

**BLAINE COUNTY BOARD OF COMMISSIONERS**  
**Public Hearing Date:** January 12, 2021 & February 9, 2021

<b>REGARDING THE APPLICATION OF:</b> Idaho Power Company for a Conditional Use Permit (CUP) to place a 138-kV redundant transmission line from the Wood River Substation just north of Hailey to the Ketchum Substation on Sun Valley Rd. within the City of Sun Valley.	<b>Staff Report</b> by Allison Marks  Dated: December 31, 2020 <b>Updated: February 3, 2021</b> <b>All updates to original staff report in red</b>
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**Requested Action:** Public hearing and consideration of an application by Idaho Power Co. for a Public Utility Facility Conditional Use Permit to construct, maintain, and operate a 138-kV, overhead and underground, redundant transmission line from the Wood River Substation north of Hailey east to Buttercup Rd. then along the west side of Buttercup Rd. to Highway 75 and then north along the highway until it enters the City of Ketchum at the Elkhorn Rd. light. In order to maintain the existing power pole heights, the applicant is proposing to bury the existing distribution lines and building the transmission line overhead to a proposed underground transition structure to be located near Owl Rock Road, where the line will continue underground to Elkhorn Rd. The transmission line runs through rural Blaine County Zoning Districts of Light Industrial (LI), Low Density Residential (R-1), Planned Residential Development (R-2), Residential/Agricultural (R-5), Medium Density Residential (R-.4) and Recreation Development (RD) before entering the Cities of Ketchum and Sun Valley.

**Representative:** Patrick Harrington, Corporate Secretary  
Tom Barber, Project Manager

**Applicable Regulations:** Blaine County Zoning Ordinance Title 9, including Chapters: 7, 9, 10, 11, 13, 15, 25; Title 8, Blaine County Comprehensive Plan.

<b>I. Application, Notice, Exhibits &amp; General Facts</b>
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**1. Application:**

A Conditional Use Permit application was received by the Administrator on December 23, 2020.

**2. Notice:** Public notice for this application was as follows:

- A. Legal notice was published in the Idaho Mountain Express on December 23, 2020 & **January 20, 2021**
- B. Notice was mailed on December 21, 2020 & **January 19, 2021** to Political Subdivisions including the municipalities.
- C. Notice was mailed on December 30, 2020 to surrounding landowners within 300' of the exterior boundaries of the proposed transmission line and applicable public water systems.
- D. On-site notice was posted on Idaho Power's Wood River Substation driveway at its intersection with SH 75, Buttercup Rd. and the SH 75 intersection, and Elkhorn Rd- SH 75

- intersection on December 22, 2020 & **February 2, 2021** at least 7 days prior to the hearing.
- E. Application materials on the Blaine County webpage December 23, 2020.
- F. A Display Ad was published on **January 6, 2021 & January 21, 2021**
- G. Public Water User Notification was mailed **December 30, 2020 & January 20, 2021**

► **Motion:** Upon motion by Commissioner \_\_\_\_\_, second by Commissioner \_\_\_\_\_, and by a vote of \_\_\_ to \_\_, the Commission finds notice to be in compliance with applicable regulations §9-25-4 of the Zoning Ordinance.

**3. Any disclosures** (i.e. conflicts of interest, site visits or *ex parte* communications)?

The Land Use and Building Services Director attended and participated in most of the Citizens Advisory Committee (CAC) meetings. This role was *ex officio* and not as a voting (to the extent that votes were taken), citizen participant.

**4. Background:**

- **September 2015:** Idaho Power Company files a Conditional Use Permit (CUP) Application for a 138kV Redundant Transmission line
- **March 2, 2017:** CUP Application denied by Planning and Zoning Commission
- **September 12, 2017:** Board of County Commissioners affirms the Planning and Zoning Decision
- **September 15, 2017:** Public Utilities Commission Order Number 33872 grants Idaho Power Co. a Certificate of Public Convenience & Necessity (“CPCN”)
- **November 17, 2017:** Idaho Power files an CUP application for the 138kV Transmission Line
- **February 8, 2018:** Idaho Power presented CUP application materials in a joint workshop with Planning and Zoning and the Board of County Commissioners
- **June 11, 2018 and September 24, 2018:** Idaho Power collaborated in two joint mediation sessions with Planning and Zoning and the Board of County Commissioners
- **November 13, 15, 27 & December 6, 2018:** Planning and Zoning public hearings on CUP
- **January 15, 2020:** Planning and Zoning *Findings of Fact, Conclusions of Law and Decision* signed approving the CUP with various decision options, contingent on county funding sources.
- **May 6, 2019:** Appeal hearing
- **June 6, 2019:** Board of County Commission decision on appeal
- **February 18, 2020** County hires consultants to looking at finance options
- **September 3, 10, 21, 2020:** Blaine County holds stakeholder meetings
- **November 2020:** Idaho Power proposes a fixed flat fee surcharge to underground existing distribution and portions of the overhead redundant 138kV transmission line. Deadline of December 15.
- **November 20-23, 2020:** 300 person Blaine County survey to better understand public opinions on funding choices

**Summary:**

The applicant is requesting a modification of the condition of approval within the June 4, 2019 Decision by the Board of Commissioners. Specifically, to address this portion of the Board's decision which states:

*While imposing such a condition (complete transmission line underground) will require difficult discussions on the funding alternatives, the Board believes that these funding discussions should be fully exhausted before any consideration of an overhead transmission line in this area. Depending upon the results of these funding processes, further consideration and deliberation may be necessary to "continue to work together on these issues, as there may still be opportunities to find areas of common interest and common ground." Accordingly, the Board affirms the Commission's decision with the modification that it require as a condition of approval that the entire transmission line be undergrounded from the Wood River Substation north to the City of Ketchum.*

The applicants are requesting the County Board of Commissioners modify its "all underground" condition to a "partial underground" condition based on the proposed Owl Rock Route. The proposal is to underground the 8 miles of distribution line running from the Wood River Substation north and the redundant transmission line from Owl Rock Road (See Exhibit B Pole #165) to the underground conduit located near the Elkhorn Road intersection. This would place the redundant 138kV power line, above ground from the Wood River Substation to Owl Rock Road at similar heights to existing distribution poles. This would require a flat fee surcharge option to all Blaine County customers over an approximate 20 year period. (Exhibit A-1)

**5. Exhibits:** The following Exhibits are attached hereto as referenced. All application documents were received at the Blaine County Planning office on December 23, 2020 unless otherwise noted.

**"A" Exhibits- Application:**

- A-1 Cover Letter
- A-2 Exhibit A: Design Map Owl Rock Route
- A-3 Exhibit B: Plan And Profile Drawings Owl Rock Route
- A-4 Exhibit C: Structural Drawings Owl Rock Route
- A-5 Exhibit D: Structure Photos Owl Rock Route
- A-6 Surrounding Landowner List, 12/30/2020

**"B" Exhibits-Background Documents**

- B-1: Blaine County Board of County Commissioners Decision on Appeal, June 2019
- B-2: Blaine County Planning and Zoning Findings of Fact, January 2019
- B-3: Idaho Public Utility Commission's CPCN Order No. 33872

**"C" Exhibits-Additional Documents**

- C-1: Condition #14 Comment Idaho Power 1-5-2021
- C-2: Communication cable summary 1-5-2021
- C-3: Transmission line underground transition structure example
- C-4: Idaho Power Funding Proposal 1-5-2021
- C-5: Brad Mullins Comments on Exhibit C-4 1-6-2021

C-6: Plan and Profile Drawings with Communication 1-6-2021

“D” Exhibits: Public Comment- received as of February 3, 2021

- D-1 Cox Communications Comments – 1.7.21
- D-2 Ed Lawson letter to Blaine County 11.18.18
- D-3 Jini Griffith recd 1.11.2021
- D-4 Margaret Bishop recd 1.11.2021
- D-5 Elise Lufkin recd 1.11.2021
- D-6 Mark Vegwert recd 1.11.2021
- D-7 Shawna Schmidt recd 1.11.2021
- D-8 John Milner -Kim Taylor recd 1.11.2021
- D-9 Gina Parsons Lagergren recd 1.11.2021
- D-10 Ken Lagergren recd 1.11.2021
- D-11 Cindy Mann recd 1.12.2021
- D-12 Steve Shafran recd 1.12.2021
- D-13 Matt Youdall and Melody Liles recd 1.12.2021
- D-14 Collett Pruitt recd 1.12.2021
- D-15 Kiki Tidwell recd 1.13.21
- D-16 Kiki Tidwell response to Commissioner Greenberg recd 1.13.21
- D-17 Jim Speck for Michael Engl recd 1.19.2021
- D-18 Perry Boyle recd 1.25.2021
- D-19 Fritz Haemmerle recd 1.27.2021
- D-20 Dorothy Schinella recd 2.1.21

## II. STANDARDS OF EVALUATION

**The standards of evaluation have been previously reviewed.** Please see the following exhibits which review these standards:

- B-1: Blaine County Board of County Commissioners Decision on Appeal, June 2019
- B-2: Blaine County Planning and Zoning Findings of Fact, January 2019

**See Exhibit B-1, p.4:** *The Commission held four public hearings on the second application on November 13, 2018, November 15, 2018, November 27, 2018 and December 6, 2018. At the hearings, the Commission considered the second application against its prior denial and its standards of evaluation, while also taking into account issuance of the CPCN, possible state preemption, and funding considerations in the event undergrounding of the line was pursued. These competing considerations led the Commission to weigh the application flexibly in order to accommodate a range of funding and site design alternatives. The Commission conditionally approved the second application on January 15, 2019, finding that the proposal conditionally met the standards of evaluation. In setting forth its conditions of approval, the Commission adopted a “priorities” approach, which prioritized certain conditions that, in the eyes of the Commission, would satisfy the standards of evaluation, provided that funding could be secured to pay for the improvements. The first priority, as determined by the Commission, “is to underground the line, both transmission and distribution, from the Wood River Substation to the Elkhorn light where it would link with the underground infrastructure headed North through Ketchum.” If funding was not available to accomplish this condition, then further priorities such as siting adjustments, pole design, and other mitigation were*

spelled out that would alleviate the various negative impacts of the transmission line. The Appellants appealed the Commission's decision.

In denying the first application, the Commission made negative findings on several standards of evaluation, which the Board subsequently affirmed. Specifically, these negative findings related to the following standards of evaluation:

- (1) Blaine County Code Section 9-25-3(A)(2) (not in accordance with the general and/or specific objectives of the comprehensive plan);
- (2) Blaine County Code Section 9-25-3(A)(3) (will not be harmonious and appropriate with character of the general vicinity);
- (3) Blaine County Code Section 9-25-3(A)(4) (will be hazardous or disturbing to existing or future neighboring uses);
- (4) Blaine County Code Section 9-25-3(A)(9) (will result in the destruction, loss or damage of a natural, scenic or historic feature of major importance).

The second application that is subject to this appeal is very similar to the first application, in general location, pole height, spacing, and line placement. The Commission wrestled with its prior findings on the first application during its deliberations on the second application and also considered competing factors such as issuance of the CPCN, possible preemption by the IPUC<sup>1</sup>, and the extent to which funding could be secured to pay for all or parts of the transmission line. These competing factors weighed against viewing the second application in a vacuum and a straight denial, as urged by the Appellants, because doing so would close the door on "opportunities to find areas of common interest and common ground" as encouraged by the CPCN. Instead, the Commission adopted a priority-based approach that allowed it to conditionally approve the second application depending upon the available funding. This, in turn, provided the Board with a menu of options to consider as it waded through various funding alternatives.

### III. Decision Options and Possible Conditions

► **Motion:** Having considered the evidence in the record, upon motion by Commissioner \_\_\_\_\_, second by Commissioner \_\_\_\_\_, and by vote of \_\_ to \_\_, the Commission hereby (approves/approves with conditions/or denies) this conditional use permit to place a 138-kV redundant transmission line from the Wood River Substation just north of Hailey to the Ketchum Substation on Sun Valley Rd. as presented by the applicant discussed at this public hearing subject to the following conditions.

#### Suggested Conditions of Approval

1. Idaho Power Company shall underground the 8 miles of distribution and communication lines from the Wood River Substation to a point South of Hospital Drive.

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<sup>1</sup>IPC has argued that the issuance of the CPCN is evidence of an intent to preempt the County's zoning laws pursuant to Idaho Code Section 67-6528. The Board disagrees for several reasons. First, the CPCN lacks any language declaring an intent to preempt the County's zoning, and includes language that encourages cooperation between the County and IRC. Second, no conflict exists between the Commission's decision and the CPCN, as the Commission conditionally approved IPC's application. Third, the County has not been given a meaningful opportunity to appear before the IPUC to discuss any conflict between the CPCN and the County's zoning as required by Idaho Code Section 67-6528. This lack of an opportunity to appear is largely due to IPC's insistence on seeking a CPCN while the County simultaneously considered IPC's conditional use permit.

2. **Underground the redundant 138kV transmission line 1.4 miles starting at Owl Rock Road after pole #165 until it links to the proposed underground conduit located on the west side of the Elkhorn Rd intersection.**
3. **The above ground transmission line shall be built as depicted in Exhibit B, Plan & Profile Drawings Owl Rock Road Route dated 12.17.2020**
4. **Obtain all necessary easements for 138kV transmission line above and below ground and distribution undergrounding.**
5. **Additional micro-siting shall occur for the above ground transmission as follows:**
  - a. **At Pole # 89 and 90 where the distribution line crosses the Big Wood River, the applicant shall run its conduit on the existing bridge instead of boring under the river.**
  - b. **Pole #90-96 adjacent to Audubon Place, if not undergrounded, shall be micro-located (i.e., moving a pole location to the extent possible) to reduce visibility from driveways and maximizing the screening provided by the established conifers but not to a location that would compromise the integrity of the bike path.**
  - c. **Poles #99 thru #106 shall align with the bike path, more or less, as shown on *Exhibit B* but far enough from the path that it does not compromise the integrity of the bike path pavement or create a safety hazard.**
6. **Shall install the “H” type underground transition structure (or structure less conspicuous) at the Owl Rock Road Transition location. Install plantings including conifers to grow at an adequate height and width to screen the underground transition structure(s) from Highway 75. Design plan shall be submitted to and approved by the Land Use Department Administrator.**
7. **Noxious weed mitigation and re-seeding of native seed mix shall occur in all disturbed areas. Areas of disturbance shall be monitored by Idaho Power on an annual basis for five years to ensure the establishment of desirable vegetation and the abatement of noxious weeds.**
8. **A financial security in the amount of 30% of the estimated cost of the revegetation approved by the Administrator shall be collected and held for up to five (5) growing seasons to ensure at least 80% establishment of the plants as determined by the Administrator.**
9. **Applicant shall comply with all applicable zoning, building, fire and health district regulations.**
10. **Night time work shall be minimized to the extent possible.**
11. **The applicant shall notify Cox Communications and other lessees of work plans and schedules.**

- 12. Poles shall be of corten steel material.**
- 13. A notice shall be sent out to 300' of adjoining landowners by Idaho Power of the new transmission line prior to the commencement of construction.**
- 14. An independent third-party review and verification of construction cost estimates for bids, paid by applicant, shall be provided to the County Administrator since Idaho Power has never undergrounded a 138Kv transmission lines prior to this occasion.**
- 15. Reconstruction of the existing transmission line shall commence as soon as possible after permitting.**
- 16. Any modifications to the plans or approved uses shall require further zoning review, and may be subject to additional regulations pursuant to the Blaine County Zoning Ordinance.**