

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

Idaho Public Utilities Commission
Office of the Secretary
RECEIVED

JUL - 2 2004

Boise, Idaho

IDAHO POWER COMPANY,
COMPLAINANT VS. CITY OF EAGLE,
IDAHO, RESPONDENT

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CASE NO. IPC-E-04-04

Direct Testimony of

Don C. Reading, Ph.D.

Ben Johnson Associates, Inc.

on behalf of

The City of Eagle

July 2, 2004

1 **Q. Would you please state your name and address?**

2 A. Don Reading, Ben Johnson Associates, Boise, Idaho. The address is 6070 Hill Road, Boise,
3 Idaho.

4

5 **Q. Have you prepared an appendix that describes your qualifications in regulatory and**
6 **utility economics?**

7 A. Yes. Appendix A, attached to my testimony, serves this purpose.

8

9 **Q. Does your testimony include any attachments?**

10 A. Yes. Exhibits 100 through 107 are included at the end of the testimony.

11

12 **Q. What is your purpose in making your appearance at this hearing?**

13 A. Our firm has been retained by the City of Eagle (the City, Eagle) to examine the impact on
14 Idaho Power Company's (the Company, IPC) proposed 138kV power line through the City of
15 Eagle.

16

17 **Q. How is your testimony organized?**

18 A. First, I give a brief history of the conflict between Idaho Power and the City of Eagle. Second,
19 is a presentation of census data that shows the City has the highest median property value
20 among non-recreation based cities in the state. One of the reasons for these high property
21 values has is the development strategies and development restrictions of the City over the past
22 15 years. The City has managed its growth with award winning strategies that led to its
23 rejection of Idaho Power's proposal. Third I show, using econometric studies of what
24 common sense tells us, that high voltage power lines reduce property values and that IPC's
25 proposal will devalue some of the City's most value real estate.

26

1 Third, the 90 acre Eagle River Development at the intersection of Eagle road and
2 Highway 44 is used as an example of the type of development that has been occurring
3 throughout the City. The developers have expended significant sums to build an aesthetic
4 business park – including paying Idaho Power \$100,000 to bury its own electric lines.
5 This development along with other Eagle properties will see lower property values should
6 the line be built as proposed by Idaho Power. This will not only hurt property owners but
7 also the property tax base of the City and its ability to attract the type of businesses its
8 planning efforts are aimed at. Fourth, is a discussion of the fact that what is happening in
9 Eagle will occur throughout the state as cities attempt to follow Eagle's pattern and
10 prepare their communities to meet the economic development demands of Idaho's
11 changing economy.
12

13 **Q. Could you please briefly outline the dispute between Idaho Power and the City of**
14 **Eagle?**

15 **A.** Idaho Power Company has asked the Idaho Public Utilities Commission, (the Commission,
16 IPUC) to issue an Order directing it to construct a 138kV transmission line through the
17 City of Eagle. The City of Eagle's concern over a major electric facility in the City began
18 in 1995 when the IPC applied for a rezone and a conditional use permit (CUP) to upgrade
19 its substation in Eagle from 69kV to 138kV. The City approved IPC's application with
20 the provisions that,
21

22 2. No further expansion once they upgrade this location, the next upgrade needed
23 will require a different location.

24 3. Additional design review and landscape review will be necessary. Additional
25 screening against the fence on State Street is required. [City of Eagle, Finding of
26 Fact and Conclusions of Law, Recommendations, Oct. 1995., Exhibit 100]
27
28

1 The restrictions indicated the City's concern about maintaining aesthetics within the City
2 of Eagle and desire to keep unsightly power facilities at a minimum.

3

4 In late 2000 Idaho Power applied for a permit to install a 138kV line that would
5 run from the Eagle substation through downtown along State Street to Highway 44, then
6 to Ballantyne Road. Since the time of the original application the Company has
7 withdrawn and resubmitted its application. There have been numerous meetings, public
8 hearing, and discussions that have involved the City, the Company and the IPUC Staff in
9 an effort to resolve the issue. The City has rejected the Company's latest request for a
10 Conditional Use Permit and an exemption to exceed the 35-foot building height
11 restriction, and negotiations have stalled. In essence this application is the Company
12 asking the IPUC to override Eagle's rejection of the CUP and order IPC to construct the
13 138Kv line through the City in violation of the City's own ordinances. [Eagle City Code 8-
14 7-3-2, General Standards for Conditional Uses; Design Requirements, Objectives and
15 Considerations, 8-2A-6. Exhibit 101]

16

17 **Q. Could you please provide a profile of the City of Eagle ?**

18 A. Eagle has been one of Idaho's fastest growing communities in one of the nations fastest
19 growing states. The City of Eagle was the 3rd fastest growing city in Idaho between 1990
20 and 2000 increasing its population by 233%. This growth has continued since 2000
21 increasing by nearly 2,200 residents or an additional 23%. [Population of Idaho Cities,
22 1990-2000. Exhibit 102] The City also has some of the highest property values in the
23 state.

24

25 **Q. How do you know the City of Eagle has relatively high property values?**

26 A. According the 2000 Census the City of Eagle, as measured by median house value, has
27 the 10th highest value among Idaho cities.

28

1 If fact the City was named one of the “Best Managed Small Cities in America”
2 last year. [Pat Summerall, Champions of Industry, “Best Managed City in America”, CD
3 Exhibit 104.] The Association of Idaho Cities (AIC) has picked Eagle as a 2004 recipient
4 of the City Achievement Award for creating an “Architectural & Site Design Book” and
5 establishing a “City Forester/Code Enforcement Officer”. The AIC praised Eagle for
6 “paving the way for other cities to follow suit”. [Memo, Ken Harwood, AIC to Nancy
7 Merill, Mayor City of Eagle, June 11, 2004. Book attached, Exhibit 105]
8

9 **Q. During the Planning and Zoning hearings dealing with IPC’s application a number**
10 **of protestants indicated they felt property values in the city could be decreased if**
11 **Idaho Power were to build the line as proposed. Do you agree?**

12 **A. According to Idaho Power,**

13
14 On October 14, 2003, the Eagle City Council took up the Company’s application,
15 including the Planning and Zoning Commission’s recommended denial of the application.
16 A public hearing was held and testimony was received. A number of citizens and
17 commercial developers testified that the Bypass route was aesthetically unfavorable and,
18 in their opinion, could adversely affect commercial property values in the area. [Idaho
19 Power Direct Testimony of David Sikes, pg. 11]
20

21 Econometric studies have shown that there is a direct relationship between lower property
22 values and the proximity to high-voltage powerlines. For example a University of Toronto
23 study found,

24
25 This research offers conclusive evidence to the claim that propinquity to high-voltage
26 powerlines capitalises into lower property values. Results from OLS models estimated for
27 freehold properties within 1-km of the power-lines suggest a loss of 4% to 6.2% in value.
28 Loss in value decreases with distance from power-lines. At an average proximity to high-
29 voltage power lines resulted in a decline of \$11,000 to \$27,000 in property values.

1 [Impact of Power Lines on Freehold Residential Property Values in the Greater Toronto
2 Area, University of Toronto, Haider, Murtaza and Antoine, Haroun, Department of Civil
3 Engineering, 1992. (Canadian dollars)]
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5 Stanley Hamilton and Gregory Schwann in a 1995 Land Economics article concluded,
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7 High voltage electric transmission lines do have an effect on property value. We find that
8 properties adjacent to a line lose 6.3 percent of their value due to proximity and the visual
9 impact. [Hamilton, Stanley and Gregory Schwann, Land Economics, 71 (4): 436-44,
10 November 1995.]
11

12 These studies confirm common sense. Unsightly structures on or near property will make
13 the property less desirable and thus reduce land value. What is important for land values
14 is the perception of society. There is a fear – rational or irrational – that high voltage
15 powerlines are a potential health hazards. This is an additional factor in lowering the worth
16 of a property located near high voltage power lines. There is of course many factors that
17 influence property values that make it difficult to sort out all the factors that influence
18 value. The econometric studies cited above have attempted to do this and in my opinion
19 are a reliable indication of the impact of high voltage power lines on the value of property.
20
21

22 **Q. The planned Bypass route proposed by Idaho Power runs along Highway 44 and**
23 **through the intersection on Eagle Road. In general what is the value of property**
24 **along this corridor?**

25 **A.** As pointed out above the land along the proposed powerline route would have some of the
26 highest non-resort values in the state. The fact that it is the entry corridor to one fastest
27 growing cities in the state with some of the highest property values make this property
28 extremely valuable. The proposed line bisects the land between Boise River frontage and

1 developing downtown Eagle diminishing property values on both sides of highway 44.
2 The City has designated this area its 'Scenic Corridor' (City of Eagle Land Use Map, part
3 of The City of Eagle 2000 Comprehensive Plan, as amended. Exhibit 106). The City's
4 2000 Comprehensive Plan states that, "The City of Eagle has the responsibility to guide
5 development and redevelopment that occurs along these entryway corridors." [The 2000
6 Comprehensive Plan; pg. 45. Exhibit 106] In rejecting IPC's proposal that is exactly what
7 the City is doing.

8
9 As pointed out above results indicate growth management has been a success in
10 Eagle. Placing high voltage poles in the middle of the most important land in the City
11 would be a major step backwards in that management process.

12
13 **Q. Has there been significant development effort in property along the proposed route**
14 **of the 138kV line?**

15 **A.** Yes. One example is the Eagle River Development located at the southeast corner
16 of Eagle Road and State Highway 44. The Eagle River Development is a 100-acre
17 planned mixed-use commercial development that incorporates retail and office
18 space with water amenities, bike paths, open spaces and Boise River frontage. The
19 Eagle River Development was specifically designed to be compatible with the City
20 of Eagle's comprehensive plan, which emphasizes the importance of preserving
21 the rural elements of the community and the nature aesthetic of the area through
22 pedestrian-friendly, livable spaces, scenic views and open spaces. To create its
23 development in accordance with the City's development goals and objectives,
24 Eagle River and the City entered into a Development Agreement. (Development
25 Agreement between Eagle River Development and the City of Eagle. Exhibit
26 107).

27 In accordance with the Development Agreement and consistent with the
28 City's development goals, Eagle River invested more than \$3,000,000 in system
29 beautification efforts. Eagle River has developed an integrated pathway

1 throughout the development that connects with the River Front Green Belt and
2 Pathway. It has installed extensive landscaping throughout the development with
3 water features, ponds and fountains. In addition, it installed vintage-style street
4 lighting along all on the internal roads within the Development. Significantly, to
5 protect the thematic integrity and aesthetic of its development Eagle River buried
6 all of its utility lines and additionally paid to Idaho Power more than \$100,000 to
7 bury its own power lines along Eagle Road.

8
9 **Q: Is the Eagle River Development finished at this time?**

10 **A:** Presently, the Eagle River Development is not fully developed. However, as of the
11 date of this filing, there is approximately \$20 million in building construction on
12 site, and an additional \$24 million of planned construction to begin within the next
13 12 months.

14
15 The construction of the 138 kV transmission line along State Highway 44 as
16 proposed by Idaho Power will have a direct negative impact on the Eagle River
17 Development. Consistent with the power line studies discussed above, Eagle
18 River's land values will be significantly diminished as a result of the transmission
19 line. With the diminished land values, the quality of the development will
20 decrease, and the market exposure time for its property listings will be extended.
21 Instead of a high-quality commercial development consisting of retail and office
22 space, the development will attract more industrial and flex-space uses. Certainly,
23 the Eagle River developers would not have invested so heavily in the property had
24 they known an unsightly, high voltage transmission line would be placed adjacent
25 to their land.

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27 From the City of Eagle's perspective, the devaluing of the Eagle River
28 Development will impact the City's development plans, and perhaps more
29 importantly, will affect its tax base and revenues. Not only will the City have a

1 more industrial-looking commercial center, with the lower land values, it will lose
2 tax revenues.

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4 **Q. Are you saying only those who own property along the proposed route will have**
5 **their property values diminished should the proposed powerline be built?**

6 A. There certainly will be a significant impact on adjacent property values. However because
7 the proposed line will impact the entry corridors to the City it may well have an impact on
8 potential development. Impressions are important for potential business's and well as
9 prospective home buyers and an unsightly entry corridor will tend to dampen the
10 desirability to locate there.

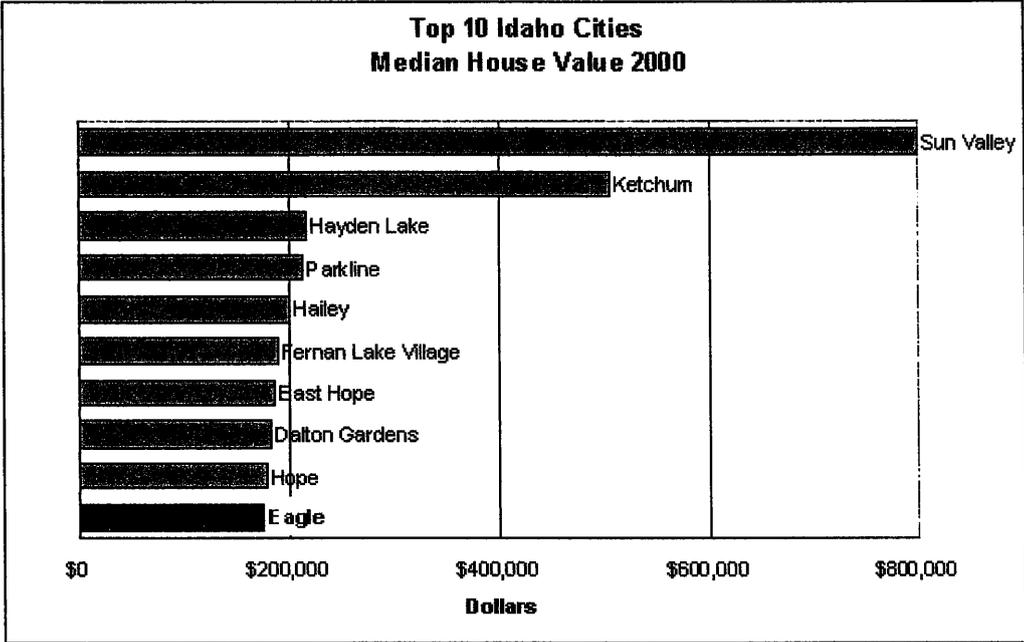
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12 **Q. What is Idaho Power's rationale for running this high voltage line in the middle of**
13 **such prime real estate?**

14 A. According to the Direct Testimony of Greg Said,

15
16 When a city, such as the City of Eagle, determines that Idaho Power must meet standards
17 for aesthetics that are more stringent than the standards in place throughout Idaho Power's
18 service territory and the result of the application of the more stringent standard is higher
19 cost, the question then becomes "who should pay for the additional costs attributable to
20 the City of Eagle's more stringent aesthetics, the City of Eagle or other Idaho Power
21 customers begin served by facilities build under different standards?" Idaho Power
22 believes it is inappropriate for the City of Eagle to pass the costs of its aesthetic standards
23 onto other customers who are willing to be served at lower costs under different
24 standards. [Idaho Power Direct Testimony of Greg Said, pg. 11]

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26 The specific "more stringent" aesthetic standards that Mr. Said refers to are the City's 35-
27 foot building height restriction and standards for a conditional use permit (CUP). Among
28 other things for the City to issue a CUP it needs to determine that the proposed project,
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Note that all of the communities that rank above Eagle are either located on a lake or are resort based. This means the City of Eagle has the highest property values in the state among residential communities. [Profile of Selected Housing Characteristics, 2000 Census. Exhibit 103]

- Q. Are you saying the population growth has driven up property values?**
- A. No, for a city like Eagle it is hard to pinpoint cause and effect for increasing property values. What is clear is that people want to move to Eagle and are willing to pay premium prices to live there. When you see both high property values and high growth for a city it is an indication of its desirability and economic prosperity. It is also an indication that the City's growth has been well managed and that its development strategies have been successful.

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27 foot building height restriction and standards for a conditional use permit (CUP). Among
28 other things for the City to issue a CUP it needs to determine that the proposed project,
29

- 1 B. Will be harmonious with and in accordance with the general objectives or with
2 any specific objective of the Comprehensive Plan and/or this title;
3 C. Will be designed, constructed, operated and maintained to be harmonious and
4 appropriate in appearance with the existing or intended character of the general
5 vicinity and that such use will not change the essential character of the same area;
6 D. Will not be hazardous or disturbing to existing or future neighborhood use;
7 [Exhibit 101]

8
9 Given these conditions it is hard to see how the City could approve Idaho Power's CUP
10 and still maintain its own standards. Nor are these restrictions unusual for cities throughout
11 Idaho. This is especially true when applied to important entry corridors that lead to the
12 city core.

13
14 The problem is that Eagle happens to be located between two of the major growth
15 areas in the state and Idaho Power has right-of-way through the City. The Company has
16 chosen to solve its load problems by putting a high voltage line through Eagle's most
17 expensive real estate and scenic corridors rather than a different route. Or for that matter
18 obtaining generation to the west of Eagle such as the failed Middleton plant. While Boise
19 City has high power voltage lines running through it none are along important corridors
20 such as Warm Springs, Harrison Boulevard, and Capitol Boulevard.

21
22 **Q. Mr. Said states that it is inappropriate for the City of Eagle to pass the cost of its**
23 **aesthetic standards onto those who are willing to accept lower aesthetic standards for**
24 **power at a lower cost. Do you agree?**

25 A. No. In this case it is the citizens of Eagle who are paying the cost of serving Idaho Power's
26 customers to the east through lower property values and degraded visual entry corridors. It
27 is customers to the east of Eagle that will have the benefit of the electric power without
28 having their views degraded or their property values lowered.

29

1 **Q. The Company suggests Eagle form a LID and/or increase franchise fees to pay for**
2 **rerouting or burying the line. Is this a fair approach?**

3 A. Who should pay is a key element in this dispute. The Company's approach appears to be,
4 "if they (the City of Eagle) don't want these large power lines through their City then let
5 them pay for burying or moving the line". Historically this has been business as usual for
6 the Company. However delivering electric power in a growing state like Idaho should be
7 borne by all ratepayers in a case where a powerline will do as much economic harm as the
8 one proposed by Idaho Power in the City of Eagle. As pointed out below Idaho is a state
9 in economic transition where aesthetics are an important part of development plans. At a
10 minimum, because the line is to provide power in the rapidly growing "electric load
11 growth in the entire Eagle-Star-Meridian area" [Complaint To Obtain Commission Order
12 Directing Idaho Power to Construct Improvements To Secure Adequate Services To Its
13 Customers, IPC-E-04-04, page 2.] ratepayers in this wider area should share in the costs of
14 either burying the line or the extra costs of rerouting.

15
16 **Q. Dr. Reading, lets shift gears and look at the bigger picture. Given Idaho Power's**
17 **position in this case do you think Commission is likely to see other cases similar to**
18 **this one?**

19 A. Yes. Idaho is a state in economic transition. The state is rapidly evolving from a
20 agriculture and natural resource based economy to one of services, light manufacturing,
21 technology, and electronics. One economist dubbed the change in Idaho's economy as
22 evolving from potato chips to computer chips. Governor Kempthorne's Task Force on
23 Rural Development stated, "The new economy is also resource-based. But this time the
24 resource is knowledge." [Governor's Task Force On Rural Development, Findings and
25 Recommendations, <http://www.idoc.state.id.us/idcomm/ruralinit/index.html>] In order for
26 the state to prosper in the new economy means attracting a knowledgeable labor force that
27 is the most important factor input for service and technological firms. It is clear that the
28 many of the rapidly growing sectors of our economy are "footloose" and can locate

1 anywhere in or outside the state. These firms will locate in places where there owners
2 want to live and where they can attract a quality workforce.

3
4 This means for communities to be competitive in this new economy they will need
5 to be places where people want to life, work and raise their families. More and more cities
6 like Eagle will work to improve, as Greg Said phased it, their “aesthetic standards”. As
7 stated earlier most other growing communities have development restrictions like those of
8 Eagle. As the AIC stated Eagle is a City that is “paving the way for other cities”. That
9 means, among other things, restricting unsightly power lines through city cores and entry
10 corridors. Innovative solutions, like those suggested by City witness Teinart need to be
11 developed or this case will be only the start of more filings at the Commission.

12
13 **Q. Are there economic benefits to the state in general to build cities that are**
14 **aesthetically pleasing?**

15 A. Yes. As indicated above the state is evolving where quality of life issues are important for
16 economic development. Many “business as usual” approaches – be they from the power
17 company or elsewhere - need to be modified. While one may want to make the argument
18 that the cost of burying or altering the route of the power line should fall only on the City
19 of Eagle the economics of the state are not so easily segmented. Having communities like
20 Eagle is attempting to build benefit the region and the state. Its higher property values
21 generate higher tax revenues. Its ambiance generates economic vitality and attract
22 businesses that will add jobs to the state economy. These benefits extent to more than just
23 the people who own property or live within the City.

24
25 **Q. The state and individuals gain value through improved “aesthetic standards”, but**
26 **does this also help the Company?**

27 A. It is in Idaho Power’s best interest to have a growing and economically viable service
28 territory. The more the Company can aid in the economic development of the state and
29 make it a place where firms want to locate increase value for shareholders. Certainly low

1 cost power is an important development tool and it is incumbent on the Company to
2 provide reliable power at a reasonable price. However it also means providing that power
3 with that will satisfy the aesthetic and development needs of the state along with the
4 provision of electric power.

5

6 **Q. Does this end your testimony as of July 2, 2004?**

7 **A. Yes.**

8

Appendix A

Don C. Reading

Present position

Vice President and Consulting Economist

Education

B.S., Economics — Utah State University
M.S., Economics — University of Oregon
Ph.D., Economics — Utah State University

Honors and awards

Omicron Delta Epsilon, NSF Fellowship

Professional and business history

Ben Johnson Associates, Inc.:
1989 ---- Vice President
1986 ---- Consulting Economist

Idaho Public Utilities Commission:
1981-86 Economist/Director of Policy and Administration

Teaching:
1980-81 Associate Professor, University of Hawaii-Hilo
1970-80 Associate and Assistant Professor, Idaho State University
1968-70 Assistant Professor, Middle Tennessee State University

Firm experience

Dr. Reading provides expert testimony concerning economic and regulatory issues. He has testified on more than 35 occasions before utility regulatory commissions in Alaska, California, Colorado, the District of Columbia, Hawaii, Idaho, Nevada, North Dakota, Texas, Utah, Wyoming, and Washington.

Dr. Reading has more than 30 years experience in the field of economics. He has participated in the development of indices reflecting economic trends, GNP growth rates, foreign exchange markets, the money supply, stock market levels, and inflation. He has analyzed such public policy issues as the minimum wage, federal spending and taxation, and import/export balances. Dr. Reading is one of four economists providing yearly forecasts of statewide personal income to the State of Idaho for purposes of establishing state personal income tax rates.

In the field of telecommunications, Dr. Reading has provided expert testimony on the issues of marginal cost, price elasticity, and measured service. Dr. Reading prepared a state-specific study of the price elasticity of demand for local telephone service in Idaho and recently conducted research for, and directed the preparation of, a report to the Idaho legislature regarding the status of telecommunications competition in that state.

Dr. Reading's areas of expertise in the field of electric power include demand forecasting, long-range planning, price elasticity, marginal and average cost pricing, production-simulation modeling, and econometric modeling. Among his recent cases was an electric rate design analysis for the Industrial Customers of Idaho Power. Dr. Reading is currently a consultant to the Idaho Legislature's Committee on Electric Restructuring.

Among Dr. Reading's recent projects are a FERC hydropower relicensing study (for the Skokomish Indian Tribe) and an analysis of Northern States Power's North Dakota rate design proposals affecting large industrial customers (for J.R. Simplot Company). Dr. Reading has also performed analysis for the Idaho Governor's Office of the impact on the Northwest Power Grid of various plans to increase salmon runs in the Columbia River Basin.

Dr. Reading has prepared econometric forecasts for the Southeast Idaho Council of Governments and the Revenue Projection Committee of the Idaho State Legislature. He has also been a member of several Northwest Power Planning Council Statistical Advisory Committees and was vice chairman of the Governor's Economic Research Council in Idaho.

While at Idaho State University, Dr. Reading performed demographic studies using a cohort/survival model and several economic impact studies using input/output analysis. He has also provided expert testimony in cases concerning loss of income resulting from wrongful death, injury, or employment discrimination. He is currently an adjunct professor of economics at Boise State University (Idaho economic history, urban/regional economics and labor economic.)

Dr. Reading has recently completed a public interest water rights transfer case and is currently involved in litigation for the Minidoka Irrigation District.

Publications

The Economic Impact of a Restored Salmon Fishery in Idaho, Idaho Fish and Wildlife Foundation, April, 1999.

The Economic Impact of Steelhead Fishing and the Return of Salmon Fishing in Idaho, Idaho Fish and Wildlife Foundation, September, 1997.

"Cost Savings from Nuclear Resources Reform: An Econometric Model" (with E. Ray Canterbury and Ben Johnson) *Southern Economic Journal*, Spring 1996.

A Visitor Analysis for a Birds of Prey Public Attraction, Peregrine Fund, Inc., November, 1988.

Investigation of a Capitalization Rate for Idaho Hydroelectric Projects, Idaho State Tax Commission, June, 1988.

"Post-PURPA Views," In Proceedings of the NARUC Biennial Regulatory Conference, 1983.

An Input-Output Analysis of the Impact from Proposed Mining in the Challis Area (with R. Davies). Public Policy Research Center, Idaho State University, February 1980.

Phosphate and Southeast: A Socio Economic Analysis (with J. Eyre, et al). Government Research Institute of Idaho State University and the Southeast Idaho Council of Governments, August 1975.

Estimating General Fund Revenues of the State of Idaho (with S. Ghazanfar and D. Holley). Center for Business and Economic Research, Boise State University, June 1975.

"A Note on the Distribution of Federal Expenditures: An Interstate Comparison, 1933-1939 and 1961-1965." In *The American Economist*, Vol. XVIII, No. 2 (Fall 1974), pp. 125-128.

"New Deal Activity and the States, 1933-1939." In *Journal of Economic History*, Vol. XXXIII, December 1973, pp. 792-810.

City of Eagle
Findings of Fact and Conclusions of Law
October 30, 1995

CITY OF EAGLE

IN THE MATTER OF)	FINDINGS OF FACT
IDAHO POWER)	AND CONCLUSIONS
AN APPLICATION)	OF LAW
FOR A REZONE AND)	
CONDITIONAL USE PERMIT)	

On October 16, 1995, pursuant to public notice and hearing procedures set forth in Section 67-6509, Idaho State Code, and Section 8-7-3-5, Eagle City Code, Idaho Power the applicant, came before the Eagle Planning and Zoning Commission for the City of Eagle, Idaho, requesting approval of a conditional use permit and a rezone from CBD Central Business District to M2 Industrial for the purpose of updating a public utility sub station, and upgrade of a power line from 69kV to 138kV. Susan Gray, Tish Yerrington, Blaine Johnston and Thomas Prang, Idaho Power representatives outlined this project to the Commission. The location of the property is: Rezone-substation 315 State Street, Eagle Idaho and CUP-power lines along north side of State street from Glenwood to downtown Eagle Substation and from the north channel of the Boise River to Edgewood Lane (approximately), Eagle, Idaho.

Based on the application, testimony from the applicant and all interested parties and, together with all documentary evidence submitted concerning the application, the Eagle Planning and Zoning Commission finds the following:

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. The records in this matter indicate all notices, and publications have occurred as required by law. The records further reflect notice of the public hearing was sent to relevant public entities, including Central District Health, Eagle Sewer District, Eagle Water Co., Eagle Fire Dept., ITD, and Ada Highway District.
2. There was no written or oral public testimony.
3. Eagle City Code and Comprehensive Plan as it pertains to this application:

Section 6-6-1 through 6-6-9 UTILITY OPERATION FRANCHISES. Please read this chapter.

6-6-5: RIGHTS OF CITY: The grant of every franchise shall be subject to the right of the City, whether reserved or not, to make all regulations which shall be necessary to secure, in the most ample manner, the safety, welfare and accommodations of the public, including among other things, the right to pass and enforce ordinances to protect the public from danger and inconvenience in the operation of any work or business authorized by the grant of the franchise, and the right to make and enforce all such regulations as shall be reasonably necessary to secure adequate, sufficient and proper service and accommodations for the people and ensure their comfort and convenience.

8-5-1 through 8-5-6 NONCONFORMING USES. Please read this chapter.

8-5-3: Extension or enlargement of nonconforming use: Nonconforming uses are declared by this Title to be incompatible with permitted uses in the districts in which such use is located. A nonconforming use shall not be extended or enlarged after the effective date hereof by attachment of a building or premises of additional signs intended to be seen from off the premises, or by the addition of other uses of a nature which would be generally prohibited in the district in which such use is located.

8-5-4: Repairs and Maintenance: On any nonconforming structure, of portion of a structure containing a nonconforming use, work may be done on ordinary repairs or on repair or replacement of nonbearing walls, fixtures, wiring or plumbing, provided, that the cubic content existing when it became nonconforming shall not be increased. Nothing in the Section shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by any official charged with protecting the public safety upon order of such official.

OUTLINE OF CONDITIONS THAT MAY BE ATTACHED TO SPECIAL USE PERMIT

- A. Uses allowable with conditions and subject to ability of political subdivisions to provide services.
- B. Notice procedures apply (ISC 67-6509)
- C. Can be tied to ability of political subdivisions to provide services. Sequence, timing, duration, maintenance; can require site-specific conditions.
- D. May require that studies be conducted
- E. Transferable from owner but not from parcel.

PRACTICAL POINTERS

The special use permit procedure allows a zoning ordinance to address uses which are conditionally acceptable in the midst of a

land use zone. The special use procedure allows the application of special conditions to development of uses which would allow them to integrate suitably with their surroundings. By including the conditions which are susceptible to special use approval, a permit applicant is put on notice of what design features should be considered and might be applied as conditions.

Some of those considerations might be restrictions on lighting, landscaping requirements, limits on building height or placement, design considerations.

It may be appropriate to require applicants for a special use permit to conduct special studies and to provide additional analysis beyond that normally required of a permit applicant before a permit can be favorably considered. Special use permits do not create binding precedent are very site specific in that certain uses can be integrated suitably into certain sites better than others. Accordingly, special use permits are not transferable from one site to another, but do continue from one owner to another. Special use permits can be implemented to time certain, or within a certain time frame.

EAGLE CITY CODE:

8-7-3-2: GENERAL STANDARDS FOR CONDITIONAL USES: The Commission/Council shall review the particular facts and circumstances of each proposed conditional use in terms of the following standards and shall find adequate evidence showing that such use at the proposed location:

- A. Will, in fact, constitute a conditional use as established in Section 8-2-3 of this Title for the zoning district involved;
- B. Will be harmonious with and in accordance with the general objectives or with any specific objective of the Comprehensive Plan and/or this Title;
- C. Will be designed constructed, operated and maintained to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity and that such use will not change the essential character of the same area;
- D. Will not be hazardous or disturbing to existent or future neighboring uses;
- E. Will be served adequately by essential public facilities and services such as highways, streets, police and fire protection, drainage structures, refuse disposal, water and sewer and schools; or that the persons or agencies responsible for the establishment of the proposed use shall be able to provide adequately any such services;
- F. Will not create excessive additional requirements at public cost for public facilities and services and will not be detrimental to the economic welfare of the community;

- G. Will not involve uses, activities, processes, materials, equipment and conditions of operation that will be detrimental to any persons, property or the general welfare by reason of excessive production of traffic, noise, smoke fumes, glare or odors;
- H. Will have vehicular approaches to the property which shall be so designed as not to create an interference with traffic on surrounding public thoroughfares; and
- I. Will not result in the destruction, loss or damage of a natural, scenic or historic feature of major importance.

8-7-3-3 Public Sites and open spaces: shall conform to the following:

- A. Public Uses
- B. Natural Features
- C. Special Developments

8-7-3-4: Supplementary conditions and safeguards: In granting and CUP the Council may prescribe appropriate conditions, bonds and safeguards in conformity with this Title. Violations of such conditions, bonds or safeguards, when made a part of the terms under which the CUP is granted, shall be deemed a violation of this Title.

8-7-3-5: CONDITIONAL USE PERMITS

8-7-3-5-C-2: Upon granting or denying a CUP specify:

- a. the ordinance and standards used in evaluating the application;
- b. the reasons for approval or denial; and
- c. the actions, if any, that the applicant could take to obtain a permit.

8-7-3-5-D: Conditions of permit: Upon granting of a CUP conditions may be attached to said permit including, but not limited to, those:

1. Minimizing adverse impact on other development;
2. Controlling the sequence and timing of development;
3. Controlling the duration of development;
4. Assuring that development is maintained properly;
5. Designating the exact location and nature of development;
6. Requiring the provision for on site or off site public facilities or service; and
7. Requiring more restrictive standards than those generally required in this Title

8-7-3-5-E: TRANSFER OF PERMIT: A CUP is not transferrable from one parcel to another. (D) A CUP shall not be considered as establishing a binding precedent to grant other CUP.

ZONING DISTRICTS

8-2-1: Districts established

R Residential Districts: to provide regulations and districts for various residential neighborhoods. Density in an R District shall be determined according to the numeral following the R. The number designates the maximum number of dwelling units per acre. Centralized water and sewer facilities are required in all districts exceeding one dwelling unit per acre.

8-2-3: Schedule of District Use Regulations: district regulations shall be as set forth in the Official Schedule of District Regulations and in the performance standards.

8-7-2: Zoning Permits and certificates of occupancy

A. Zoning Permit

1. Application
2. Plan
3. Approval
4. Expiration of permit
5. Occupancy

EAGLE COMPREHENSIVE PLAN

LAND USE: Residential uses- 1. The residential densities in the City limits shall not exceed the land use designations as reflected on the Land Use Designation Map, adopted with the 1993 Eagle Comprehensive Plan on May 11, 1993.

COMMUNITY DESIGN: (#4) Floodways shall be reserved as a natural state such as a greenbelt, wildlife habitat, open space recreational area and for agricultural uses

COMMUNITY DESIGN: (#7) New residential, commercial, and industrial development shall be required to meet minimum design standards as specified by City ordinances.

COMMUNITY DESIGN: Comply with the Eagle Tree Plan

CONCLUSIONS OF LAW

1. granting of a Rezone and a Conditional Use Permit, with the recommended conditions, for the purpose of upgrading an Idaho Power substation and upgrading the power lines leading into that substation will not violate the Idaho State Codes, Eagle City Codes or Eagle Comprehensive Plan.

2. the approval of the application will have no adverse impact on those property owners in the area;
3. the application submitted by Idaho Power for a Conditional Use Permit and Rezone serves the welfare and electrical power needs of the general public and is in the best interest of the public.

RECOMMENDATION

Based upon the foregoing FINDINGS OF FACTS AND CONCLUSIONS OF LAW, the Eagle Planning and Zoning Commission recommends to the Council the application be approved for a zoning of C3, not the requested M2, with the following conditions:

1. An additional CUP must be applied for, for the substation.
2. No further expansion once they upgrade this location, the next upgrade needed will require a different location.
3. Additional design review and landscape review will be necessary. Additional screening against the fence on State Street is required.
4. To grant the CUP for the lines only. Additional CUP necessary to comply with Title 8.

ADOPTED by the Eagle Planning and Zoning Commission of the City of Eagle, Idaho this 30 day of October, 1995.

APPROVED:

ATTEST:

Bert Bradley, Chairman
Planning and Zoning Commission

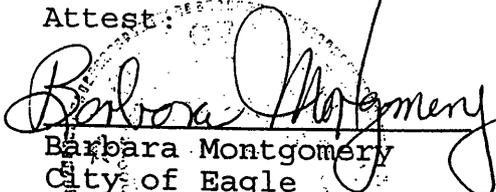
Barbara Montgomery, City Clerk
City of Eagle

THE FINDINGS OF FACT AND CONCLUSIONS OF LAW and recommendation regarding the Rezone presented for adopted by the Eagle Planning and Zoning on October 30, 1995, are hereby adopted by the Eagle City Council:

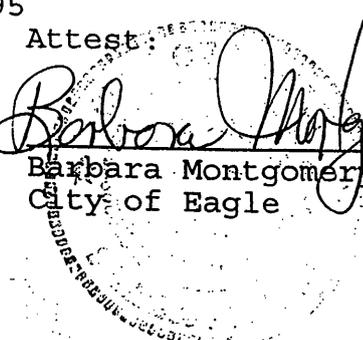
DATED THIS 12th day of December, 1995



Steve Guerber, Mayor
City of Eagle

Attest:


Barbara Montgomery
City of Eagle



Eagle, Idaho
City Code

This code was last updated by Ordinance 464 passed January 27, 2004.

8-7-3-2: GENERAL STANDARDS FOR CONDITIONAL USES:

The commission/council shall review the particular facts and circumstances of each proposed conditional use in terms of the following standards and shall find adequate evidence showing that such use at the proposed location:

- A. Will, in fact, constitute a conditional use as established in section 8-2-3 of this title for the zoning district involved;
- B. Will be harmonious with and in accordance with the general objectives or with any specific objective of the comprehensive plan and/or this title;
- C. Will be designed, constructed, operated and maintained to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity and that such use will not change the essential character of the same area;
- D. Will not be hazardous or disturbing to existing or future neighboring uses;
- E. Will be served adequately by essential public facilities and services such as highways, streets, police and fire protection, drainage structures, refuse disposal, water and sewer and schools; or that the persons or agencies responsible for the establishment of the proposed use shall be able to provide adequately any such services;
- F. Will not create excessive additional requirements at public cost for public facilities and services and will not be detrimental to the economic welfare of the community;
- G. Will not involve uses, activities, processes, materials, equipment and conditions of operation that will be detrimental to any persons, property or the general welfare by reason of excessive production of traffic, noise, smoke, fumes, glare or odors;
- H. Will have vehicular approaches to the property which shall be so designed as not to create an interference with traffic on surrounding public thoroughfares; and
- I. Will not result in the destruction, loss or damage of a natural, scenic or historic feature of major importance. (Ord. 40, 10-1978, rev. 9-1980)

8-2A-6: DESIGN REQUIREMENTS, OBJECTIVES AND CONSIDERATIONS:

6. Architectural appurtenance height restrictions:

a. All spires, poles, antennas, steeples, towers, and any other such structures shall be limited to a maximum of forty feet (40') within the DDA and TDA and thirty five feet (35') in all other locations. Additional height may be permitted if a conditional use permit is approved by the city council.

Case No. IPC-E-04-04
Exhibit 102

**Populations of Idaho Cities
1990-2000**

Populations of Idaho Cities, 1990-2000				Case No. IPC-E-04-04 Exhibit 102 page 1 of 1	
Source: US Bureau of the Census, April 1, 2000					
Release March 2001					
Percent				#	%
Chng.				Chng.	Chng.
Rank	City	4/1/1990	4/1/2000	1990-2000	1990-2000
1	Placerville	14	60	46	328.6%
2	Meridian	9,596	34,919	25,323	263.9%
3	Eagle	3,327	11,085	7,758	233.2%
4	Victor	292	840	548	187.7%
5	Star**	648	1,795	1,147	177.0%
6	Kuna	1,955	5,382	3,427	175.3%
7	Rathdrum	2,000	4,816	2,816	140.8%
8	Post Falls	7,349	17,247	9,898	134.7%
9	Crouch	75	154	79	105.3%
10	Spencer	19	38	19	100.0%
11	Athol	346	676	330	95.4%
12	Minidoka	67	129	62	92.5%
13	Hayden	4,888	9,159	4,271	87.4%
14	Tetonia	132	247	115	87.1%
15	Nampa	28,365	51,867	23,502	82.9%
16	Hauser	380	668	288	75.8%
17	Hazelton	394	687	293	74.4%
18	Melba	252	439	187	74.2%
19	Spirit Lake	790	1,376	586	74.2%
20	Hailey	3,575	6,200	2,625	73.4%
21	Garden City	6,369	10,624	4,255	66.8%
22	Hollister	144	237	93	64.6%
23	Middleton	1,851	2,978	1,127	60.9%
24	Fruitland	2,400	3,805	1,405	58.5%
25	Moyte Springs	415	656	241	58.1%

Case No. IPC-E-04-04
Exhibit 103

Profile of Selected Housing Characteristics, 2000 Census

**Profile of Selected Housing Characteristics, 2000
Census**

Case No. IPC-E-04-04

Exhibit 103

page 1 of 1

Source: US Census Bureau, Internet Release June
2002

<u>Rank</u>		Total Housing Units	Median (dollars)
1	Sun Valley	2,339	\$798,400
2	Ketchum	2,947	\$503,300
3	Hayden Lake	313	\$215,500
4	Parkline	36	\$212,500
5	Hailey	2,493	\$200,300
6	Fernan Lake Village	65	\$187,500
7	East Hope	141	\$185,200
8	Dalton Gardens	872	\$180,600
9	Hope	62	\$176,800
10	Eagle	3,977	\$173,100
11	Crouch	84	\$162,500
12	Stanley	74	\$162,500
13	Garden City	4,678	\$161,800
14	Bellevue	717	\$159,200
15	McCall	2,265	\$151,300
16	Mountain Home AFB	1,590	\$137,500
17	Irwin	162	\$135,400
18	Moscow	8,040	\$133,900
19	Island Park	491	\$132,800
20	Dover	150	\$127,500
21	Meridian	12,288	\$121,200
22	Boise City	77,950	\$120,700
23	Hayden	3,705	\$119,500
24	Boise MSA	166,481	\$117,800
25	Victor	344	\$114,900

Case No. IPC-E-04-04
Exhibit 104
page 1 of 1

**Pat Summerall, Champions of Industry
Best Managed Cities in America**

CD attached

**Memo, Ken Harwood, AIC to
Nancy Merrill, Mayor City of Eagle
June 11, 2004**

Book attached

Tracy Osborn

From: Sharon Bergmann [sharon@cityofeagle.org]
Sent: Monday, June 14, 2004 8:56 AM
To: Steve Guerber; Lynne Sedlacek; Nancy Home; Scott Nordstrom; Stan Bastian
Cc: Tracy Osborn; Sheri Horton
Subject: FW: City Achievement Award

-----Original Message-----

From: Amy Norton [mailto:anorton@IdahoCities.org] **On Behalf Of** Harward, Ken
Sent: Friday, June 11, 2004 8:22 AM
To: Merrill, Nancy
Cc: Bergmann, Sharon
Subject: City Achievement Award



Dear Mayor Nancy Merrill:

We are pleased to congratulate you as a 2004 recipient of the City Achievement Award for creating an **Architectural & Site Design Book** and establishing a **City Forester/Cod Enforcement Officer Contract Positions** in the City of Eagle. We were impressed with your ingenuity and your innovative way of solving problems/issues within your city. Not only are these new developments improving your community and increasing communication between Eagle and other cities, but also you are paving the way for other cities to follow suit. We thank you for all your hard work. We encourage the continuation of new efforts to make Idaho cities great. We hope to have you in attendance along with the person(s) receiving the award in behalf of your city on Wednesday, June 16, 2004 at the Wednesday Night Extravaganza.

We understand not every delegate and award acceptor is registered for the conference. To accommodate those who want to be present for the award presentation, the option of purchasing a \$24 dinner ticket for June 16 is available.

Please contact Amy at AIC at (800) 344-8594 or email at anorton@idahocities.org to inform us who will be accepting your City Achievement Award. Once again, congratulations on this great achievement!

Sincerely,

Ken Harward

Ken Harward
 Executive Director

6/14/2004

EXHIBIT 105
CASE NO. IPC-E-04-04

ARCHITECTURE & SITE DESIGN BOOK

EAGLE, ID

EXHIBIT 105

SEE CASE FILE

Case No. IPC-E-04-04
Exhibit 106

**City of Eagle
The 2000 Comprehensive Plan
Land Use Map**

November 9, 1999

SEE CASE FILE

Case No. IPC-E-04-04
Exhibit 107

**Development Agreement between
Eagle River Development and
The City of Eagle**

January 25, 2000

SEE CASE FILE