

2.2.1 State

ORS 196.800 defines “waters of the state” to include “all natural waterways, tidal and non-tidal bays, intermittent streams, constantly flowing streams, lakes, wetlands, that portion of the Pacific Ocean that is in the boundaries of this state, all other navigable and non-navigable bodies of water in this state and those portions of the ocean shore, as defined in ORS 390.605, where removal-fill activities are regulated.

In consultation with DSL and the USACE, for the purposes of the Project IPC has interpreted this definition to include perennial and intermittent streams, but not ephemeral streams. ORS 196.800 defines intermittent streams as “any stream which flows during a portion of every year and which provides spawning, rearing or food-producing areas for food and game fish.” By comparison, ephemeral streams flow “only in direct response to precipitation. Water typically flows only during and shortly after large precipitation events. An ephemeral stream may or may not have a well-defined channel, the stream bed is always above the water table, and stormwater runoff is the primary source of water. An ephemeral stream typically lacks biological, hydrological, and physical characteristics commonly associated with the continuous or intermittent conveyance of water” (Topping et al. 2009).

2.2.2 Federal

Though not directly relevant to EFSC’s requirements for Exhibit J, it is appropriate to include here the comparable definition in federal law. Federal law defines the term “waters of the United States,” as it applies to the jurisdictional limits of the authority of the Environmental Protection Agency as administered by the USACE under the Clean Water Act, as follows:

- (1) *All waters which are currently used, or were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide;*
- (2) *All interstate waters including interstate wetlands;*
- (3) *All other waters such as intrastate lakes, rivers, streams (including intermittent streams), mudflats, sandflats, wetlands, sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds, the use, degradation or destruction of which could affect interstate or foreign commerce including any such waters:*
 - i. *Which are or could be used by interstate or foreign travelers for recreational or other purposes; or*
 - ii. *From which fish or shellfish are or could be taken and sold in interstate or foreign commerce; or*
 - iii. *Which are used or could be used for industrial purpose by industries in interstate commerce;*
- (4) *All impoundments of waters otherwise defined as waters of the United States under the definition;*
- (5) *Tributaries of waters identified in paragraphs (a) (1) through (4) of this section;*
- (6) *The territorial seas;*
- (7) *Wetlands adjacent to waters (other than waters that are themselves wetlands) identified in paragraphs (a) (1) through (6) of this section. [33 C.F.R. § 328.1 - § 328.3]*

1 According to 33 Code of Federal Regulations § 328.3(b), the term *wetlands* means those areas
2 that are inundated or saturated by surface or ground water at a frequency and duration sufficient
3 to support, and that under normal circumstances do support, a prevalence of vegetation
4 typically adapted for life in saturated soil conditions. Wetlands generally include swamps,
5 marshes, bogs, and similar areas.

6 **2.3 Project Order**

7 The Project Order provides some additional guidance by clarifying how IPC should prepare
8 Exhibit J for the Project:

- 9 • *The Department understands that the phased study approach is presenting challenges*
10 *to the applicant's ability to obtain the information necessary to prepare a Joint Permit*
11 *Application to DSL and the Corps of Engineers. To the extent possible, the preliminary*
12 *application should include identification of wetlands and waters of the State for all areas*
13 *to be affected by the proposed facility, including access roads and temporary laydown*
14 *areas.*
- 15 • *The applicant should include in Exhibit J as much of the information required by OAR*
16 *345-021-0010(1)(j) as possible, and the proposed path forward to obtain the information*
17 *necessary for the Council to find that the requirements for a removal-fill permit have*
18 *been met. Information would include an itemized demonstration of each applicable*
19 *provision of ORS 196.825 (Criteria for Issuance of a Permit) and OAR 141-085-0550*
20 *(Application Requirements for All Authorizations). DSL requires a compensatory*
21 *wetland, compensatory non-wetland, and temporary impacts mitigation plan be*
22 *submitted with a removal-fill application.*
- 23 • *Written authorization in the form of an easement from DSL is required for development*
24 *activities on state land, including use or crossing of the John Day and Deschutes Rivers.*
25 *The easement(s) must be obtained prior to the start of facility construction. The DSL*
26 *easement is not under Council jurisdiction. The applicant should consult with DSL to*
27 *determine requirements and review timelines.*

28 The Project will not cross the John Day River or Deschutes River. No impacts are proposed to
29 wetlands or other waters on state-owned land. This guidance is not applicable.

- 30 • *OAR Chapter 140, Division 85 ("Administrative Rules Governing the Issuance and*
31 *Enforcement of Removal-Fill Authorizations Within Waters of Oregon Including*
32 *Wetlands") has been revised since the last time the Council's rules were updated. The*
33 *citation in OAR 345-021-0010(1)(j) to rules in Division 85 of OAR Chapter 141 are no*
34 *longer valid. For example, reference to OAR 141-085-0010 should now be 141-085-*
35 *0510 (Definitions). The citation to OAR 141-085-0018 should now be to OAR 141-085-*
36 *0520. The applicant should consult directly with the Oregon Department of State Lands if*
37 *there are any questions regarding the applicable regulations. The applicant should also*
38 *note that the Removal-Fill rules, including the notification rules, are currently being*
39 *revised to reflect recent changes approved by the 2001 Legislative Assembly.*

40 As documented in Table J-5 (Submittal Requirements Matrix), IPC has drafted Exhibit J to
41 respond to each paragraph of OAR 345-021-0010(1)(j) described above, as well as the
42 additional guidance set forth in the Project Order.

1 **3.0 ANALYSIS**

2 **3.1 Analysis Area**

3 Pursuant to the Project Order, the analysis area for Exhibit J regarding wetlands and other
4 waters is the Site Boundary. The Site Boundary is defined in OAR 345-001-0010(55) as “the
5 perimeter of the site of a proposed energy facility, its related or supporting facilities, all
6 temporary laydown and staging areas, and all corridors and micro-siting corridors proposed by
7 the applicant.” The Site Boundary for the Project includes the following related and supporting
8 facilities in Oregon:

- 9 • Proposed Corridor: 277.2 miles of 500-kilovolt (kV) transmission line corridor, 5.0 miles
10 of double circuit 138/69-kV transmission line corridor, and 0.3 miles of 138-kV
11 transmission line corridor.
- 12 • Alternate Corridor Segments: Seven alternate corridor segments consisting of
13 approximately 134.1 miles that could replace certain segments of the Proposed Corridor.
14 IPC has proposed these alternate corridor segments in order to allow flexibility for IPC
15 and EFSC, as well as federal agencies, to reconcile competing resource constraints in
16 several key locations.
- 17 • One proposed substation expansion of 3 acres; two alternate substation sites (one 3-
18 acre substation expansion and one new 20-acre substation). IPC ultimately needs to
19 construct and operate only one substation expansion or substation in the Boardman
20 area.
- 21 • Eight communication station sites of less than one acre each in size; four alternate
22 communication station sites along alternate corridor segments.
- 23 • Temporary and permanent access roads.
- 24 • Temporary multiuse areas, pulling and tensioning sites, and fly yards.

25 The features of the Project are fully described in Exhibit B and the Site Boundary for each
26 Project feature is described in Exhibit C, Table C-21. The location of the Project (Site Boundary)
27 is outlined in Exhibit C.

28 **3.2 Survey and Delineation Methods**

29 In response to the size and complexity of the Project and after consultation with applicable
30 federal and state agencies, IPC determined that data collection and field surveys for the Project
31 would be conducted via a phased study approach which utilizes three distinct phases. During
32 Phase 1, IPC obtained existing information regarding the occurrence of wetlands and other
33 waters within the Site Boundary. IPC used this information to conduct desk-top studies, which
34 were used for preliminary facility siting. In Phase 2, IPC’s consultants undertook comprehensive
35 field surveys of all portions of the Site Boundary to which IPC was granted access. Phase 3 will
36 consist of all preconstruction surveys that may be necessary to identify wetland locations, micro-
37 siting route changes, or to close data gaps on previously parcels that required right-of-entry
38 (ROE) prior to conducting wetland delineations.

39 Using the following approach, wetland data is being acquired, analyzed and submitted for
40 approval in an iterative process:

- 41 • In 2011, IPC delineated wetlands on about 56 percent of land in the Site Boundary. 2011
42 wetland delineations were submitted to DSL for review and concurrence. The 2011 data

1 was used to determine preliminary impact acreage, removal-fill quantities, and partial
2 mitigation needs for the JPA, attached to this exhibit.

- 3 • In 2012, IPC delineated wetlands on an additional 24 percent of the land in the Site
4 Boundary. This work was conducted on previously inaccessible parcels within the Site
5 Boundary and land in alternate corridor segments proposed since 2011 fieldwork was
6 completed. 2012 wetland delineations will be submitted to DSL for review and
7 concurrence. A combination of 2011 data and 2012 data was used to determine
8 preliminary impact acreage, removal-fill quantities, and make a preliminary determination
9 of mitigation needs for the JPA.
- 10 • Additional wetland surveys are anticipated when IPC obtains ROE to previously
11 unsurveyed parcels within the Site Boundary. It is anticipated that this work will include
12 wetland delineations on the previously un-delineated parcels; submittal of the
13 delineations to ODOE and to DSL for approval; analysis of impacts to wetlands and
14 other waters, and submittal of the impact information to ODOE and DSL.

15 Portions of these phases will overlap chronologically, as explained in detail in Section 3.3.7,
16 Ultimately, the outcomes of the phased data submittal process will be:

- 17 • Wetland survey on all parcels within the Site Boundary;
- 18 • Approval of all wetland delineation results by DSL;
- 19 • Calculation of removal-fill impacts based on delineated wetland boundary data;
- 20 • Full accounting of impacts to wetlands and other waters to ODOE and DSL; and
- 21 • Mitigation sufficient to compensate for wetland functions and values impacted by the
22 project.

23 **3.2.1 Phase 1: Wetland Desktop Study**

24 Initially, IPC consultants performed a desktop study to provide preliminary information about the
25 possible number, location, and extent of areas in the analysis area that might be wetlands or
26 other waters. This geographic information system (GIS) exercise identified probable wetlands
27 and other waters mapped by the U.S. Fish and Wildlife Service National Wetlands Inventory
28 (NWI); probable waters mapped by the National Hydrography Dataset (NHD; USGS 2012); and
29 potential wetland or other waters mapped by Oregon Department of Transportation Salmon
30 Resources and Sensitive Area Mapping (OBDP 2004). It also identified areas of hydric soil
31 mapped by Natural Resources Conservation Service (NRCS 2010).

32 **3.2.2 Phase 2: Wetland Delineation**

33 Prior to initiating the wetland delineation, representatives from IPC and its consulting team
34 (Tetra Tech) met with DSL staff on May 25, 2011, to discuss procedures that would facilitate
35 successful review of the wetland delineation and ensure that fieldwork would collect all
36 necessary data.

37 In preparation for the field work, Tetra Tech collected available pre-survey data and prepared
38 field maps to be used for identifying the locations of probable wetlands and non-wetland waters
39 within the study area. Pre-survey data included three feature types:

- 40 • Wetlands – data came from the Oregon Wetlands database (Oregon Spatial Data
41 Library 2011) which includes NWI, approved Local Wetland Inventories and
42 miscellaneous wetland mapping by state and federal agencies, nongovernmental
43 organizations, academia, and consultants.

- 1 • Hydric soils – data came from the Oregon Wetlands database (Oregon Spatial Data
2 Library 2011) which includes statewide polygon cover of hydric, partially hydric, and
3 related wetland soils from sources including NRCS soil surveys, USFS Soil Resource
4 Inventories, USFS wildlife habitat mapping, and Weyerhaeuser Company.
- 5 • Surface water – data came from NHD (USGS 2012).

6 Data from these three sources were plotted on high resolution aerial photography (ESRI 2011).
7 The resulting field figures were used by the wetland delineation field staff to guide their
8 investigations.

9 To improve consistency of the delineations, wetland delineation field staff attended a 2-day
10 session on June 20 and 21, 2011, conducted by Tetra Tech staff. The training was comprised of
11 an office day where the Oregon Streamflow Duration Assessment Methodology (OSDAM) and
12 project specific methods of wetland documentation were reviewed, and a field day where
13 different wetland and stream types were observed. The follow guidance documents and
14 procedures were reviewed:

- 15 • 1987 USACE Wetlands Delineation Manual (Environmental Laboratory 1987);
- 16 • Regional Supplement to the USACE Wetland Delineation Manual: Arid West Region
17 (Version 2.0) (USACE 2008);
- 18 • Regional Supplement to the USACE Wetland Delineation Manual: Western Mountains,
19 Valleys, and Coast Region (Version 2.0) (USACE 2010);
- 20 • OAR Chapter 141, Division 090, Administrative Rules for Wetland Delineation Report
21 Requirements and for Jurisdictional Determinations for the Purpose of Regulating Fill
22 and removal Within Waters of the State;
- 23 • OSDAM methodology (Topping et al. 2009); and
- 24 • In-the-field examples of sample plot location and documenting field conditions to meet
25 the requirements and guidance of the USACE and DSL.

26 Wetland presence was determined according to the 1987 USACE Wetlands Delineation Manual
27 (Environmental Laboratory 1987) methods and the regional supplements, as appropriate. The
28 USACE Arid West Regional Supplement was used in the majority of the study area with the
29 exception of higher elevation areas around the Willowa-Whitman National Forest. In these
30 higher elevation areas, the Western Mountains, Valleys, and Coast Regional Supplement was
31 used. Delineations used the Routine Determination, as described in the 1987 USACE Wetlands
32 Delineation Manual (Environmental Laboratory 1987) and amended by the applicable regional
33 supplement.

- 34 • Sample plots were established in all features identified by NWI data and hydric soils data
35 (Oregon Spatial Data Library 2011). The sample plot was located within the feature
36 where it was judged most likely to have wetland characteristics (i.e., the lowest or
37 greenest place).
- 38 • Paired sample plots were established in logical locations to document irregularities in
39 wetland boundaries.
- 40 • The number of sample plots established in wetlands was commensurate with the size
41 and complexity of the wetland; and ranged from 2 to several.

- 1 • All soil pits were excavated to 20 inches unless excavation refusal was encountered. If
2 excavation was not conducted to 20 inches, an explanation was entered on the wetland
3 delineation form.
- 4 • Each wetland boundary was recorded as a polygon using a resource grade Trimble®
5 global positioning system (GPS) unit.
- 6 • OSDAM was the standard method used to evaluate non-wetland waters.
- 7 • An individual OSDAM form was filled out for all surface water features that, in the field,
8 appeared to be intermittent or perennial.
- 9 • Features were mapped at bankfull elevation rather than of ordinary high water (OHW)
10 per DSL linear project guidance (DSL 2011).
- 11 • For features that were greater than 2 meters wide, bankfull width of streams was
12 documented with a GPS by recording each bank with a GPS line. For features that were
13 less than 2-meters wide or the opposite bank was not accessible, the centerline was
14 documented with a GPS by recording the center of the channel with a GPS line and
15 recording the associated channel width.

16 All water features with characteristics of wetland based on the USACE 1987 methods and
17 appropriate supplements are assumed to be preliminarily jurisdictional at the state and at the
18 federal level. All non-wetland water features that have characteristics of perennial or intermittent
19 streams based on OSDAM results, or non-wetland other waters, are also assumed to be
20 preliminarily jurisdictional at the state and federal level.

21 GPS data documenting boundaries of wetlands and other waters was collected using Trimble
22 GeoExplorer GPS units.

23 Methods for the 2012 wetland delineation were consistent with the 2011 methods, including the
24 training session, wetland determination methods, data collection and mapping protocols, and
25 equipment.

26 **3.2.3 Phase 3: Wetland Survey and Reporting on Unsurveyed Parcels**

27 Following issuance of the Site Certificate and prior to construction, IPC will perform wetland
28 surveys, delineations and reporting on any parcels not yet surveyed at the time of issuance of
29 the Site Certificate. In some cases, IPC may not obtain access rights until after issuance of the
30 Site Certificate. All such preconstruction surveys will be conducted in compliance with
31 applicable conditions to the Site Certificate, and wetland delineation methods will be consistent
32 with methods used in 2011 and 2012.

33 **3.3 Information Required by OAR 345-021-0010(1)(j)**

34 **3.3.1 Waters of the State (OAR 345-021-0010(1)(j)(A))**

35 **OAR 345-021-0010(1)(j)(A) – Waters of the State**

36 A description of all areas within the site boundary that might be waters of this state and a map showing
37 the location of these features.

38 A description of all areas within the Site Boundary that might be WOS is provided in the
39 delineation results of this section and Table J-1. Attachment J-1 includes maps showing the
40 locations of these features.

1 3.3.1.1 Delineation Results

2 IPC consultants conducted surveys for the presence of wetlands and other waters in both 2011
3 and 2012. The 2011 and 2012 surveyed lands comprise approximately 80 percent of all land
4 within the Site Boundary. In 2011, 56 percent of the Site Boundary was surveyed for wetlands
5 and other waters. In 2012, 24 percent of the Site Boundary, including new alternate corridor
6 segments, was surveyed for wetlands and other waters. Information reported in this exhibit
7 includes results of both 2011 and 2012 surveys.

8 Delineated wetlands and other waters were mapped according to DSL map standards.
9 Wetlands or other waters to which crews did not have access were mapped according to the
10 best available data. For NWI-mapped or NHD-mapped features, the boundaries or locations of
11 the features as mapped by NWI or NHD were used, and the source of the boundaries (NWI or
12 NHD) is identified on the maps.

13 The wetland delineation report for the Project was prepared, including each county crossed by
14 the Project. To preserve this county-by-county structure and facilitate possible cross referencing
15 between the wetland delineation report and this exhibit, that structure is preserved in the figures
16 and tables in this exhibit that describe the locations and characteristics of wetlands and waters.

17 Locations of wetlands and other waters that were delineated in each county, and as-yet
18 undelineated NWI and NHD features that will be impacted, are displayed in Attachment J-1 on
19 Figures J-1A through J-1E. Table J-1 provides summary information about the features. Their
20 individual characteristics are reported in Attachment J-2, Tables J-2-1 through J-2-5. Ephemeral
21 streams, which are not WOS, are not included on the maps or in the tables.

22 **Table J-1.** Summary of 2011 and 2012 Wetland Survey Results

County	Wetlands					Other Waters		
	PEM ¹	PSS ²	PFO ³	Riverine	Total	Intermittent ⁴	Perennial	Total
Morrow	2	0	0	2	4	5	3	8
Umatilla	4	4	3	5	16	17	9	26
Union	15	4	4	9	32	24	20	44
Baker	41	9	8	22	80	33	26	59
Malheur	17	3	0	28	48	41	13	54
Totals	79	20	15	66	180	120	71	191

23 ¹ Palustrine emergent; also includes palustrine aquatic bed, unconsolidated bottom and unconsolidated shore.

24 ² Palustrine scrub shrub.

25 ³ Palustrine forested.

26 ⁴ Irrigation canals are included in this category.

27

28 3.3.2 Impacts to Waters of the State

29 OAR 345-021-0010(1)(j)(B) – Impacts to Waters of the State

30 An analysis of whether construction or operation of the proposed facility would adversely affect any
31 waters of this state.

32 3.3.2.1 Description of Avoidance and Minimization Efforts

33 Since the start of project planning and design, IPC has consistently made efforts to avoid and
34 minimize impacts to wetlands and other waters. While developing the initial Project layout, IPC
35 utilized NWI and NHD data to inform the preliminary engineering of towers, roads and other
36 project infrastructure. These Project components were located outside of wetlands and other

1 waters to the maximum extent feasible. After the wetland delineation in 2011, the resulting
2 wetland data were used to inform the relocation of towers, roads and other facilities.

3 After preliminary analyses of impacts were conducted, the impact sites identified in the analyses
4 were returned to the Project engineers to further avoid and reduce impacts. This iterative
5 process of Project layout being informed by wetland and other waters data, resulting in
6 relocation of Project facilities to avoid or minimize impacts, will continue throughout the Project
7 design.

8 The effectiveness of the Project's avoidance and minimization effort is demonstrated by the
9 quantity of wetlands and waters occurring within the Site Boundary that are avoided by the
10 Project. In all, the Project estimates permanent or temporary impact to only 54 unique wetlands
11 of the 180 wetlands that have been identified within the Site Boundary. The Project estimates
12 permanent impacts of 1.353 acres and temporary impacts of 2.467 acres, for a total wetland
13 impact of 3.820 acres. This is only 0.3 percent of the 1,144 total acres of wetlands identified
14 within the Site Boundary. Many wetlands and other waters have both a permanent and
15 temporary impact reported, so the total number of unique features impacted is less than the
16 sum of the permanent and temporary impact sites.

17 Similarly, the Project estimates permanent or temporary impact to only 26 unique other waters
18 of the 191 jurisdictional other waters (principally perennial and intermittent streams) that have
19 been identified. The Project estimates permanent impacts of 0.234 acres and temporary
20 impacts of 0.236 acres, for a total other waters impact of 0.47 acres. The total length of streams
21 identified is 104.4 miles (total acres are not available because some of these features are
22 mapped NHD streams and width data is not yet available). Detailed avoidance and minimization
23 information is provided in Attachment J-3, JPA, Attachment M.

24 3.3.2.2 Preliminary Estimates of Impacts

25 A preliminary estimate of impacts to wetlands and other waters was conducted based on data
26 available in 2012. Data used in the analysis included:

- 27 • Delineated boundaries of wetlands and other waters from 2011 and 2012 fieldwork;
- 28 • For areas without ROE, NWI and NHD mapping; and
- 29 • Most current Project layout (June 2012), including impact buffers.

30 The three water resource data sets listed above (2011 and 2012 delineations, NWI, and NHD)
31 were compared to the Project layout. Points where the Project layout intersected with the
32 wetland data sets were considered impacts. These impacts are summarized in Table J-2.
33 Preliminary impacts are listed by site in Attachment J-2, Tables J-2-6 through J-2-10.

34 The Project layout used in this analysis reports impacts that no longer exist because the design
35 has been updated. Also, because this analysis includes NWI and NHD wetlands and other
36 waters that have not been evaluated or delineated, actual Project impacts are expected to
37 change once delineations and final avoidance and minimization planning are complete. To
38 ensure that the total project impacts used in the JPA are conservative, the impact acreage
39 determined by this analysis and reported in Table J-2 was adjusted upward by 33 percent to
40 account for possible inaccuracies in NWI and NHD boundaries on features not yet delineated.
41 Then, a 25 percent contingency was added.

42

1 **Table J-2.** Summary of Preliminary Estimate of Impacts to Wetlands and Other
 2 Waters

County	Resource Type	Number of Permanent Impact Sites	Impacts (ac)	Number of Temporary Impact Sites	Impacts (ac)	Number of Unique Features Impacted ¹
Morrow	Wetland	1	0.005	1	0.137	1
	Other Waters	0	0.000	0	0.000	0
Umatilla	Wetland	3	0.283	3	0.068	3
	Other Waters	3	0.007	3	0.007	3
Union	Wetland	3	0.214	4	0.234	4
	Other Waters	8	0.053	8	0.053	8
Baker	Wetland	16	0.193	11	0.386	19
	Other Waters	4	0.028	4	0.028	4
Malheur	Wetland	17	0.659	26	1.641	27
	Other Waters	10	0.146	11	0.148	11
Totals	Wetland	40	1.353	44	2.467	54
	Other Waters	25	0.234	26	0.236	26

¹ Many features have both a permanent and temporary impact reported, so the total number of unique features impacted is less than the sum of the permanent and temporary impact sites. For example, in Morrow County, one wetland has both a permanent and a temporary impact.

3

4 **3.3.2.3 Effects on Waters of the State**

5 The Project will not cause adverse effects on WOS during operation. There will be no direct
 6 effects (removal or fill) during the Project’s operation. Roads will be constructed using best
 7 management practices to prevent erosion and sediment delivery to WOS. Road crossings will
 8 be constructed such that they do not affect existing flow characteristics of WOS, including
 9 duration, extent of wetted channel, overflow or bypass channels, meander opportunities or
 10 downstream hydraulic and hydrologic characteristics.

11 All temporary effects on WOS will be rehabilitated within 24 months according to the
 12 rehabilitation plan that is included as part of the JPA.

13 Some parts of some wetlands and waters will have permanent removal or fill that will convert
 14 them to upland. These impacts will be mitigated concurrently with Project construction, in
 15 accordance with the compensatory wetland and non-wetland mitigation plans. Temporal effects
 16 to wetland functions and values will be mitigated because the mitigation will be constructed
 17 concurrently or prior to project construction and wetland impacts. Therefore the time lag
 18 between the wetland impact, and when the functions are replaced by the mitigation, will be as
 19 short as possible, with a result of no net adverse effect to WOS.

20 **3.3.3 Description of Significant Impacts to Waters of the State**

21 **OAR 345-021-0010(1)(j)(C) – Description of Significant Impacts to Waters of the State**

22 A description of the significance of potential adverse impacts to each feature identified in (A), including
 23 the nature and amount of material the applicant would remove from or place in the waters analyzed in
 24 (B).

25 Using the best data available (wetlands delineated in 2011 and 2012, and NWI data on areas
 26 without access), IPC identified 40 wetland locations that may be subject to permanent impact.
 27 The total impact to these wetlands is 1.353 acres for an average impact of 0.034 acre per
 28 wetland. Twenty-three of these impacts (58 percent) are 0.01 acre or less. Fourteen more (35

1 percent) are less than 0.1 acre. Only three impact sites exceed 0.1 acre, with the largest single
2 impact being 0.374 acre.

3 Only one of the wetlands proposed to be impacted is a wetland type that DSL has identified as
4 wetlands of conservation concern (DSL undated). This wetland is a salt flat wetland, and was
5 identified in October 2012, too late to relocate Project elements to avoid impacts to the wetland.
6 IPC will avoid impacts to this wetland if possible; and if avoidance is not possible, IPC will
7 minimize impacts to the greatest extent feasible.

8 Preliminary calculations of removal and fill, itemized by wetland and water impacted, are
9 included in Attachment J-3, JPA, Attachment J.

10 IPC evaluated wetland functions and values using the Oregon Rapid Wetland Assessment
11 Protocol (ORWAP) (Adamus et al. 2010). Results of ORWAP evaluations will be used to assess
12 wetland functions that will be affected by wetland impacts. ORWAP results will assist in the
13 determination of significance of proposed wetland impacts by providing an analysis of changes
14 to affected wetlands. ORWAP results and the analysis of impacts to functions, is incorporated in
15 the draft Compensatory Wetland and Non-Wetland Mitigation Plan (CWNWMP) attached to the
16 JPA. Changes to wetland functions will be mitigated through implementation of the CWNWMP,
17 approved by both DSL and USACE.

18 **3.3.4 Why Removal-Fill Authorization is Not Needed**

19 **OAR 345-021-0010(1)(j)(D) – Why Removal-Fill Authorization is Not Needed**

20 If the proposed facility would not need a removal-fill authorization, an explanation of why no such
21 authorization is required for the construction and operation of the proposed facility.

22 A removal-fill authorization (R-F permit) will be needed for the Project; therefore, OAR 345-021-
23 0010(1)(j)(D) is not applicable.

24 **3.3.5 Information to Support Removal-Fill Authorization**

25 **OAR 345-021-0010(1)(j)(E) – Information to Support Removal Fill Authorization**

26 If the proposed facility would need a removal-fill authorization, information to support a determination
27 by the Council that the Oregon Department of State Lands should issue a removal-fill permit, including
28 information in the form required by the Department of State Lands under OAR Chapter 141 Division
29 85.

30 To issue an R-F permit, DSL requires the following: (1) wetland delineations with DSL
31 concurrence, (2) a complete JPA that provides sufficient and appropriate information about the
32 proposed project, and (3) complete wetland and non-wetland mitigation plans, and plans for
33 rehabilitation of temporary impacts. IPC has provided much of the required information, and
34 Table J-3 and J-4 identify IPC's plan for providing the remaining necessary information.

35 **3.3.5.1 DSL Concurrence with Wetland Delineation Report**

36 IPC has already submitted a Wetland Delineation Report (WDR) with 2011 delineation data to
37 DSL. IPC will submit an addendum to the WDR with 2012 delineation data in spring of 2013.
38 IPC anticipates concurrence from DSL on the 2011 and 2012 wetland delineation data prior to
39 ODOE's issuance of the Draft Proposed Order for the Project. After issuance of the Site
40 Certificate and prior to construction, IPC will submit additional wetland delineation data to DSL
41 and ODOE identifying all waters of the state occurring on previously unsurveyed parcels, at
42 which point IPC will obtain concurrence from DSL on the additional wetland delineation data

1 obtained from previously unsurveyed parcels. This will constitute DSL's final concurrence with
 2 the complete WDR (including all addenda) for the Project.

3 3.3.5.2 Joint Permit Application

4 A JPA is attached to this exhibit as Attachment J-3. The contents of the JPA are summarized in
 5 Table J-3, below.

6 **Table J-3. JPA Required Information and Status of Submittal**

JPA Required Information	Status
(a) The applicant and property owner information	Property owner information for each removal-fill site and all associated mitigation sites will be provided in Exhibit F of the ASC.
(b) Project site location information including Township, Range, Quarter/Quarter Section and Tax Lot(s), latitude and longitude, street location if any, and location maps with site location indicated.	Information is provided for proposed impact sites.
(c) The location of any off-site disposal or borrow sites, if these sites contain waters of this state.	Not applicable; off-site disposal or borrow sites will not contain waters of the state.
(d) Project information including:	
(A) Description of all removal-fill activities associated with the project;	Information is provided for all water resources that have been identified.
(B) Demonstration of independent utility to include all phases, projects or elements of the proposed project which will require removal-fill activities;	Information is provided in the purpose and need statement in the JPA.
(C) Volumes of fill and removal within jurisdictional areas expressed in cubic yards;	Information is provided for all water resources that have been identified.
(D) Area of removal and fill within jurisdictional areas expressed in acres to the nearest 0.01-acre for impacts greater than 0.01 of an acre or expressed in acres to the nearest 0.001-acre for impacts less than 0.01 of an acre; and	Information is provided for all water resources that have been identified.
(E) Description of how the project will be accomplished including construction methods, site access and staging areas.	Information is provided including information about best management practices (BMPs) and the erosion and sediment control plan.
(e) A description of the purpose and need for the project.	Information is provided .
(f) Project plan views and cross-sectional views	Information is provided . Plan views are provided for all wetlands and waters proposed for impact. Cross sections are provided for typical road impacts.
(g) A written analysis of potential changes that the project may make to the hydrologic characteristics of the waters of this state,	Information is provided .
(h) A description of the existing biological and physical characteristics of the water resources,	Information is provided for all water resources that have been delineated and are proposed for impact.
(i) A description of the navigation, fishing and public recreation uses,	This requirement applies only to impacted water resources on state-owned land. No such impacts have been identified at this time. If they are identified in the future, information will be provided to update the JPA.

7

1 **Table J-3. JPA Required Information and Status of Submittal (continued)**

JPA Required Information	Status
(j) a wetland delineation report	IPC has already submitted a Wetland Delineation Report (WDR) with 2011 delineation data to DSL. IPC will submit an addendum to the WDR with 2012 delineation data in spring of 2013.
(k) A functions and values assessment	Information is provided . Results of the assessments are included in the JPA.
(l) Information concerning the presence of any federal or state listed species.	The best available information is provided .
(m) Information concerning historical, cultural and archeological resources.	An appropriate level of information is provided .
(n) An analysis of alternatives to derive the practicable alternative that has the least reasonably expected adverse impacts on waters of this state.	Information is provided .
(o) A complete compensatory mitigation plan	A draft wetland mitigation plan is provided . A final wetland and non-wetland mitigation plan will be submitted to ODOE and DSL.
(p) For each proposed removal-fill impact site and physical mitigation site, a list of the names and addresses of the adjacent property owners	Property owner information for each removal-fill site and all associated mitigation sites will be provided in Exhibit F of the ASC.
(q) Mailing labels, when there are more than five names and addresses of adjacent property owners.	Mailing labels will be provided when requested by ODOE.
(r) A signed local government land use affidavit.	Not applicable. EFSC supercedes the local land use affidavit.
(s) A signed Coastal Zone Certification statement, if the project is in the coastal zone.	Not applicable.

2

3 **3.3.6 Mitigation**4 **OAR 345-021-0010(1)(j)(F) – Mitigation**

5 A description of proposed actions to mitigate adverse impacts to the features identified in (A) and the
6 applicant's proposed monitoring program, if any, for such impacts.

7 **3.3.6.1 Wetland Functional Assessment**

8 For linear projects, DSL requires, at a minimum, a functional assessment of the predominant
9 wetland type in each fourth-field Hydrologic Unit Code (HUC). In addition to this requirement,
10 typical wetlands of each wetland type (Cowardin class; Cowardin et al. 1979) in representative
11 landscape settings, are being assessed using ORWAP (Adamus et al. 2010). Results of the
12 wetland assessments will be used to help determine the significance of potential wetland
13 impacts. Results of the wetland assessments are attached to the CWNWMP.

14 **3.3.6.2 Wetland Mitigation Planning**

15 IPC is developing a single plan, called the Compensatory Wetland and Non-Wetland Mitigation
16 Plan (CWNWMP), to address both wetland and non-wetland compensatory mitigation. The draft
17 CWNWMP is included as Attachment S to the JPA in Attachment J-3. As detailed in the draft
18 CWNWMP, IPC proposes a combination of wetland and stream restoration by creation and
19 enhancement on up to 20 acres of floodplain and stream channel along Catherine Creek, a
20 tributary of the Grande Ronde River.

1 IPC has arrived at its proposed mitigation project through a careful selection process. In 2011,
 2 IPC investigated several potential mitigation sites. Based in part on guidance received during
 3 meetings with DSL regarding wetland mitigation for the Project, IPC eventually met with and
 4 developed a collaborative mitigation partnership with the Grande Ronde Model Watershed
 5 (GRMW) based in La Grande, Oregon. The draft CWNWMP is a product of IPC's partnership
 6 with GRMW and was developed in cooperation with GRMW. The CWNWMP is intended to
 7 provide mitigation for all foreseeable unavoidable Project impacts to both wetlands and other
 8 waters, and DSL has provided IPC with preliminary indications that the concept for the
 9 CWNWMP is acceptable.

10 **3.3.7 Path Forward to Fulfill Requirements for a Removal-Fill Permit**

11 In order to ensure that ODOE ultimately receives all the information it needs to authorize IPC's
 12 removal-fill activity on the Project, IPC proposes to provide ODOE and DSL with the required
 13 information either: (1) in the JPA attached to the ASC; or (2) following issuance of a Site
 14 Certificate and R-F Permit, but prior to construction, in compliance with conditions of the Site
 15 Certificate. Consistent with this general approach, IPC is moving forward with development of
 16 information on the four following fronts:

- 17 1. Wetland delineations and concurrence;
- 18 2. Impact analysis;
- 19 3. The JPA;
- 20 4. Preparation of the CWNWMP. Table J-4 provides a summary of IPC's proposed
 21 approach to providing EFSC with enough information to support a finding that IPC's
 22 Exhibit J is complete and supports issuance of the R-F permit.

23 **Table J-4. Path Forward to Fulfill Requirements for and Conditions to Removal-Fill**
 24 **Permit**

Description of Tasks	COMPLIANCE STRATEGY for Surveyed Parcels (approximately 80% of lands within Site Boundary).	COMPLIANCE STRATEGY for Unsurveyed Parcels (approximately 20% of lands within Site Boundary).
<i>OAR 345-021-0010(1)(j)(A) A description of all areas within the Project Site Boundary that might be waters of this state and a map showing the location of these features</i>		
Wetland Field Delineations	IPC conducted wetland field delineations for 56% of the Project in 2011. IPC conducted wetland delineations for another 24% of the Project in 2012.	After issuance of the Site Certificate and prior to construction, IPC will complete final wetland field delineations, identifying all waters of the state, occurring on previously unsurveyed parcels.
Wetland Delineation Report	IPC has already submitted a Wetland Delineation Report (WDR) with 2011 delineation data to DSL. IPC will submit an addendum to the WDR with 2012 delineation data in spring of 2013.	After issuance of the Site Certificate and prior to construction, IPC will submit additional wetland delineation data to DSL and ODOE identifying all waters of the state occurring on previously unsurveyed parcels.
DSL Concurrence	IPC anticipates concurrence from DSL on 2011 and 2012 wetland delineation data prior to issuance of the Draft Proposed Order.	After issuance of the Site Certificate and prior to construction, IPC will obtain concurrence from DSL on the additional wetland delineation data identifying all waters of the state occurring on previously unsurveyed parcels. This will constitute DSL's final concurrence with the complete WDR for the Project, including all addenda.

1 **Table J-4. Path Forward to Fulfill Requirements for and Conditions to Removal-Fill**
 2 **Permit (continued)**

Description of Tasks	COMPLIANCE STRATEGY for Surveyed Parcels (approximately 80% of lands within Site Boundary).	COMPLIANCE STRATEGY for Unsurveyed Parcels (approximately 20% of lands within Site Boundary).
OAR 345-021-0010(1)(j)(B) <i>An analysis of whether construction or operation of the proposed facility would adversely affect any waters of this state</i>		
Analysis of Potential Impacts	IPC has analyzed potential wetland impacts based on 2011 and 2012 wetland delineations. Results are summarized in Exhibit J, Table J-2. Itemized results are in the JPA, Attachment I.	For unsurveyed parcels, IPC has estimated potential wetland impacts based on: <ul style="list-style-type: none"> • NHD and NWI data • Aerial photo interpretation Results are summarized in the Exhibit J, Table J-2. Itemized results based on estimated boundaries are in the JPA, Attachment I. After issuance of the Site Certificate and prior to construction, IPC will submit a final analysis based on wetland delineation to DSL and ODOE, identifying all adverse effects to waters of the state, occurring on previously unsurveyed parcels.
OAR 345-021-0010(1)(j)(C) <i>A description of the significance of potential adverse impacts to each feature identified in (A), including the nature and amount of material the applicant would remove from or place in the waters analyzed in (B).</i>		
Removal-Fill Quantities	IPC calculated the quantity of removal-fill material to be removed from or placed in each wetland or water. This information is summarized in Section 3.3.3 above and itemized in the JPA, Attachment I.	IPC has calculated R-F quantities based on: <ul style="list-style-type: none"> • 2011 and 2012 survey data • NHD and NWI data This information is summarized in Section 3.3.3 above and itemized in the JPA, Attachment I. After issuance of the Site Certificate and prior to construction, IPC will submit final removal-fill quantities to DSL and ODOE, identifying all impacts to waters of the state, occurring on previously unsurveyed parcels.
OAR 345-021-0010(1)(j)(D) <i>If the proposed facility would not need a removal-fill authorization, an explanation of why no such authorization is required for the construction and operation of the proposed facility</i>		
Not applicable: IPC has determined that a removal-fill authorization will be needed.	N/A	N/A
OAR 345-021-0010(1)(j)(E) <i>If the proposed facility would need a removal-fill authorization, information to support a determination by the Council that the Oregon Department of State Lands should issue a removal-fill permit, including information in the form required by the Department of State Lands under OAR Chapter 141 Division 85.</i>		
Joint Permit Application	IPC submits a JPA as Attachment J-3 of Exhibit J. IPC requests authorization for R-F activity in all delineated waters of the state proposed for impact in the JPA.	IPC submits a JPA as Attachment J-3 of Exhibit J. Where best available data indicates occurrence of waters of the state on an unsurveyed parcel, IPC requests authorization for the R-F activity based on estimated boundaries and impacts. Prior to construction on any such parcel, IPC will submit a wetland delineation and all required JPA information to ODOE and DSL, as described in right column above.

1 **Table J-4.** Path Forward to Fulfill Requirements for and Conditions to Removal-Fill
 2 Permit (continued)

Description of Tasks	COMPLIANCE STRATEGY for Surveyed Parcels (approximately 80% of lands within Site Boundary).	COMPLIANCE STRATEGY for Unsurveyed Parcels (approximately 20% of lands within Site Boundary).
OAR 345-021-0010(1)(j)(F) <i>A description of proposed actions to mitigate adverse impacts to the features identified in (A) and the applicant's proposed monitoring program, if any, for such impacts</i>		
Wetland Mitigation Plan	IPC submits a draft wetland mitigation plan (CWNWMP) as Attachment S of the JPA, which is Attachment J-3 of Exhibit J. IPC anticipates that EFSC will issue a Site Certificate with conditions requiring IPC to obtain ODOE and DSL approval of IPC's mitigation plans prior to any impacts to waters of state.	IPC's draft CWNWMP includes a description of mitigation for impacts to both unsurveyed and surveyed parcels.

3

4 **4.0 RESPONSE TO PROJECT ORDER COMMENTS**

5 **4.1 Response to Provisions of ORS 196.825**

6 Responses to relevant sections of the statute (italicized) are itemized below.

7 (1) The Director of the Department of State Lands shall issue a permit applied for under ORS 196.815
 8 if the director determines that the project described in the application:
 9 (a) Is consistent with the protection, conservation and best use of the water resources of this
 10 state as specified in ORS 196.600 to 196.905; and

11 **Response:** The Project is consistent with ORS 196.600 to 196.905 because of avoidance and
 12 minimization of impacts to wetlands and other waters to the greatest practicable extent; and
 13 because of the proposed wetland and non-wetland mitigation for unavoidable impacts.

14 (b) Would not unreasonably interfere with the paramount policy of this state to preserve the use
 15 of its waters for navigation, fishing and public recreation.

16 **Response:** The Project will not result in any loss of navigability on any WOS because the
 17 Project will span all streams, rivers or lakes currently used for navigation. At this time the Project
 18 does not propose removal or fill that would impact any fish-bearing streams. Any crossings of
 19 fish-bearing streams will be designed to meet Oregon's Fish Passage requirements so it will not
 20 restrict the movements of native migratory fish. The Project will neither impede nor reduce the
 21 public's opportunity to fish or otherwise recreate on any WOS.

22 Wetland and non-wetland mitigation proposed for the Project may produce incremental
 23 improvement to public opportunities for fishing by improving in-stream and riparian habitat
 24 conditions. Both the wetland and non-wetland components of the proposed mitigation will result
 25 in increased access to in-stream and off-channel habitat by salmon and steelhead in the Grande
 26 Ronde River.

27

1 (2) If the director issues a permit applied for under ORS 196.815 to a person that proposes a
2 removal or fill activity for construction or maintenance of a linear facility, and if that person is not a
3 landowner or a person authorized by a landowner to conduct the proposed removal or fill activity on a
4 property, then the person may not conduct removal or fill activity on that property until the person
5 obtains:

6 (a) The landowner's consent;

7 (b) A right, title or interest with respect to the property that is sufficient to undertake the removal
8 or fill activity; or

9 (c) A court order or judgment authorizing the use of the property.

10 **Response:** IPC will have either landowner consent, title to, or a court order authorizing use of
11 the property prior to beginning any removal-fill activity on a property. For most parcels where R-
12 F activity is proposed, IPC will comply with this requirement as described in subsection (b), by
13 obtaining "a right, title or interest with respect to the property that is sufficient to undertake the
14 removal or fill activity." Specifically, IPC anticipates obtaining a ROW Grant authorizing R-F
15 activities on all Bureau of Land Management lands, a Special Use Permit on all United States
16 Forest Service lands, and an easement on state and private lands where R-F activity is
17 proposed. In the event that IPC is not able to obtain either landowner consent or an easement
18 for use of private property where R-F activity is proposed, IPC will seek to obtain either (1) title
19 to the property through a negotiated purchase; or (2) a court order or judgment authorizing use
20 of the property through exercise of IPC's condemnation authority under ORS Chapter 772.

21 (3) In determining whether to issue a permit, the director shall consider all of the following:

22 (a) The public need for the proposed fill or removal and the social, economic or other public
23 benefits likely to result from the proposed fill or removal. When the applicant for a permit is a public
24 body, the director may accept and rely upon the public body's findings as to local public need and
25 local public benefit.

26 **Response:** As described above in Section 3.3.2.1, IPC has made every effort to avoid or
27 minimize removal-fill impacts in waters of the state. The sites that are proposed for removal-fill
28 permitting authorization in the JPA are essential to construction of the Project. Therefore, public
29 need and benefits for the Project and the proposed removal-fill activities should be viewed in
30 terms of the Project as a whole.

31 As described in Exhibits B and N, IPC has identified the Project as a critical component of an
32 overall resource portfolio that best balances cost, risk, and environmental concerns, and both
33 the Idaho and Oregon public utility commissions have acknowledged resource portfolios that
34 identify the Project as a key resource, and are evidence of the need for the Project. The Project
35 will serve the important public need of providing cost-effective electric service to native loads by
36 improving inter-regional access to power markets, maintaining electric service reliability
37 standards, and providing transmission service to wholesale customers.

38 (b) The economic cost to the public if the proposed fill or removal is not accomplished.

39 **Response:** As discussed above, in response to ORS 196.825(3)(a), every removal-fill activity
40 proposed in the JPA is essential to IPC's completion of the Project, and accordingly the cost to
41 the public if the proposed removal-fill is not accomplished should be considered at the Project
42 scale.

1 As discussed above, in response to ORS 196.825(3)(a), every removal-fill activity proposed in
2 the JPA is essential to IPC's completion of the Project, and accordingly the cost to the public if
3 the proposed removal-fill is not accomplished should be considered at the Project scale.

4 While it is difficult to quantify the exact economic cost to the public if the Project is not built, it
5 can fairly be concluded that failure to accomplish the Project would result in higher power costs
6 to electric utility customers in the Pacific Northwest. As explained in Exhibit N, if the Project is
7 not completed, IPC will be required either to develop additional generation resources or make
8 higher cost market purchases to serve existing and forecasted native load. For this reason, the
9 Project was selected as an essential component of IPC's Preferred Portfolio in its most recent
10 Integrated Resource Plans. Moreover, IPC has selected the Project as the lowest-cost resource
11 that will enable IPC to meet both NERC and WECC reliability requirements and provide
12 transmission service to wholesale customers in accordance with IPC's OATT. Thus, failure to
13 accomplish the Project would require IPC to turn to a higher cost resource to meet its forecasted
14 load and regulatory obligations. While it is difficult to quantify with precision, this outcome would
15 result in negative economic consequences for ratepayers and the public.

16 (c) The availability of alternatives to the project for which the fill or removal is proposed.

17 **Response:** Through the 2011 Integrated Resource Plan (IRP), IPC evaluated the Project
18 portfolio as one of nine alternative portfolios. The Project portfolio represents the lowest-cost
19 resource that will ensure that IPC is able to meet growing load and maintain its system in a safe,
20 reliable, and economic manner, and was selected on the basis of extensive cost analysis
21 performed as part of the IRP process. Additional detail discussing the evaluation of alternative
22 portfolios is provided in Exhibit N, Section 3.3.8.

23 (d) The availability of alternative sites for the proposed fill or removal.

24 **Response:** Table M-1 in Attachment M of the JPA, which is Attachment J-3 of this Exhibit,
25 includes information about alternative sites for proposed removal or fill at some impact sites.
26 Entries in the column "Action taken to avoid or reduce impact" describe alternate sites that were
27 identified to allow engineers to relocate project facilities to avoid or reduce impacts. Entries in
28 the column "Explanation if unable to avoid" describes why avoidance and/or minimization is not
29 possible at some impact sites.

30 (e) Whether the proposed fill or removal conforms to sound policies of conservation and would
31 not interfere with public health and safety.

32 **Response:** Proposed fill or removal conforms to sound policies of conservation because of the
33 following actions by IPC:

- 34 • Analysis through the desktop study of the potential presence of wetlands and other
35 waters early in the Project planning;
- 36 • Thorough field work to identify all areas that may be wetlands or other waters, by use of
37 the Total Visual Encounter Survey to identify probable wetlands and other waters,
38 followed by wetland delineation of the entire Site Boundary for which IPC has access;
- 39 • Avoidance and minimization planning during Project design, to avoid wetlands and other
40 waters when practicable, and minimize unavoidable R-F impacts;
- 41 • Proposals by IPC to provide wetland and non-wetland mitigation to replace impacted
42 functionality of wetlands and other waters;

- 1 • Implementation of best management practices to avoid and minimize incidental impacts
2 to resources adjacent to R-F sites.

3 In the aggregate, these actions by IPC meet the requirements of ORS 196.825(3)(e).

4 (f) Whether the proposed fill or removal is in conformance with existing public uses of the waters
5 and with uses designated for adjacent land in an acknowledged comprehensive plan and land use
6 regulations.

7 **Response:** Public uses of waters proposed for fill or removal include such activities as
8 withdrawals of surface water, agricultural use, fishing, and boating. No existing public use of
9 affected WOS will be eliminated or degraded, and no WOS will be converted to farmland.
10 Project construction will have, at most, only temporary impacts on such public uses. Hence, the
11 Project conforms to existing public uses of such waters.

12 Pursuant to ORS 469.504(1)(b), IPC demonstrates compliance with the local substantive criteria
13 identified by counties, including relevant provisions of county comprehensive plans and zoning
14 ordinances in Exhibit K. To the extent that IPC may not comply with all provisions of a local
15 comprehensive plan or zoning ordinance, IPC will either demonstrate that it nonetheless
16 complies with statewide planning goals or request a goal exception.

17 (g) Whether the proposed fill or removal is compatible with the acknowledged comprehensive
18 plan and land use regulations for the area where the proposed fill or removal is to take place or can be
19 conditioned on a future local approval to meet this criterion.

20 **Response:** As described above, IPC demonstrates compliance with the local comprehensive
21 plans and zoning codes in Exhibit K. To the extent that IPC may not comply with all provisions
22 of a local comprehensive plan, IPC demonstrates that it nonetheless complies with statewide
23 planning goals or request a goal exception.

24 (h) Whether the proposed fill or removal is for streambank protection.

25 **Response:** IPC does not propose removal-fill for streambank protection.

26 (i) Whether the applicant has provided all practicable mitigation to reduce the adverse effects of
27 the proposed fill or removal in the manner set forth in ORS 196.800. In determining whether the
28 applicant has provided all practicable mitigation, the director shall consider the findings regarding
29 wetlands set forth in ORS 196.668 and whether the proposed mitigation advances the policy
30 objectives for the protection of wetlands set forth in ORS 196.672.

31 **Response:** IPC will provide wetland mitigation sufficient to replace the wetland functions and
32 values affected by unavoidable R-F impacts on the Project, and the minimum wetland mitigation
33 acreage requirements in OAR 141-085-0690(4)(c). A draft of the CWNWMP plan is attached as
34 Attachment R of the JPA, Attachment J-3.

35 (5) If the director issues a permit, the director may impose such conditions as the director considers
36 necessary to carry out the purposes of ORS 196.805 and 196.830 and subsection (1) of this section
37 and to provide mitigation for the reasonably expected adverse effects of project development. In
38 formulating such conditions the director may request comment from public bodies, as defined in ORS
39 174.109, federal agencies and tribal governments affected by the permit. Each permit is valid only for
40 the time specified therein. The director shall impose, as conditions to any permit, general authorization
41 or wetland conservation plan, measures to provide mitigation for the reasonably expected adverse
42 effects of project development. Compensatory mitigation shall be limited to replacement of the
43 functions and values of the impacted water resources of this state.

1 **Response:** IPC anticipates that compensatory mitigation for reasonably expected adverse
2 effects of development of the Project will be a condition of the Site Certificate and R-F permit
3 issued for the Project. IPC will comply with this condition by implementing the final CWNWMP
4 approved by ODOE and DSL.

5 **4.2 Response to Provisions of OAR 141-085-0550**

6 DSL has established specific requirements in this rule, describing the contents of R-F
7 applications for individual permits. Requirements that are described in the rule (italicized) and
8 IPC's response to each requirement are itemized below.

9 Each of these requirements will be fully met in the final JPA. Information to meet each
10 requirement will be presented in the JPA, and will not be fully incorporated in the narrative
11 descriptions below. These descriptions characterize the data in the JPA.

12 (1) *Written Application Required.* A person who is required to have an individual permit to remove
13 material from the bed or banks, or fill any waters of this state, must file a written application with the
14 Department for each individual project. A permit must be issued by the Department before performing
15 any regulated removal-fill activity.

16 **Response:** IPC anticipates that a R-F permit will be required. A complete application in the
17 form required by DSL (a JPA form) is submitted as Attachment J-3 of this Exhibit.

18 (2) *Complete and Accurate Information Required.* Failure to provide complete and accurate
19 information in the application may be grounds for administrative closure of the application file or denial,
20 suspension or revocation of the authorization.

21 **Response:** IPC will provide complete and accurate information to DSL in the JPA. Information
22 provided in the JPA is based on current wetland delineations, indicative project design, and
23 impact assessment. Changes to the Project after submittal may result in the need to submit
24 additional or modified information to DSL.

25 (3) *Fee Required for a Complete Application.* For an application to be determined complete, the
26 Department must have received the appropriate fee.

27 **Response:** IPC will reimburse ODOE for DSL hours bill to the Project. There will not be a DSL
28 application fee applied to the Project.

29 (4) *Level of Detail Required May Vary.* The applicant is responsible for providing sufficient detail in the
30 application to enable the Department to render the necessary determinations and decisions. The level
31 of documentation may vary depending on the degree of adverse impacts, the level of public interest
32 and other factors that increase the complexity of the project.

33 **Response:** IPC appreciates that DSL has discretion with regard to the level of detail required in
34 order for it to render a determination and decision regarding a particular R-F permit request, and
35 recognizes that IPC's submittal of delineation and impacts data in phases inherently means that
36 the JPA may not initially provide DSL with all data and detail that will ultimately be required. In
37 order to prepare DSL for review and comment to ODOE on IPC's preliminary ASC, IPC has met
38 with Dan Cary, DSL permit coordinator, as well as the ODOE siting officer, to determine the
39 level of detail that will be needed for the permit. Consistent with those discussions, the JPA:

- 40 • Identifies all areas of impact, and calculates R-F quantities for each R-F site;
- 41 • Includes typical drawings of impact sites and demonstrates the type of impact and how
42 calculations were made;

- Includes a wetland and non-wetland mitigation plan, and restoration plan for temporary impacts.

(5) Required Information: A completed and signed application on current forms provided by the Department, including any maps, necessary photos and drawings, is required. The information must be entered in the appropriate blocks on the application form. The Department may require the applicant to submit any or all application materials electronically. The application must include all of the following:

Response: DSL will receive copies of IPC’s ASC from ODOE, including the JPA. DSL may indicate to ODOE if it wishes to receive Project materials electronically.

(a) Applicant information including name, mailing address, phone number and e-mail address. When the applicant is a business entity, the business must be registered with the Oregon Secretary of State Corporate Division. The exact name of the business entity, as listed with Secretary of State Corporate Division, must be entered on the application.

Response: IPC’s contact information is provided in the JPA form, using the exact name that is listed with the Secretary of State Corporate Division.

(b) Landowner information including name and mailing address where any removal-fill activity is proposed, and if applicable, where permittee-responsible compensatory mitigation is proposed.

(A) For the construction of a new linear facility, the applicant must provide a complete list of landowner names and mailing addresses for all landowners whose land is identified in the permit application within the alignment of the new linear facility. Mailing labels must be provided when there are more than five landowners listed in the application.

(B) For the purpose of this rule, a condemner is the landowner when:

(i) If using state condemnation authority, the condemner has complied with ORS Chapter 35, filed an eminent domain action in court and deposited the condemner’s estimate of just compensation with the court for the use and benefit of the defendants, or it has a court’s order authorizing its possession of the land; or

(ii) If using federal authority, the condemner has complied with Federal Rules of Civil Procedure 71.1 and, if other than the United States, has a court’s order authorizing its possession of the land.

Response: Property owner information for each R-F site and all associated mitigation sites will be provided in Exhibit F of the ASC as instructed by ODOE. Mailing labels will be provided when requested by ODOE. IPC will provide the landowner name and mailing address for all landowners whose land is identified in the JPA for R-F activity. In the event that IPC is not able to obtain either landowner consent or an easement for use of private property where R-F activity is proposed, IPC will seek to obtain either (1) title to the property through a negotiated purchase; or (2) a court order or judgment authorizing use of the property through exercise of IPC’s condemnation authority under ORS Chapter 772. If IPC later becomes a “landowner” for purposes of this rule, either by purchase of use of state condemnation authority, IPC will provide ODOE and DSL with updated property owner information reflecting that change in ownership.

(c) Project site location information including Township, Range, Quarter/Quarter Section and Tax Lot(s), latitude and longitude, street location if any, and location maps with site location indicated.

Response: The location information required in this section of the rule will be provided in the JPA Attachment C in both tabular form; and also on map sets in Attachment E.

(d) The location of any off-site disposal or borrow sites, if these sites contain waters of this state.

Response: This Project will not use any disposal or borrow sites that contain WOS.

(e) Project information including:

(A) Description of all removal-fill activities associated with the project;

(B) Demonstration of independent utility to include all phases, projects or elements of the proposed project which will require removal-fill activities;

(C) Volumes of fill and removal within jurisdictional areas expressed in cubic yards;

(D) Area of removal and fill within jurisdictional areas expressed in acres to the nearest 0.01-acre for impacts greater than 0.01 of an acre or expressed in acres to the nearest 0.001-acre for impacts less than 0.01 of an acre; and

Response: Each component of this required information is in the JPA:

- Preliminary areas (in acres) of R-F within jurisdictional waters;
- Volumes of R-F(in cubic yards) within jurisdictional waters.

(E) Description of how the project will be accomplished including construction methods, site access and staging areas.

Response: A description of how the Project will be accomplished, including construction methods, is submitted in Attachment J of the JPA.

(f) A description of the purpose and need for the project. All projects must have a defined purpose or purposes and be based on a documented need or needs. The project purpose and need statement must be specific enough to allow the Department to determine whether the applicant has considered a reasonable range of alternatives.

Response: The Project purpose and need and alternatives evaluated are discussed above in response to ORS 196.825(3)(a), (b), and (c). Additionally, the Project purpose and need are summarized in the JPA, Attachment J. Alternatives evaluated are discussed in the JPA Attachment L and in Exhibits B and N. At the impact site level, Table M-1 in Attachment M of the JPA includes information about alternative sites for proposed removal or fill at some impact sites.

(g) Project plan views and cross-sectional views drawn to scale that clearly identify the jurisdictional boundaries of the waters of this state (e.g., wetland delineation or ordinary high water determination). Project details, such as footprint and impact area must also be included so that the amount and extent of the impact to jurisdictional areas can be readily determined.

Response: Project plan views and typical cross sections are submitted in Attachment K of the JPA.

(h) A written analysis of potential changes that the project may make to the hydrologic characteristics of the waters of this state, and an explanation of measures taken to avoid or minimize any adverse impacts of those changes, such as:

(A) Impeding, restricting or increasing flows;

(B) Relocating or redirecting flow; and

1 (C) Potential flooding or erosion downstream of the project.

2 **Response:** Responses to these criteria are included in the JPA, Attachment I. An erosion and
3 sediment control plan (1200-C) has been completed for the Project and is attached to Exhibit I
4 (Attachment I-2).

5 (i) A description of the existing biological and physical characteristics of the water resources, along
6 with the identification of the adverse impacts that will result from the project.

7 **Response:** The biological and physical characteristics of the impacted water resources are
8 described in the JPA Attachment P. This information is in tabular form, and includes descriptive
9 information from the wetland delineation report.

10 (j) A description of the navigation, fishing and public recreation uses, when the project is proposed on
11 state-owned land.

12 **Response:** The Project does not cross any state-owned lands that provide navigation or fishing
13 opportunities. The Project does cross the Blue Mountain Forest Wayside. Recreation within the
14 portion of the Blue Mountain Forest Wayside that is crossed by the Project is predominantly
15 sightseeing from vehicles while traveling along Interstate 84. No removal-fill impacts to wetlands
16 or other waters are anticipated on state-owned land.

17 (k) If the proposed activity involves wetland impacts, a wetland determination or delineation report that
18 meets the requirements in OAR 141-090 must be submitted, unless otherwise approved in writing by
19 the Department. A wetland delineation is usually required to determine the precise acreage of wetland
20 impact and compensatory wetland mitigation requirements. Whenever possible, wetland determination
21 and delineation reports should be submitted for review well in advance of the permit application.
22 Although an approved wetland delineation report is not required for application completeness, a
23 jurisdictional determination must be obtained prior to the permit decision.

24 **Response:** IPC has submitted a 2011 wetland delineation report to DSL. Additional wetland
25 delineations were conducted in 2012 on previously unsurveyed parcels, and on portions of the
26 Site Boundary that were not included in the wetland delineation study area in 2011.

27 (l) A functions and values assessment that meets the requirements in OAR 141-085-0685 when
28 permanent impacts to wetlands are proposed.

29 **Response:** Wetland functions and values were assessed with ORWAP on a sample of
30 wetlands of each Cowardin class in each fourth-field HUC watershed crossed by the Project.
31 The results of these wetland assessments are included in the Project's CWNWMP, and will be
32 used to estimate the wetland functions and values that will be impacted by the Project.

33 (m) Any information known by the applicant concerning the presence of any federal or state listed
34 species.

35 **Response:** IPC has conducted surveys for federal and state listed species. Results of these
36 surveys are reported in Exhibit Q. Listed species identified in the Site Boundary are provided in
37 the JPA, Attachment F.

38 (n) Any information known by the applicant concerning historical, cultural and archeological resources.
39 Information may include but is not limited to a statement on the results of consultation with impacted
40 tribal governments and/or the Oregon State Historic Preservation Office of the Oregon Parks and
41 Recreation Department.

1 **Response:** Surveys of historic, cultural, and archaeological resources are ongoing. The surveys
2 are being conducted in consultation with tribal governments and the Oregon State Historic
3 Preservation Office, and in compliance with Section 106 protocols. Additionally, discussion of
4 historical, cultural and archeological resources is provided in Exhibit S. A statement regarding
5 surveys of historic, cultural and archaeological resources is included in the JPA Attachment G.

6 (o) An analysis of alternatives to derive the practicable alternative that has the least reasonably
7 expected adverse impacts on waters of this state. The alternatives analysis must provide the
8 Department all the underlying information to support its considerations enumerated in OAR 141-085-
9 0550 (o), such as:

10 (A) A description of alternative project sites and designs that would avoid impacts to waters of this
11 state altogether, with an explanation of why each alternative is, or is not practicable, in light of the
12 project purpose and need;

13 (B) A description of alternative project sites and designs that would minimize adverse impacts to
14 waters of this state with an explanation of why each alternative is, or is not practicable, in light of the
15 project purpose and need;

16 (C) A description of methods to repair, rehabilitate or restore the impact area to rectify the adverse
17 impacts; and

18 (D) A description of methods to further reduce or eliminate the impacts over time through monitoring
19 and implementation of corrective measures.

20 **Response:** A restoration plan for temporary wetland impacts has been as Attachment Q of the
21 JPA. This plan provides specific information for the restoration of hydrologic, soil and
22 vegetation characteristics of temporarily impacted wetlands and other waters, to existing
23 conditions.

24 Potential impacts to WOS are one of many considerations included in the evaluation of each
25 potential corridor. Planning efforts for the Project included locating Project components to avoid
26 probable wetlands and other waters identified in the desktop study. Additional information
27 obtained from the 2011 wetland delineation was also used to help site facilities to avoid and
28 minimize impacts to the extent practicable.

29 Future planning will include specific measures to avoid and minimize impacts to wetlands and
30 other waters as well as other resources.

31 (p) If applicable, a complete compensatory mitigation plan that meets the requirements listed in OAR
32 141-085-0680 through 141-085-0715 and 141-085-0765 to compensate for unavoidable permanent
33 impacts to waters of this state and a complete rehabilitation plan if unavoidable temporary impacts to
34 waters of this state are proposed.

35 **Response:** IPC has prepared its draft CWNWMP in full compliance with applicable OARs and
36 additional Project-specific guidance from DSL. The CWNWMP is provided as Attachment R to
37 the JPA that is attached to this exhibit as Attachment J-3. IPC is developing the CWNWMP in
38 partnership with the GRMW. When complete and approved as final, the CWNWMP will describe
39 construction and monitoring of the mitigation site.

40 (q) For each proposed removal-fill activity and physical mitigation site applied for in the application, a
41 list of the names and addresses of the adjacent landowners, including those properties located across
42 a street or stream from the proposed project.

43 (A) For a new linear facility, the applicant must provide a list of the names and mailing addresses of
44 the adjacent landowners for the new linear facility.

1 (B) Mailing labels must be provided by the applicant, when there are more than five names and
2 addresses of adjacent landowners listed.

3 **Response:** IPC will include a list of the names and addresses of all landowners who own
4 properties adjacent to a property proposed for either R-F activity or a mitigation activity; IPC
5 understands “adjacent” to include properties located across a street or stream from the Project.
6 The adjacent landowner information will be provided in Exhibit F of the ASC as instructed by
7 ODOE. Mailing labels will be provided when requested by ODOE.

8 (r) A signed local government land use affidavit.

9 **Response:** Because IPC will seek a determination from the Council that the Project complies
10 with local land use standards under ORS 469.504(1)(b), a local government land use affidavit is
11 not required.

12 (s) A signed Coastal Zone Certification statement, if the project is in the coastal zone.

13 **Response:** The Project is not in the coastal zone. The Coastal Zone Certification statement is
14 not applicable.

15 (t) Applicant Signature. Signature of the applicant must be provided. If the application is on behalf of a
16 business entity, a certificate of incumbency must be provided to certify that the individual signing the
17 application is authorized to do so.

18 **Response:** Although IPC is submitting its JPA to ODOE as part of its application for a site
19 certificate along with evidence in Exhibit A regarding Applicant Information that includes proof of
20 authority for the application on IPC’s behalf, IPC will provide DSL with a certificate of
21 incumbency upon request.

22 (u) Landowner Signature. If the applicant is not the landowner upon which the removal-fill activity
23 (including mitigation) is to occur and does not hold an easement allowing the activity on that land, a
24 written authorization from the owner of the land consenting to the application must be provided.

25 (A) Notwithstanding the requirement set forth under (u) above, a landowner signature is not required
26 for applications for the construction and maintenance of linear facilities; and

27 (B) The condemner may sign as landowner when the requirements of OAR 141-085-0550(5)(b)(B)
28 have been met.

29 (v) Mitigation Site Landowner Signature. If the applicant is not the owner of the land upon which the
30 mitigation is to occur and does not hold an easement allowing the activity on that land, a written
31 authorization from the owner of the land consenting to the application must be provided.

32 **Response:** The Project is a linear project; therefore landowner signatures are not required. In
33 the event that IPC will undertake mitigation activities on land it does not own who hold an
34 easement to, IPC will submit a written authorization from the owner of the land to ODOE before
35 beginning any ground-disturbing activities.

36 (6) Additional Requirements for Estuarine Fill. If the activity is proposed in an estuary for a non-water-
37 dependent use, a complete application must also include a written statement that describes the
38 following:

39 (a) The public use of the proposed project;

40 (b) The public need for the proposed project; and

(c) The availability of alternative, non-estuarine sites for the proposed use.

Response: The Project is not in an estuary. This section of the rule is not applicable.

(7) Additional Information as Requested. The Department may request additional information as necessary to make an informed decision on whether or not to issue the authorization.

Response: IPC will provide additional information that may be requested by DSL to facilitate a decision to issue the removal-fill authorization.

(8) Waiver of Required Information. At its discretion, the Department may waive any of the information requirements listed in section (5) of this rule for voluntary restoration projects.

Response: The Project is not a voluntary restoration project. IPC does not anticipate that DSL will waive any of the information requirements in section (5) of this rule.

(9) Permit Application Modifications. A modification to a permit application may be submitted at any time prior to the permit decision. If the modification is received after the public review period, the Department may circulate the revised application again for public review. Modifications proposing significantly different or additional adverse impacts will generally be resubmitted for public review. The Department may set an expedited time frame for public review.

Response: At this time, IPC does not anticipate the need to submit a modification to its permit application.

(10) Pre-Application Conference. An applicant may request the Department to hold a pre-application meeting. In considering whether to grant the request, the Department will consider the complexity of the project and the availability of Department staff.

Response: IPC has requested and participated in five pre-application conferences with DSL, some of which included the USACE. These meetings were:

- April 22, 2011, at DSL, Salem;
- May 25, 2011, at DSL, Salem;
- July 26, 2011, at USACE, Portland; attended by DSL;
- October 27, 2011, at USACE, Portland; attended by DSL; and
- May 31, 2012, at USACE, Portland; attended by DSL.

Topics of discussion at these meetings include wetland delineation methods, reporting and concurrence schedules, JPA requirements, mitigation requirements, and conceptual mitigation plans. IPC has requested and participated in these meetings to foster sufficient communication between IPC, DSL, and USACE with the goal of ensuring that all requirements associated with wetlands and other waters will be met.

5.0 CONCLUSIONS

IPC has identified 180 wetlands and 191 other waters, a combined total of 371 WOS and WOUS within the Site Boundary. Additional delineation of wetlands and other waters will continue in 2013.

Preliminary analysis indicates that 80 WOS and WOUS may be subject to unavoidable temporary or permanent removal and/or fill impacts, totaling 4.290 acres. The average size of impact is 0.054 acre.

- 1 Because IPC anticipates impacts to these features, it has prepared a JPA to provide DSL with
2 information that is required to issue a R-F permit.
- 3 To compensate for these unavoidable impacts, IPC proposes wetland and non-wetland
4 mitigation, to be conducted as separate projects in conjunction with GRMW. A draft mitigation
5 plan is included in the JPA. A final mitigation plan will be developed in full compliance with DSL
6 requirements.
- 7 IPC has demonstrated that it will comply with all applicable requirements for a DSL R-F permit,
8 and has supplied substantial evidence to support a finding by the Council that DSL shall issue
9 IPC the R-F permit as proposed.

10 6.0 SUBMITTAL AND APPROVAL COMPLIANCE MATRICES

11 Table J-5 provides cross references of where in this Exhibit the submittal requirements of OAR
12 345-021-0010 are discussed.

13 **Table J-5.** Submittal Requirements Matrix

Requirement	Location in Exhibit
OAR 345-021-0010	
OAR 345.021.0010(1)(j). Information based on literature and field study, as appropriate, about waters of the state or waters of the United States, including:	Section 3.3.1.
OAR 345.021.0010(1)(j)(A) A description of all areas within the site boundary that might be waters of the state or waters of the United States and a map showing the location of these features.	Section 3.3.1; Attachment J-1; Attachment J-2.
OAR 345.021.0010(1)(j)(B) An analysis of whether construction or operation of the proposed facility would adversely affect any waters of the state, as defined under OAR 141-085-0510, or waters of the United States, as defined under Section 404 of the Clean Water Act.	Section 3.3.2, Table J-2
OAR 345.021.0010(1)(j)(C) A description of the significance of potential adverse impacts to each feature identified in (A), including the nature and amount of material the applicant would remove from or place in the waters analyzed in (B).	To be prepared after impact analysis and wetland assessment are complete.
OAR 345.021.0010(1)(j)(D) If the proposed facility would not need a removal-fill authorization as described under OAR 141-085-0520, an explanation of why no such authorization is required for the construction and operation of the proposed facility.	Not applicable; IPC anticipates that a removal-fill authorization will be required.
OAR 345.021.0010(1)(j)(E) If the proposed facility would need a removal-fill authorization, information to support a determination by the Council that the Oregon Department of State Lands should issue a removal-fill permit, including information in the form required by the Department of State Lands under OAR chapter 141 division 85.	Section 3.3.5; Attachment J-3, JPA.
OAR 345.021.0010(1)(j)(F) A description of proposed actions to mitigate adverse impacts to the features identified in (A) and the applicant's proposed monitoring program, if any, for such impacts.	Attachment J-3, JPA.
Project Order Section V (j) Comments	
The Department understands that the phased study approach is presenting challenges to the applicant's ability to obtain the information necessary to prepare a Joint Permit Application to DSL and the USACE. To the extent possible, the preliminary application should include identification of wetlands and waters of the State for all areas to be affected by the proposed facility, including access roads and temporary laydown areas.	Section 3.3.1; Attachment J-1; Attachment J-2.

1 **Table J-5. Submittal Requirements Matrix (continued)**

Requirement	Location in Exhibit
The applicant should include in Exhibit J as much of the information required by OAR 345-021-0010(1)(j) as possible, and the proposed path forward to obtain the information necessary for the Council to find that the requirements for a removal-fill permit have been met. Information would include an itemized demonstration of each applicable provision of ORS 196.825 (Criteria for Issuance of a Permit) and OAR 141-085-0550 (Application Requirements for All Authorizations). DSL requires a compensatory wetland, compensatory non-wetland, and temporary impacts mitigation plan be submitted with a removal-fill application.	Section 4.1, Section 4.2
Written authorization in the form of an easement from DSL is required for development activities on state land, including use or crossing of the John Day and Deschutes Rivers. The easement(s) must be obtained prior to the start of facility construction. The DSL easement is not under Council jurisdiction. The applicant should consult with DSL to determine requirements and review timelines.	Section 2.2.2
OAR Chapter 140, Division 85 (“Administrative Rules Governing the Issuance and Enforcement of Removal-Fill Authorizations Within Waters of Oregon Including Wetlands”) has been revised since the last time the Council’s rules were updated. The citation in OAR 345-021-0010(1)(j) to rules in Division 85 of OAR Chapter 141 are no longer valid. For example, reference to OAR 141-085-0010 should now be 141-085-0510 (Definitions). The citation to OAR 141-085-0018 should now be to OAR 141-085-0520. The applicant should consult directly with the Oregon Department of State Lands if there are any questions regarding the applicable regulations. The applicant should also note that the Removal-Fill rules, including the notification rules, are currently being revised to reflect recent changes approved by the 2001 (<i>sic</i>) Legislative Assembly	Section 4.2

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3 **7.0 RESPONSE TO COMMENTS FROM REVIEWING AGENCIES AND** 4 **THE PUBLIC**

5 There were no comments from reviewing agencies or the public related to Exhibit J.

6 **8.0 REFERENCES**

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