

DECISION MEMORANDUM

**TO: COMMISSIONER KJELLANDER
COMMISSIONER SMITH
COMMISSIONER RAPER
COMMISSION SECRETARY
COMMISSION STAFF**

**FROM: KATHY STOCKTON, AUDITOR
DON HOWELL, DEPUTY ATTORNEY GENERAL**

DATE: OCTOBER 21, 2015

SUBJECT: IDAHO POWER’S REQUEST TO SELL A PARCEL OF LAND TO ACHD

On October 1, 2015, Idaho Power Company notified the Commission via letter that it intends to convey a 19,000 square-foot parcel of bare land and adjacent easements to the Ada County Highway District (ACHD) near the corner of Franklin Road and Five Mile Road as part of an ACHD road widening project in Boise. The property is part of a large parcel of land owned by Idaho Power that includes a warehouse building and its Boise operations center.

The letter sought a confirmation from the Commission that *Idaho Code* § 61-328 would not apply to this land transfer. Section 61-328 requires that electric utilities obtain the Commission’s approval for the sale or transfer of property in Idaho “which is used in the generation, transmission, distribution or supply of electric power and energy to the public.” The Company asserts that the transaction will not interfere with the delivery of electric service to customers. The Company requests that the Commission confirm that this transfer of real property does not require the Commission’s formal approval per Section 61-328.

The letter included copies of the survey drawings showing the location of the property proposed for transfer. The letter also included a compensation summary prepared by an independent appraiser detailing the payments to Idaho Power from ACHD for the land transfer.

The compensation includes:

Right-of-way	\$ 53,881.75
Temporary Easement	\$ 2,505.75
Slope/Maintenance Easement	\$ 28,677.19
Improvements	\$ 73,350.00
Cost to Cure	<u>\$ 71,195.80</u>
Total Compensation	\$230,366.49

Idaho Power agreed that the proposed compensation is fair and reasonable. Letter at 1.

STAFF ANALYSIS

Staff has reviewed the proposed transaction and believes that the conveyance of this particle of real property to ACHD will not disrupt the delivery of electric service to Idaho Power's customers. Because the real property in question is currently in rate base, Staff believes that it is appropriate for the Commission to formally review this matter. The property to be transferred is adjacent to the Company's operations center which is directly involved in the supply of power to the public. However, it is Staff's view that transferring the subject property will not affect service or cause rates to increase.

Staff believes the total amount of compensation is reasonable for the utility's property. Staff reviewed the information contained with the letter – the drawing and compensation study – as well as visiting the property. In addition, Staff reviewed the appraisal and the book value of the property. Staff also notes that the transfer avoids having ACHD seek condemnation, forcing Idaho Power to incur more costs.

In past cases involving the sale of buildings and real property, Staff has determined that such transactions would not be subject to *Idaho Code* § 61-328. However, because the subject property is currently in rate base, Staff believes it is appropriate for the Commission to formally review this matter at a decision meeting. Section 61-328 provides that “any property located in this state which is used in the generation, transmission, distribution or supply of electric power [may not be transferred] directly or indirectly, in any manner whatsoever, . . . except when authorized to do so by order of the public utilities commission.”

STAFF RECOMMENDATION

Staff recommends approval of the transfer. Idaho Power should be required to file final accounting entries with the Commission when the transaction is completed and the new improvements are installed. Staff recommends that the Commission find this transaction: (1) is consistent with the public interest; (2) will not cause rates to increase by reason of the transaction; and (3) is not subject to *Idaho Code* § 62-328. Finally, Staff recommends that it instruct Staff counsel to advise the utility in a letter that the proposed transaction does not require a Commission hearing under *Idaho Code* § 61-328.

COMMISSION DECISION

1. Does the Commission agree that the transfer of this property is in the public interest and will not cause rates to increase?
2. Does the Commission instruct Staff counsel to send a letter to the Company confirming that *Idaho Code* § 61-328 does not require a hearing in the subject transaction?
3. Does the Commission also want to include in any letter that the Company is required to file final accounting entries with the Commission when the transaction and construction has been completed?



Don Howell
Deputy Attorney General

bls/M:Idaho Power Property_2015_dh

RECEIVED

PATRICK A. HARRINGTON
Corporate Secretary
pharrington@idahopower.com

2015 OCT 1 AM 8:25

September 28, 2015

IDAHO PUBLIC
UTILITIES COMMISSION

Donald L. Howell
Lead Deputy Attorney General
Idaho Public Utilities Commission
P.O. Box 83720
Boise, Idaho 83720-0074

Re: Idaho Power Company Land Conveyance

Dear Mr. Howell:

Idaho Power Company ("Idaho Power" or "Company") plans to sell certain lands and easements to the Ada County Highway District ("ACHD") for ACHD's Franklin Road-Five Mile Road intersection improvement project ("Project") in Boise. ACHD and Idaho Power previously entered into a Right-of-Entry Agreement ("ROE Agreement") for the Project, which recognizes ACHD's right of condemnation and authorizes ACHD to enter the Company's property for construction of the Project. ACHD has substantially completed the Project, and Idaho Power and ACHD have identified the lands and easements to be conveyed by Idaho Power to ACHD for the Project, along with the proposed compensation levels for the lands and easements, and for the related "Improvements" and "Cost to Cure Items" associated with the Project, as discussed below.

The Idaho Power property sale to ACHD would include the conveyance of fee lands (18,994 square feet), a permanent slope easement (9,778 square feet), a wall maintenance easement (1,987 square feet), and a temporary construction easement (7,710 square feet), all as depicted on the drawing attached hereto as Exhibit A (collectively, the "Property"). The Property is located at the northwest corner of the Franklin Road-Five Mile Road intersection, and is part of Idaho Power's larger 53.43-acre parcel which includes the Company's Boise Operations Center building and Mechanical & Engineering building and related facilities (the "BOC Property"), also as depicted on Exhibit A.

Attached as Exhibit B is a copy of the ACHD Compensation Summary, which provides for \$230,366.49 in total compensation to Idaho Power for the Project. The fee land and easement valuations are based on an appraised value of \$3.25 per square foot for the Property, pursuant to an independent appraisal conducted for ACHD by Hugh T. Pomtier, Certified Appraiser CGA-420, working for Robert C. Williams, MAI, Real Estate Appraising & Consulting. Idaho Power has reviewed the appraisal and has determined that it provides a fair valuation for each of the Fee Acquisition (\$46,033.00 + \$7,848.75), Permanent Slope Easement (\$23,833.88), Wall Maintenance Easement (\$4,843.31), and Temporary Construction Easement (\$2,505.75).

The Compensation Summary also provides for additional compensation to Idaho Power for "Improvements" and "Cost to Cure Items" in connection with the Project. The "Improvements" include landscaping additions on the Property and the BOC Property, and the "Cost to Cure Items" include fencing and materials relocation, to accommodate the new boundary between the BOC Property and the expanded road right-of-way. Idaho Power has worked closely with ACHD regarding the "Improvements" and "Cost to Cure Items", including the installation of a retaining wall along the east side of the BOC Property adjacent to Five Mile Road, to limit the encroachment of the slope easement on the BOC Property. Idaho Power believes that all appropriate steps have been taken to minimize the impact of the Project on the BOC Property, and that the valuations included for the "Improvements" and "Cost to Cure Items" on the Compensation Summary are fair and reasonable.

Idaho Code § 61-328 requires that electric public utilities in Idaho obtain Idaho Public Utilities Commission approval for the sale or transfer of property in Idaho "which is used in the generation, transmission, distribution or supply of electric power and energy to the public." Idaho Power does not believe that § 61-328 is applicable to the Company's proposed conveyance of the Property to ACHD. Idaho Power has coordinated with ACHD to assure that the Project does not materially interfere with Idaho Power's operations at the BOC Property, and the sale of the Property will not impact Idaho Power's utility operations.

Finally, it is important to note that ACHD has the right of eminent domain and could condemn the Property for the Project if needed. Such an action would likely result in significant legal costs to Idaho Power and could also result in lower compensation paid by ACHD than currently offered under the Compensation Summary.

If you agree with Idaho Power's assessment that the proposed conveyance of the Property to ACHD as described above would not require Commission approval under § 61-328, please provide confirmation to my attention at the address above. Idaho Power will file final accounting entries with the Commission for the conveyance of the Property to ACHD when the transaction is completed.

Sincerely,

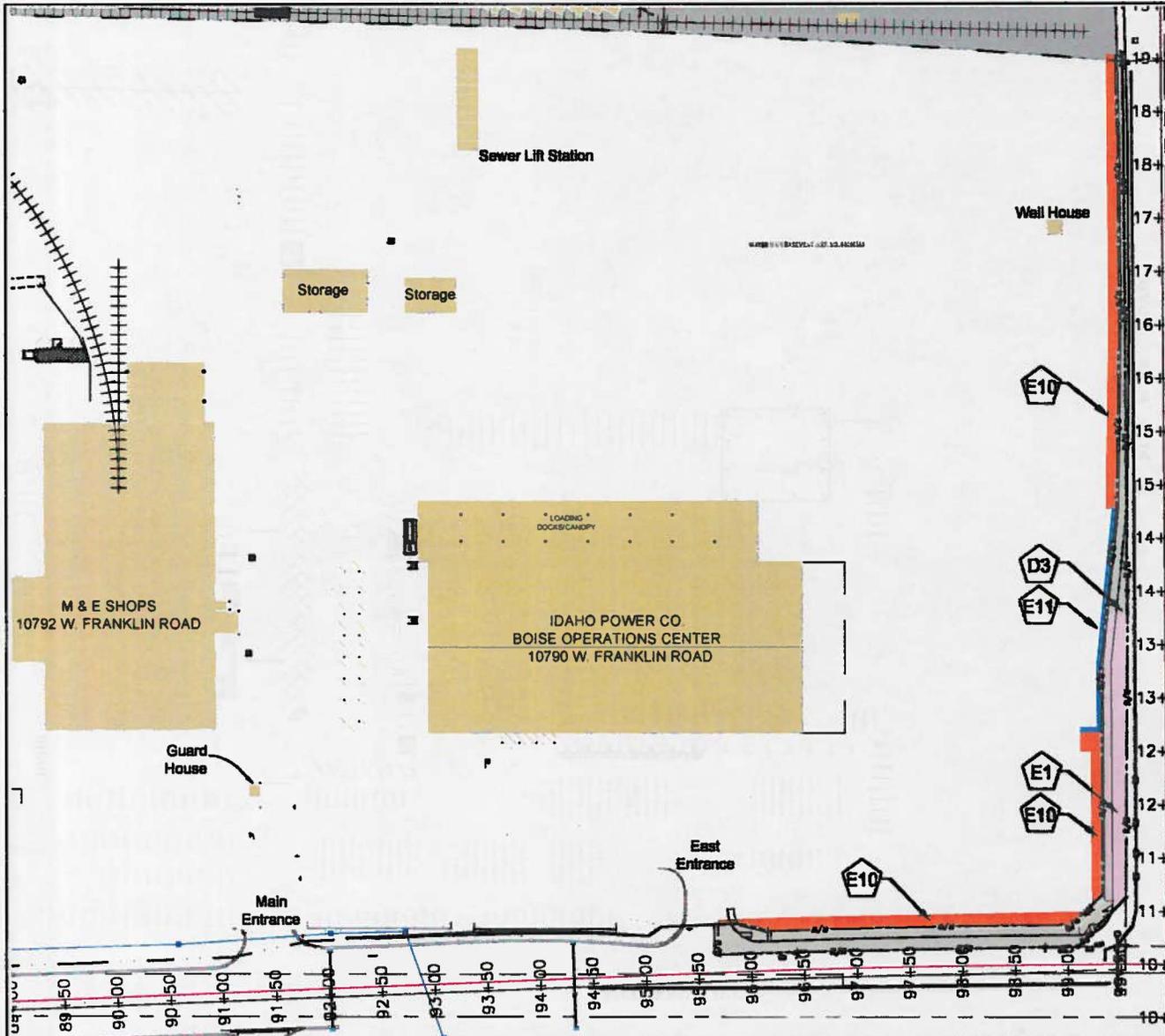


Patrick A. Harrington

Enclosures

cc: Terri Carlock, IPUC

EXHIBIT "A"



PROPERTY ACQUIRED:

1. PARCELS A AND B COMPRISE 29.60 ACRES, CONVEYED BY SPECIAL WARRANTY DEED, INST. NO. 111048188, RECORDED 08/14/2011, GRANTOR: ONE IRVING ASSOCIATES, LP SEE PAGE 1 FOR DETAILS ON "A" "B" AND "C" PARCEL.

2. PARCEL "O" COMPRISES 23.83 ACRES, CONVEYED BY WARRANTY DEED, INST. NO. 8228202, RECORDED 07/02/1992, GRANTORS: W. ROBERT MCBIRNEY AND FRANCES MCBIRNEY, HUSBAND AND WIFE, AND WILLIAM ROBERT MCBIRNEY JR., SEE ALSO, THE FOLLOWING WARRANTY DEEDS: 111041381, 98118705, 9277795 AND 110060804.

TOTAL DEED ACQUIRED ACRE(S) = **53.43**

PROPERTY DISPOSED:

1. DEED IN FAVOR OF ADA COUNTY HIGHWAY DISTRICT, RIGHT OF WAY 18,994 SQ. FT. INST. NO. 88 88/88/8888

TOTAL PROPERTY DISPOSAL ACRE(S) = **0.438**

NEW CURRENT ACRES EFFECTIVE 05/ /2015 = **52.994**

ACHD FIVE MILE ROAD WIDENING PROJECT PROPOSED ROW EXACTION AND EASEMENTS

- TEMPORARY CONSTRUCTION EASEMENT AREA 7,710 SQ. FT.
- - - PROPERTY LINE
- - - E1. EXISTING SLOPE EASEMENT 4,880 SQ. FT. INST. NO. 9277788 11/12/1992. (THIS AREA IS INCLUDED IN THE PROPOSED ROW EXACTION (SEE BELOW).
- █ E10. PROPOSED SLOPE EASEMENT 9,583 SQ. FT.
- █ E11. PROPOSED WALL MAINTENANCE EASEMENT 1,128 SQ. FT.
- D3. PROPOSED RIGHT OF WAY 18,994 SQ. FT.

ACHD PROJECT TOTAL IMPACT TO IDAHO POWER PROPERTY:

ACHD ROW EXACTION ————— 18,994 SQ. FT.
 ACHD NEW PERMANENT SLOPE EASEMENT ————— 9,583 SQ. FT.
 ACHD NEW RETAINING WALL MAINTENANCE EASEMENT — 1,128 SQ. FT.



REV	DESCRIPTION	DATE	DS.	DR.	NOTES/REFERENCE DOCUMENTS	SIGNATURE	DATE	PROPERTY DISPOSAL MAP	CORPORATE REAL-ESTATE
1	x	00-00-18	XXX	XXX	1. x	DS: XXX 00-00-18 DR: XXX 00-00-18 SV: XXX 00-00-18 SCALE: 1"=100' HORIZ MA VERT		BOISE OPERATIONS CENTER ACHD FIVE MILE ROAD WIDENING PROJECT ADA COUNTY, IDAHO SEC.10, T.2N, R.1E, S.1M.	FACILITY ID: BOCN WALLT No. 68-8902801 WO No. 2787229-01 SHEET: 1/1 48



EXHIBIT "B"

Project Name: Five Mile-Franklin to Fairview
Project No: 702041
Name: Idaho Power Company
R/W Parcel No: 1
T3N, R1E, Sec 10
APN: S1110449504

COMPENSATION SUMMARY

<u>Fee Acquisition:</u>	14,164 sf @ \$3.25 per sf	\$46,033.00
<u>Fee Acquisition:</u>	4,830 sf @ \$3.25 per sf x 50%	\$ 7,848.75
<u>Permanent Slope Easement:</u>		
	9,778 sf @ \$3.25 per sf x 75%	\$23,833.88
<u>Wall Maintenance Easement:</u>		
	1,987 s.f. @ \$3.25 per sf x 75%	\$ 4,843.31
<u>Temporary Construction Easement:</u>		
	7,710 sf @ \$3.25 per sf x 10%	\$ 2,505.75
<u>Improvements:</u>		
	Earth Work: 399 cy @ \$35 per cy	\$ 13,965.00
	Evergreen Trees: 3 @ \$1,500 each	\$ 4,500.00
	Plants (Carpet Rose, Fountain Grass)	\$ 8,500.00
	Turf Grass: 8,000 sf @ \$1.65 per sf	\$ 13,200.00
	Railroad Ties: 140 @ \$8.00 per railroad tie	\$ 1,120.00
	Landscaping Curb: 350 lf @ \$2.50 per lf	\$ 875.00
	Asphalt Paving: 2,600 sf @ \$3.00 per sf	\$ 7,800.00
	Gravel Mulch & Weed Barrier	\$ 10,500.00
	Grass Seeding	\$ 2,500.00
	Irrigation System	\$ 10,390.00
<u>Cost to Cure Items:</u>		
	Fencing (Relocation and Temporary): 650 lf	\$ 17,000.00
	Fencing (Permanent): 650 lf	\$ 25,850.00
	Electric Sign at Entry	\$ 5,066.80
	Sign Electrical Installation Work	\$ 2,250.00
	Relocate 2 Solar Lights: 2 @ \$100 each	\$ 200.00
	Relocate Material and Inventory (Based on Owners Bid)	\$ 8,600.00
	Labor and Vehicle Costs	\$ 5,250.00
	Fencing Adjustments at Retaining Wall (Relocation)	\$ 3,380.00
	Temporary Irrigation	\$ 2,285.00
	Main Line Irrigation Repair	\$ 2,070.00
Total Compensation.....		<u>\$230,366.49</u>