

**pzcounter**

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**From:** Dick Fosbury  
**Sent:** Monday, February 8, 2021 7:43 AM  
**To:** pzcounter  
**Subject:** FW: Transmission line - thread from LeFaivre and your findings  
**Attachments:** BCC Decision on IPC Appeal pg 8.jpg; BCC Decision on IPC Appeal pg 7.jpg; BCC Decision on IPC Appeal pg 6.jpg; BCC Decision on IPC Appeal pg 5.jpg; BCC Decision on IPC Appeal pg 4.jpg; BCC Decision on IPC Appeal pg 3.jpg; BCC Decision on IPC Appeal pg 2.jpg; BCC Decision on IPC Appeal pg 1.jpg

FYI...

**From:** Kiki Tidwell <ktinsv@cox.net>  
**Sent:** Monday, February 8, 2021 7:22 AM  
**To:** Dick Fosbury <dfosbury@co.blaine.id.us>; Jacob Greenberg <jgreenberg@co.blaine.id.us>; Angenie McCleary <amccleary@co.blaine.id.us>  
**Cc:** Fritz Haemmerle <fxh@haemlaw.com>  
**Subject:** Transmission line - thread from LeFaivre and your findings

**RECEIVED**  
FEB - 8 2021  
BLAINE COUNTY  
LAND USE & BUILDING SERVICES

Commissioners:

Below is a 2015 email thread from Rick LeFaivre, who served on the Transmission Line CAC, explaining that Idaho Power told the CAC that, for \$2 million more, the temporary line proposed to accomplish repairing the original line, could become permanent. In "a brilliant financial engineering move" that uses the \$2 million tearing down of the temporary line to offset the \$14 million + costs of undergrounding in Ketchum, you get a redundant line.

Please note that this project never started as a redundant transmission line. It was a project to repair the original line. The CAC was pitched 'a brilliant financial engineering move' to help overcome Ketchum's resistance to paying for undergrounding costs in their city. It was around this time in July 2015 that Idaho Power then actually put the Ketchum total undergrounding costs into the base project cost for all ratepayers to pay, to further eliminate any resistance to this project from the City of Ketchum. For 10 years prior in Idaho Power's plan, it was Ketchum's cost. For 10 years prior in Idaho Power's planning proposals, a second permanent redundant line was never needed.

Now please look at your own decision attached.

Pg 5 "Nevertheless, the (PUC) Commission's review, and likewise the (Blaine County Commissioners) Board's review on appeal, is limited to considering the facts presented against the applicable standards of evaluation. Within the constraints of this review, a menu-based approach involving multiple funding-based scenarios as flexible conditions of approval are unlikely to withstand legal scrutiny. Funding issues, preemption, and the need for a redundant transmission line are simply not zoning considerations."

Footnote on the same page: "1 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 IPC. Second no conflict exists between the Commission's decision and the CPCN, as the Commission conditionally approved IPC's application."

Pg 6 "It is within that review that the Board must find that the only condition of approval that would allow it to make positive findings at this time is to underground the entire line from the Wood River Substation to the traffic light at the intersection of Elkhorn Road and Highway 75."



However there is a solution. Blaine County can form its own Municipal Electrical Co-op, contracting with Idaho Power for services and supply of electricity, but seizing control of the future for Blaine County's citizens while adhering to our Comprehensive Plan and cutting out usurious \$13,300,000 interest and fee payments to Idaho Power.

Kiki  
Kiki Tidwell

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**From:** Rick LeFaivre [<mailto:rlefaivre@gmail.com>]  
**Sent:** Tuesday, July 14, 2015 2:33 PM  
**To:** Kiki Tidwell  
**Cc:** Kerrin McCall  
**Subject:** Some Additional Thoughts on the North Valley Power Line

Just got back from a good hike with Riley the Wonder Dog (and it didn't rain!). I was thinking some more about your concerns on the hike. I want to be respectful of your concerns, as I know you represent a portion of the community that wishes we could just "leave things as they are," and replace the aging wooden poles as they start to fall over. I'm trying to give you all of the facts I can that we learned over the past two years of debates, so you are as well-informed as the members of the CAC are — it will be important to find ways to get this information out to the public as we move towards approval of the revised plan.

Here's one way to look at it. Say you are the Idaho Power Executive in charge of the Transmission Grid in Idaho (who we have met with multiple times). You know that the North Wood River Valley (roughly North of East Fork) is served by one aging power line. It is the last major region in Idaho to not have redundant power, which in this era of Grid Security is virtually a mandate to remove single points of failure from the Grid. You ask your design/construction team to give you a plan to at least replace the existing line that is reaching the end of its useful life. This is part of the routine upgrades that your group does as needed. They point out that because the line was built in the 60's through mountainous terrain, and several neighborhoods have been built around the non-mountainous portions of the line, it is impossible to simply build a new line alongside of the aging line — it has to be replaced within the same footprint, deconstructing the old line while building the new one, and helicopters will have to be used to get in new poles for long portions of the line. You get a full line replacement plan, and it calls for completely de-powering the existing line for 40-80 days — 40 work days if you can simply take it out of commission and rebuild, 80 work days if you power it down in sections and stretch the rebuild over a year. You decide that either option — 80 rolling day-long or multi-day outages or 6-8 weeks of continual outage is unacceptable to the North Valley rate payers. What are your options?

One option is to string a temporary transmission line up the Valley and through Ketchum to the substation, power it up, power down the old line, do the replacement, re-power the upgraded line, and remove the temporary "shoe-fly" line. Stringing the shoe-fly line safely will cost \$10-12M to install and remove temporary poles. This is what you would have to propose to the PUC to serve your North Wood River Valley customers as you are supposed to serve them. But, you note, you would still only wind up with one line to the North Valley, susceptible to terrorism, lightning strikes, avalanches, whatever. Or, we could take that \$10-12M we'd have to spend anyway and string a permanent redundant line up the Valley, replacing the old wooden distribution poles that are there with weathered steel dual transmission/distribution poles that are 4-8 feet higher. How can you justify the cost for weathered steel over ugly steel poles? Because this is a scenic byway, and you are sure the PUC will allow the cost of the weathered steel poles. But the City of Ketchum mandates that lines be under-grounded through town, which you can't pay for as part of your rate base. Well, remember the extra cost of tearing down the shoe-fly line that you'd have to do? Ah, we can use that as an off-set against under-grounding, reducing the under-grounding cost to under \$2M! (This was a brilliant financial engineering move.) Then, when we power up the new transmission line, we can power down the existing line, take our 6-8 weeks to replace it as part of our normal rate-base maintenance, and we would then have two modern transmission lines to power the North Valley, which is exactly what the PUC and FERC want us to have.

As I said previously, we looked at lots and lots of alternatives to the above plan, and this is the only really viable plan we were able to come up with. I hope we can get people to understand it.

Regards,

Rick

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redundant transmission line to serve the Ketchum and Sun Valley areas and approved the general location of the line that was proposed in the first application. The IPUC's decision also "encourage[s] all interested parties to continue to work together on these issues, as there may still be opportunities to find areas of common interest and common ground, notwithstanding the outcome of this proceeding."

Following the denial of the first application and the IPUC's issuance of the CPCN, IPC filed a new conditional permit application for the redundant transmission line on November 20, 2017 ("the second application"), which was very similar to the original application. IPC later requested mediation with the County pursuant to Idaho Code Section 67-6510, and two mediation sessions were held between representatives of IPC, the Commission, and the Board on June 1, 2018 and September 6, 2018. At these mediation sessions, the participants discussed possible funding sources for undergrounding all of, or a portion of, the transmission line, as well as various design changes that could alleviate the line's negative impacts.

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



copy to Land Use

BEFORE THE BOARD OF COUNTY COMMISSIONERS  
BLAINE COUNTY, STATE OF IDAHO

REGARDING THE APPEAL OF: )  
 )  
A Decision of the Blaine County ) DECISION ON APPEAL  
Planning and Zoning Commission )  
Approving Idaho Power Company's )  
Application for a Conditional Use Permit )

THIS MATTER came before the Blaine County Board of County Commissioners ("the Board") upon an appeal by Appellants, Rock Rolling Properties, LLC, Rock Rolling Properties #2, LLC, and South Valley Residents (collectively, "The Appellants"), challenging a decision of the Blaine County Planning and Zoning Commission ("Commission") approving an application for a conditional use permit filed by Idaho Power Company ("IPC") to construct an overhead transmission line. An appeal hearing was held before the Board on May 6, 2019, and argument was heard from the Appellants, represented by Fritz Haemmerle, Esq. and Gregory Adams, Esq., and IPC, represented by David Angell and Pat Harrington, Esq. Following deliberation, the Board voted to affirm the Commission's decision with the modification that the proposed transmission line be undergrounded. This Decision memorializes the Board's decision on the appeal.

For many years, IPC and local leaders have discussed IPC's plans for a redundant transmission line to provide electric service to northern Blaine County, including the cities of Sun Valley and Ketchum. In 2014, IPC filed an application for a conditional use permit to construct, maintain, and operate a 138-kv redundant, electric, transmission line from the Wood River substation north of Hailey to the Ketchum/Sun Valley substation,

Instrument # 660602

HAILEY, BLAINE, IDAHO  
6-4-2019 05:09:09 PM No. of Pages: 8  
Recorded for : BLAINE COUNTY COMMISSIONERS  
JOLYNN DRAGE Fee: 0.00  
Ex-Officio Recorder Deputy *JB*  
Index to: COMMISSIONER AGREEMENTS



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.

The Board appreciates the diligence and creativity used by the Commission in its consideration of the second application. The Commission’s prioritization approach reflects challenging circumstances that are outside of the Commission’s reach and could affect the scope of the proposed conditional use. Nevertheless, the Commission’s review, and likewise the Board’s review on appeal, is limited to considering the facts presented against the applicable standards of evaluation. Within the constraints of this review, a menu-based approach involving multiple funding-based scenarios as flexible conditions of approval are unlikely to withstand legal scrutiny. Funding issues, preemption, and the need for a redundant transmission line are simply not zoning considerations.

Having previously affirmed the denial of the first application, the Board is similarly challenged with making positive findings on the applicable standards of evaluation for an

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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 IPC. 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.





above-ground transmission line for the second application. Some modifications have been made to alleviate visual and aesthetic impacts, but the overall disturbance caused by an overhead transmission line bisecting the Wood River Valley from Hailey to Ketchum remains significant. This disturbance will severely impact residential areas, the Scenic Highway Overlay District, the bike path, public facilities, and the travelling public along the Sawtooth Scenic By-Way along Highway 75.

It is within that review that the Board must find that the only condition of approval that would allow it to make positive findings at this time is to underground the entire line from the Wood River Substation to the traffic light at the intersection of Elkhorn Road and Highway 75. Undergrounding the redundant transmission line allows for positive findings on compliance with the Comprehensive Plan, impacts on neighboring uses, potential hazards and disturbances, and permanent damage to areas of vital scenic importance. While imposing such a condition 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.



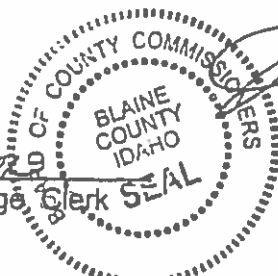


The parties are advised of the right to appeal this decision to the District Court pursuant to Idaho Code Section 67-6521, as applicable, by filing a judicial review action within twenty-eight (28) days of the date of this decision.

DATED this 4<sup>th</sup> day of June, 2019.

BLAINE COUNTY BOARD OF  
COMMISSIONERS

Attest: Jolynn Drage  
Jolynn Drage, Clerk

The seal is circular with a dotted border. The text inside the seal reads "BLAINE COUNTY COMMISSIONERS" around the top inner edge, "BLAINE COUNTY IDAHO" in the center, and "SEAL" at the bottom.

Jacob Greenberg  
Jacob Greenberg, Chairman

Angene McCleary  
Angene McCleary, Commissioner

Dick Fosbury  
Dick Fosbury, Commissioner



CERTIFICATE OF MAILING

I HEREBY CERTIFY that on the 5th day of June, 2019 I caused to be served a true copy of the within and foregoing document upon the persons named by depositing the same in the U.S. Mail, postage pre-paid, addressed as follows:

Tom Bergin  
Planning & Zoning Department  
219 1<sup>st</sup> Avenue S. Suite 208  
Hailey, ID 83333

*hand-delivered*

Fritz Haemmerle, Esq.  
Haemmerle Law, PLLC  
PO Box 1800  
Hailey, Id 83333

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Gregory Adams, Esq.  
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Pat Harrington, Esq.  
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Boise, ID 83707

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Jim J. Thomas, Esq.  
Blaine County Prosecuting Attorney  
219 1<sup>st</sup> Avenue S. Suite 201  
Hailey, ID 83333

*hand-delivered*

*Sunny Grant*  
\_\_\_\_\_  
Deputy Clerk

