

# Exhibit K

## Land Use

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**Bakeoven Solar Project  
November 2019**

**Prepared for**



**Avangrid Renewables, LLC**

**Prepared by**



**Tetra Tech, Inc.**

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## Acronyms and Abbreviations

Applicant	Bakeoven Solar, LLC
ASC	Application for Site Certificate
BMP	best management practice
BPA	Bonneville Power Administration
Council or EFSC	Oregon Energy Facility Siting Council
EFU	Exclusive Farm Use
Facility	Bakeoven Solar Project
FEMA	Federal Emergency Management Agency
Fire Plan	Fire Prevention and Protection Plan
GIS	Geographic Information Systems
goals	statewide land use planning goals
HARN	High Accuracy Reference Network
I	Interstate Highway
IDP	Inadvertent Discovery Plan
kV	kilovolt
LCDC	Land Conservation and Development Commission
Maupin Substation	BPA Maupin Interconnection Substation
MW	megawatt
NAD83	North American Datum 1983
NPDES	National Pollutant Discharge Elimination System
NRCS	Natural Resources Conservation Service
O&M	operations and maintenance
OAR	Oregon Administrative Rule
ODEQ	Oregon Department of Environmental Quality
ODOT	Oregon Department of Transportation
ORS	Oregon Revised Statute
PV	photovoltaic
RPS	Renewable Portfolio Standard
SCADA	supervisory control and data acquisition
SIP	Strategic Investment Program
US	U.S. Highway
WCCP	Wasco County Comprehensive Plan
WCLUDO	Wasco County Land Use and Development Ordinance

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## 1.0 Land Use Review Approach

Bakeoven Solar, LLC (Applicant) proposes to construct and operate a solar energy generation facility and related or supporting facilities in Wasco County, Oregon. This Exhibit K was prepared to meet the submittal requirements in Oregon Administrative Rule (OAR) 345-021-0010(1)(k).

To issue a site certificate, the Oregon Energy Facility Siting Council (Council or EFSC) must find that the Bakeoven Solar Project (Facility) complies with the statewide land use planning goals (goals) adopted by the Land Conservation and Development Commission (LCDC). See OAR 345-022-0030(1). The Applicant has elected to seek a Council determination of compliance under Oregon Revised Statute (ORS) 469.504(1)(b). Under this election, a finding of compliance is required when the Council determines the following:

*ORS 469.504(1)(b)(A) The facility complies with applicable substantive criteria from the affected local government's acknowledged comprehensive plan and land use regulations that are required by the statewide planning goals and in effect on the date the application is submitted, and with any Land Conservation and Development Commission administrative rules and goals and any land use statutes that apply directly to the facility under ORS 197.646;*

*ORS 469.504(1)(b)(B) For an energy facility or a related or supporting facility that must be evaluated against the applicable substantive criteria pursuant to subsection (5) of this section, that the proposed facility does not comply with one or more of the applicable substantive criteria but does otherwise comply with the applicable statewide planning goals, or that an exception to any applicable statewide planning goal is justified under subsection (2) of this section; or*

*ORS 469.504(1)(b)(C) For a facility that the council elects to evaluate against the statewide planning goals pursuant to subsection (5) of this section, that the proposed facility complies with all applicable statewide planning goals or that an exception to any applicable statewide planning goal is justified under subsection (2) of this section.*

Exhibit K demonstrates the Facility's compliance with the applicable substantive criteria from the Wasco County Land Use and Development Ordinance (WCLUDO) (Wasco County 2016) and the Wasco County Comprehensive Plan (WCCP or Comprehensive Plan) (Wasco County 2010). In addition, Exhibit K demonstrates the Facility's compliance with the LCDC administrative rules and goals and any land use statutes directly applicable to the Facility. Exhibit K also demonstrates that a "reasons" exception to statewide planning Goal 3, agriculture, is justified under ORS 469.504(2). Finally, Exhibit K provides evidence upon which the Council may find that the proposed Facility meets OAR 345-022-0030.

## 2.0 Land Use Analysis Area and Map

*OAR 345-021-0010(1)(k)(A) Include a map showing the comprehensive plan designations and land use zones in the analysis area.*

In accordance with OAR 345-001-0010(59)(c), the analysis area includes the proposed site boundary plus the area within one-half mile from the site boundary (Figure K-1) for land within Wasco County. Approximately 22,198 acres are located within the land use analysis area. Figure K-2 shows the Wasco County land use zones and WCCP designations within the analysis area. All land within the site boundary and land use analysis area is zoned Exclusive Farm Use (EFU).

## 3.0 Overview of Facility, Soils, and Applicable Local and State Criteria

### 3.1 Facility Overview

The proposed Facility, including individual components and related or supporting facilities, is described in detail in Exhibit B of this Application for Site Certificate (ASC). The Applicant proposes to construct and operate a solar energy facility with up to 303 megawatts (MW) of nominal and average generating capacity and up to 100 MW of battery energy storage. The Facility components are proposed on private land and public right-of-way associated with Bakeoven and Wilson Roads. Please refer to Exhibit C, Figures C-1 and C-2, for maps of the site vicinity and Facility location. Figure K-1 provides an aerial view of the Facility, including the land use analysis area, which is discussed in Section 2.

The Facility consists of the following major components: solar modules, tracker systems, posts, cabling, inverters, and transformers. Related or supporting facilities consist of battery storage, one collector substation, one 230-kilovolt (kV) transmission line, one operations and maintenance (O&M) building, a supervisory control and data acquisition (SCADA) system, site access/service roads, perimeter fencing, gates, staging areas, temporary concrete batch plant, and temporary construction areas. For purposes of the land use analysis, all related or supporting facilities are treated as accessory components to the commercial power generating facility with the exception of the 230 kV transmission line, which is analyzed as a “utility facility necessary for public service.” See Figures C-2.1 through C-2.8 in Exhibit C for detailed views of the Facility layout. Each Facility component is further described in Exhibit B.

The Facility components are proposed to be constructed in a portion of the site boundary designated as the proposed micrositing corridor. The micrositing corridor includes approximately 4,160 acres. This exhibit analyzes potential land use impacts within the site boundary and micrositing corridors. For purposes of land use compliance analysis, the Facility is analyzed under OAR 660-033-0130(38) for the solar array area and related or supporting facilities with the

exception of the 230-kV transmission line route (which is subject to the provisions under ORS 215.274 and its implementing regulations under OAR 660-033-0130(16)(B)).

The solar array area includes the proposed solar modules, trackers, posts, cabling, inverters, transformers, site access and private service roads, and construction areas within the fenced boundary of the solar arrays as well as the portions of the overhead collector line and access roads located outside the solar array fenced area. The 230-kV transmission line route area will include a corridor about 11 miles long connecting the solar facility to the Bonneville Power Administration (BPA) Maupin Interconnection Substation (Maupin Substation).

## **3.2 Overview of Existing Land Uses and Soil Classifications**

The underlying land uses and soil classifications within the Facility site boundary are relevant for purposes of analyzing the Facility's compliance with applicable substantive criteria and directly applicable state land use regulations.

### **3.2.1 Existing Land Uses**

The site boundary includes approximately 10,640 acres, 10,591 of which is privately owned land while the remaining 49 acres comprises public road right-of-way (approximately 7.8 miles). The majority of the 10,591 acres of private land is primarily used for rangeland/grazing, with some limited areas used for cultivation of agricultural crops (Figure K-3). The lands within the site boundary are designated as EFU, Zone A-1 (160) by the WCLUDO and designated as Agriculture by the WCCP, as shown in Figure K-2.

The proposed micrositing corridor includes approximately 4,160 acres of private land that is primarily used for rangeland/grazing. A small portion of the micrositing corridor, approximately 323.7 acres, is actively farmed for wheat or other row crops (see the location of active agricultural uses in Figure K-3).

### **3.2.2 Existing Water Rights**

Approximately 121 acres of land within the site boundary (associated with Tax Lot 5S 15E 0 100) has an attached irrigation water right and is irrigated to create artificial hunting habitat for fee-for-hunting use (see Table K-1). Approximately 10.8 acres of irrigated land are within the micrositing corridor. The extent of the place of use designation for this water right is shown in Figure K-3. In total, the irrigated acreage comprises approximately 1.1 percent of the site boundary.

**Table K-1. Water Rights and Irrigated Acres within Site Boundary and Micrositing Corridor**

Tax Lot Number	Water Right Holder	Water Permit or Certificate	Priority Date	Irrigated Acreage Authorized	Irrigated Acres within Site Boundary	Irrigated Acres within Micrositing Corridor	Irrigated Acres Impacted by Solar Array Area
5S 15E 0 100	A and K Ranches	Permit: G 17321	7/1/2005	125.7	121.0	10.8	0.0
Source: OWRD 2018							

**3.2.3 Soil Classifications**

Table K-2 provides a summary of the site boundary soils classifications as defined by the Natural Resources Conservation Service (NRCS). Figure I-1 of Exhibit I shows the NRCS soils classifications within the site boundary, micrositing corridors, and analysis area.

Figure K-4 shows the NRCS soil capability classes associated with each soil classification (both irrigated and nonirrigated). Table K-2 and Figure K-4 show that the area within the micrositing corridor is predominantly composed of Class III and VII soils and the designated soil classifications are the same regardless of whether the soil is irrigated.

**Table K-2. Summary of Soil Classifications within the Micrositing Corridor and Permanent Disturbance Areas**

NRCS Soil Unit	Map Code	Acreage <sup>1/</sup>	Percentage of Site Boundary <sup>1/</sup>	NRCS Irrigated Soil Capability Class	NRCS Nonirrigated Soil Capability Class
<b>Solar Array</b> (Includes the proposed solar modules, trackers, posts, cabling, inverters, transformers, site access and private service roads, and construction areas within the fenced boundary of the solar array and includes the permanent disturbance areas associated with the overhead collector line and solar array access roads located outside the fenced boundary of the solar array)					
Bakeoven-Condon complex	BcC	189.5	1.8	VII	VII
Condon silt loam	CnC	2,079.9	19.6	III	III
Condon-Bakeoven complex	CoC	438.7	4.1	III	III
Lickskillet very stony loam	LcE	8.8	0.1	VII	VII
<i>Solar Array Subtotal<sup>2/</sup></i>		2,717	25.5		
<b>230-kV Transmission Line Route</b> (Assumes approximately 84 pole structures, with approximately 700-foot spacing between structures and approximately 40 square feet of permanent disturbance per pole structure.)					
Bakeoven-Condon complex	BcC	0.0	0.0	VII	VII
Condon silt loam	CnC	0.0	0.0	III	III
Condon-Bakeoven complex	CoC	0.0	0.0	III	III
Lickskillet very stony loam	LcE	0.0	0.0	VII	VII

NRCS Soil Unit	Map Code	Acreage <sup>1/</sup>	Percentage of Site Boundary <sup>1/</sup>	NRCS Irrigated Soil Capability Class	NRCS Nonirrigated Soil Capability Class
<i>230-kV Line Route Subtotal<sup>2/</sup></i>		0.0	0.0		
<b>Total Permanent Disturbance of Solar Array and Transmission Line Route<sup>2/</sup></b>		2,717	25.5		
<b>Micrositing Corridor</b> (Construction will occur within the area designated as the micrositing corridor, which is a portion of the site boundary comprising 4,160 acres of agricultural land.)					
Bakeoven very cobbly loam	BaC	1.6	0.0	VII	VII
Bakeoven-Condon complex	BcC	450.8	4.2	VII	VII
Condon silt loam	CnC	3,006.6	28.3	III	III
Condon-Bakeoven complex	CoC	658.3	6.2	III	III
Licksillet very stony loam	LcE	18.8	0.2	VII	VII
Licksillet extremely stony loam	LeF	10.9	0.1	VII	VII
Wrentham-Rock outcrop complex	WrF	12.7	0.1	VII	VII
<b>Micrositing Corridor Totals<sup>2/</sup></b>		4,159.7	39.1		
Source: NRCS 2017					
Note: Arable land is defined in OAR 660-033-0130(38) as land “predominantly cultivated, or if not cultivated, predominantly comprised of arable soils.” NRCS soil capability classes I thru IV are generally considered arable soils (Helms 1992) whereas NRCS soil classes V-VIII are generally considered nonarable soils.					
1/ Numbers have been rounded to the nearest tenth. Values reported as zero are actually values less than 0.1 acre.					
2/ Values may not total correctly due to rounding.					

### 3.2.4 Arable Land

OAR 660-033-0130(38) defines arable land as “predominantly cultivated, or if not cultivated, predominantly comprised of arable soils.” Of the approximately 10,640 acres of land within the site boundary, approximately 410 acres (or 3.9 percent) is actively farmed or “predominately cultivated.” Given the land ownership patterns and the size of underlying parcels within the site boundary, even considering the “tract test” and contiguous parcels outside of the site boundary, there is no basis upon which to consider the land within the site boundary “predominately cultivated” (see Figure K-5). Therefore, the Applicant looks to the underlying soils to determine whether the site boundary comprises arable land.

NRCS soil capability classes I through IV are generally considered arable soils (Helms 1992) whereas NRCS soil classes V-VIII are generally considered nonarable soils (see OAR 660-033-0130(38)(d)). The area within the site boundary contains approximately 6,923 acres of Class III arable soils and approximately 3,717 acres of Class VII-VIII non-arable soils (see Figure K-4).<sup>1</sup> Therefore, the site boundary comprises approximately 6,923 acres of arable land and 3,717 acres of

<sup>1</sup> The NRCS soil classifications remain the same whether irrigated or nonirrigated and therefore no distinction is made in the text.

nonarable land. Even when considering the soils outside of the site boundary for purposes of the “tract test,” the underlying land is predominately arable. Table K-3 provides the total area of arable land within the site boundary, micrositing corridor, and solar array area. Note that Table K-3 includes arable soils within the county road rights-of-way that fall within the site boundary.

**Table K-3. Total Arable Land Within the Site Boundary, Micrositing Corridor, and Solar Array Area**

Facility Area	Total Area of Site Boundary/Micrositing Corridor/Solar Array Area (Acres)	Total Arable Land <sup>1/</sup> (Acres)	% of Total
Site Boundary	10,640	6,923	65%
Micrositing Corridor	4,160	3,686	88%
Permanent Disturbance Associated with Solar Array	2,717	2,529	93%
1/ Arable lands include Class III soils and cultivated land. Delineation of cultivated land is based on habitat data collected as in the Habitat Categorization Survey (see Attachment P-1) and therefore is limited to the micrositing corridor and does not account for cultivated land that may be present outside the micrositing corridors but within the site boundary.			

### 3.2.4.1 High-Value Farmland

The land within the site boundary is predominately Class III or Class VII regardless of whether the soil is irrigated based on the NRCS soil classification system. However, ORS 195.300(10) further defines “high-value farmland” for purposes of siting a solar power generation facility under WCLUDO Section 3.215(M) and OAR 660-033-0130(38), and for purposes of siting an associated transmission line under ORS 215.274.

ORS 195.300(10) provides several definitions for high-value farmland under subparts (a) through (f). Because approximately 121 acres within the site boundary is irrigated under a water right (Permit: G 17321, see Table K-1) and is considered a “place of use,” this 121 acres is considered high-value farmland under ORS 195.300(10)(c)(A)<sup>2</sup>. Of the 121 acres, approximately 10.8 acres are within the micrositing corridor. The only portion of the Facility that is anticipated to impact the identified high-value farmland would be less than 10 square feet (0.00 acres) of permanent impacts associated with the overhead collector line that will parallel Bakeoven Road. No high-value farmland is located within the portion of the micrositing corridor associated with the 230-kV transmission line (Figure K-6).

<sup>2</sup> The Applicant considered whether any portion of the actively farmed land within the site boundary met the definition of high-value farmland under ORS 215.705(2) and concluded that the definition did not apply. It is possible the argument could be made that 26.8 acres of land within the site boundary currently used for cultivation of lavender could meet the definite of “specified perennials under ORS 215.705(2); however this would not change the total acreage of high-value farmland within the site boundary as the 26.8 acres also fall under the place of use water right and therefore the high-value farmland definition under ORS 195.300(10)(c)(A).

### 3.3 Summary of Applicable Local and State Criteria

#### 3.3.1 *Applicable Local Criteria*

The applicable substantive criteria from the WCLUDO and WCCP are as follows:

##### Wasco County Land Use Development Ordinance

###### Chapter 1 – Introductory Provisions

- Section 1.030 Legal Parcel Status

###### Chapter 3 – Basic Provisions

- Section 3.210 Exclusive Farm Use (A-1) Zone – Subsections 3.212, 3.214, 3.215, 3.216, and 3.218

###### Chapter 5 – Conditional Use Review

- Section 5.020 Authorization to Grant or Deny Conditional Uses, and Standards and Criteria Used

###### Chapter 10 – Fire Safety Standards

- Section 10.020 - Applicability of Fire Safety Standards
- Section 10.110 – Siting Standards – Locating Structure for Good Defensibility
- Section 10.120 – Defensible Space – Clearing and Maintaining a Fire Fuel Break
- Section 10.130 – Construction Standards For Dwellings And Structures – Decreasing The Ignition Risks By Planning For A More Fire-Safe Structure

###### Chapter 19 – Standards for Non-Commercial Energy Facilities, Commercial Energy Facilities & Related Uses (Amended 4/12)

- Section 19.030 – Commercial Power Generating Facilities Review Process & Approval Standard – Subsections A, C, and D2

###### Chapter 20 – Site Plan Review

- Section 20.030 – Contents of the Site Plan
- Section 20.040 – Approval Standards
- Section 20.050 – Off Street Parking
- Section 20.055 – Bicycle Parking Requirements
- Section 20.070 – Off Street Loading
- Section 20.080 – General Provisions – Off Street Parking and Loading

##### Wasco County Comprehensive Plan

## Chapter 5 – Community Facilities and Services

- J. Parks and Recreation and Scenic Areas – Subpart 3

## Chapter 15 – Goals and Policies

- Goal 3 – Agricultural Lands – Policy 1
- Goal 5 – Open Spaces, Scenic and Historic Areas and Natural Resources – Policies 1, 5, 9, and 10
- Goal 6 – Air, Water and Land Resources Quality – Policies 1 and 4
- Goal 9 – Economy of the State – Policies 1, 2 and 3
- Goal 11 – Public Facilities and Services – Policies 1 and 3
- Goal 12 – Energy Conservation – Policies 1, 2 and 6

### ***3.3.2 Directly Applicable State Criteria***

The applicable substantive criteria for the State of Oregon are as follows:

#### Oregon Revised Statutes

- 215.274 – Associated Transmission Lines Necessary for Public Service

#### Oregon Administrative Rules

- 660-033-0130(16) – Associated Transmission Lines Necessary for Public Service
- 660-033-0130(38) – Photovoltaic Solar Power Generation Facility

## **4.0 EFSC Determination on Land Use**

The Facility will be sited solely in Wasco County, which is the affected local government and the applicable substantive criteria from Wasco County are identified and addressed in Section 4.1. ORS 197.646(1) requires that a local government amend its comprehensive plan and land use regulations to comply with new requirements in land use statutes, statewide planning goals, or rules implementing the statutes or the goals. When a local government has not adopted amendments as required by ORS 197.646(1), the new requirements apply directly to the local government's land use decisions. The directly applicable LCDC administrative rules, statewide planning goals, and land use statutes are identified and addressed below in Section 4.3.

This section addresses the applicable land use criteria that Wasco County identified in its response to the Facility's Notice of Intent (Wasco County 2019a). These applicable substantive land use criteria implement locally statewide statutes and rules that were identified in LCDC's response to the Facility Notice of Intent (Murphy 2019).

## 4.1 Applicable Substantive Criteria from Wasco County Land Use Development Ordinance

### 4.1.1 Legal Parcel Status

WCLUDO Section 1.030 specifies that development shall not be approved if located on land that has been previously divided or otherwise developed in violation of the WCLUDO. To the Applicant's knowledge, all parcels within the site boundary are legal parcels (see Table K-4 for a list of all parcels in the site boundary). The Applicant has completed its due diligence for all parcels included as part of the site boundary and did not identify any unapproved parcel divisions.

**Table K-4. Site Boundary Land Parcels**

Township, Range, Section, Tax Lot	Acct #	Acres within Site Boundary	Parcel Crosses Micrositing Corridor?	Legal Parcel Status	Landowner
4S 14E 0 2700	15676	28.0	Yes	Partition# PAR-92-132; filed 3/21/1995	WAKERLIG, LLC
4S 15E 0 1500	12335	750.6	Yes	Pre-1974 Deed #67-1797, dated 6/28/1963; Current Deed #: 2008-004940, filed Nov 24, 2008	ASHLEY L STEVEN ET AL,
5S 15E 0 1900	12514	13.9	Yes	Doc num. PRONO 3308; Current Deed #: 2008-004940, filed Nov 24, 2008	
5S 15E 0 100	12511	4239.01	Yes	Pre-1974 Deed #83-2012, recorded 10/25/1966: Current Deed #: 2008-004940, filed Nov 24, 2008	
4S 15E 0 800	12337	1374.7	Yes	Pre-1974 deed # 67-0132 dated 3/22/67; Current Deed # 2018-002595, filed 7/12/18	TOWNSEND ROBERT
5S 15E 0 500	12516	1529.5	Yes	Deed # 76-3327; Current Deed # 2018-002595, filed 7/12/18	
5S 15E 0 600	12517	236.6	No	Deed 76-3327; Current Deed # 2018-002595, filed 7/12/18	
5S 15E 0 1000	12520	39.3	No	Deed 74-2167; Current Deed # 2018-002595, filed 7/12/18	
5S 15E 0 1100	12512	410.2	Yes	Partition # REP-07-106, Filed 5/24/2007; Current Deed # 2011-001253, filed 04/05/2011	ASHLEY LARRY C & VICKI
5S 16E 0 1201	17123	269.7	Yes	Partition # 05-105, filed 2/8/2006; Current Deed # 2011-001253, filed 04/05/2011	

Township, Range, Section, Tax Lot	Acct #	Acres within Site Boundary	Parcel Crosses Micrositing Corridor?	Legal Parcel Status	Landowner
5S 15E 0 1800	13313	277.6	Yes	Memo of sale #84-3078; Current Deed # 2011-001253, filed 04/05/2011	
5S 16E 0 2200	13316	870.9	Yes	Partition# PAR-98-101, filed 5/7/1998; Current Deed # 2011-001253, filed 04/05/2011	
5S 16E 0 1200	12535	548.3	Yes	Partition# PAR-05-105, filed 2/8/2006; Current Deed # 2011-001253, filed 04/05/2011	A & K RANCHES
Note: All parcels are zoned A-1 (160).					

**4.1.2 Section 3.210 Exclusive Farm Use (A-1) Zone**

**4.1.2.1 Section 3.212 – Uses Permitted Without Review**

*The following uses are permitted on lands designated Exclusive Farm Use (A-1) Zone without review:*

*G. Reconstruction or modification of public roads and highways, including the placement of utility facilities overhead and in the subsurface of public roads and highways along the public right-of-way, but not including additional travel lanes, where no removal or displacement of buildings would occur and not resulting in any new land parcels.*

Facility development may require improving an approximately 0.5-mile long section of Wilson Road where the existing roadbed is inadequate to accommodate construction equipment, or where new access approaches will be required to accommodate Facility access roads. Improvements will also be required for portions of Bakeoven Road where new access road approaches will be constructed or where existing access road approaches may need to be improved.

Improvements to existing county roads will neither remove nor displace any existing structures, nor result in creation of new land parcels. New access roads within the site boundary may be constructed where no roads currently exist to access portions of the Facility. The Applicant opts to analyze road improvements as an accessory use to the commercial power generation facility, which is a conditionally allowed use under WCLUDO Section 3.215.M (see Section 4.1.2.3 of this exhibit). For this reason, the Applicant does not evaluate the Facility’s access roads under WCLUDO 3.212(G).

**4.1.2.2 Section 3.214 – Uses Permitted Subject to Standards/Type II Review**

*L. Utility facilities necessary for public service, including wetland wastewater treatment systems and Electrical Transmission Facilities under 200 feet in height, but not including*

*commercial utility facilities for the purpose of generating electrical power for public use by sale, or Electrical Transmission Facilities over 200 feet in height, subject to Section 3.219.H below.*

The Facility's 230-kV transmission line is considered a "utility facility necessary for public service," but because it is related or supporting to the Facility, it also is considered an "associated transmission line" subject to ORS 215.274. The Applicant opts to analyze the 230-kV transmission line under WCLUDO 3.214(L) and ORS 215.274 rather than treating the 230-kV transmission line as an accessory use to the larger commercial power generation facility under WCLUDO 3.215(M). See Section 4.3.1 of this exhibit for an analysis of the 230-kV transmission line's compliance with ORS 215.274.

#### *4.1.2.3 Section 3.215 – Uses Permitted Subject to Conditional Use Review/Type II or Type III*

*M. Commercial Power Generating Facility (Utility Facility for the Purpose of Generating Power) subject to Section 19.030 Except for wind facilities, transmission lines or pipelines, unless otherwise allowed by state regulations, the energy facility shall not preclude more than 12 acres from use as a commercial agricultural enterprise unless an exception is taken pursuant to OAR Chapter 660-004, or 20 acres from use as a commercial agricultural enterprise unless an exception is taken pursuant to OAR Chapter 660-004 and ORS 197.732. (Added 4/12)*

The Facility meets the definition of "Commercial Power Generating Facility (Utility Facility For The Purpose Of Generating Power)" under WCLUDO Section 1.090, as the Facility will generate solar power intended for sale. Responses to the provisions in WCLUDO Section 19.030 are included in Section 4.1.5 of this exhibit. As described in Section 3.2.4.1, the Facility's micrositing corridor includes 10.8 acres of High-Value Farmland which is less than the 12-acre threshold. As further described in Section 4.5 of this exhibit, the Facility cannot meet the acreage threshold for arable land under OAR 660-033-0130(38)(i) and therefore is seeking an exception pursuant to ORS 197.732 and OAR chapter 660, division 4.

#### *4.1.2.4 Section 3.216 – EFU Property Development Standards*

*Property development standards are designed to preserve and protect the character and integrity of agricultural lands, and minimize potential conflicts between agricultural operations and adjoining property owners. A variance subject to WCLUDO Chapter 6 or Chapter 7 may be utilized to alleviate an exceptional or extraordinary circumstance that would otherwise preclude the parcel from being utilized. A variance to these standards is not to be used to achieve a preferential siting that could otherwise be achieved by adherence to these prescribed standards.*

##### *A. Setbacks*

##### *1. Property Line*

- a. *All dwellings (farm and non-farm) and accessory structures not in conjunction with farm use, shall comply with the following property line setback requirements:*
- (1) If adjacent land is being used for perennial or annual crops, the setback shall be a minimum of 200 feet from the property line.*
- (2) If adjacent land is being used for grazing, is zoned Exclusive Farm Use and has never been cultivated or is zoned F-1 or F-2, the setback shall be a minimum of 100 feet from the property line.*
- (3) If the adjacent land is not in agricultural production and not designated Exclusive Farm Use, F-1 or F-2, the setback shall be a minimum 25 Feet from the property line.*
- (4) If any of the setbacks listed above conflict with the Sensitive Wildlife Habitat Overlay the following shall apply and no variance shall be required:*
- (a) The structure shall be set back a minimum of 25 feet from the road right of way or easement;*
- (b) The structure shall be located within 300 feet of the road right of way or easement pursuant Section 3.920(F)(2), Siting Standards; and*
- (c) As part of the application the applicant shall document how they are siting the structure(s) to minimize impacts to adjacent agricultural uses to the greatest extent practicable.*

No dwellings or accessory structures to dwellings are proposed by the Facility, and therefore subpart (a) does not apply.

- b. *Farm structures shall be set back a minimum of 25 feet from the property line.*

No farm structures are proposed by the Facility, and therefore subpart (b) does not apply. However, at the end of the Facility's useful life, the landowner may opt to use the Facility's O&M building for agricultural purposes rather than have the building demolished. The O&M building's current location complies with this standard, as it is set back a minimum of 25 feet from the property line. If the O&M building is moved during micrositing, it will be sited to meet this standard to provide flexibility for future, potential agricultural use.

- c. *Additions, modifications or relocation of existing structures shall comply with all EFU setback standards. Any proposal that cannot meet these standards is subject to the following:*
- (1) Dwellings: The proposed addition modification or relocation shall not result in nonconformity or greater nonconformity to property line setbacks or resource buffer requirements unless the addition will extend a structure further away from and perpendicular to the property line or resource. Any proposal that would place a relocated dwelling or extend an existing dwelling into or further toward the property line or resource, or expand an existing dwelling parallel into a setback or*

*buffer shall also be subject to Chapters 6 & 7 - Variances and any other applicable review criteria. The provisions of Chapter 13 - Nonconforming Uses, Buildings and Lots are not applicable to replacement dwellings. (Added 4/12)*

*(2) Farm & Non-Farm buildings and structures: The proposed addition, modification or relocation shall not result in nonconformity or greater nonconformity to property line setbacks or resource buffer requirements. If the building or structure currently conforms to all setback standards and the proposal would result in non-conformity a Chapter 6 or 7 variance will be required. If the building or structure currently does not conform to all setback standards and the proposal would increase the non-conformity it shall be subject to the applicable provisions of Chapter 13 - Nonconforming Uses, Buildings and Lots.*

No additions, modifications, or relocation of existing structures are proposed by the Facility, and therefore subpart (c) does not apply.

- d. Property line setbacks do not apply to fences, signs, roads, or retaining walls less than four (4) feet in height.*

*Front yard (road) property line setbacks do not apply to parking areas for farm related uses. However, parking areas for farm related uses must meet side and rear yard property line setbacks.*

Per this standard, fences and signs can be located within the setback area. Therefore, the Project conforms with this standard.

## *2. Waterways*

- a. Resource Buffers: All bottoms of foundations of permanent structures, or similar permanent fixtures shall be setback from the high water line or mark, along all streams, lakes, rivers, or wetlands.*

*(1) A minimum distance of one hundred (100) feet when measured horizontally at a right angle for all water bodies designated as fish bearing by any federal, state or local inventory.*

*(2) A minimum distance of fifty (50) feet when measured horizontally at a right angle for all water bodies designated as non-fish bearing by any federal, state or local inventory.*

*(3) A minimum distance of twenty-five (25) feet when measured horizontally at a right angle for all water bodies (seasonal or permanent) not identified on any federal, state or local inventory.*

*(4) If the proposal does not meet these standards it shall be subject to Section 3.216 A1c - Additions or Modifications to Existing Structures, above.*

*(5) The following uses are not required to meet the waterway setbacks, however they must be sited, designed and constructed to minimize intrusion into the*

*riparian area to the greatest extent possible: (a) Fences; (b) Streets, roads, and paths; (c) Drainage facilities, utilities, and irrigation pumps; (d) Water-related and water-dependent uses such as docks and bridges; (e) Forest practices regulated by the Oregon Forest Practices Act; (f) Agricultural activities and farming practices, not including the construction of buildings, structures or impervious surfaces; and (g) Replacement of existing structures with structures in the same location that do not disturb additional riparian surface area.*

There are no designated fish-bearing or designated non-fish-bearing streams located within the micrositing corridor and the closest fish-bearing stream, Bakeoven Creek, is over 100 feet from the micrositing corridor (StreamNet 2017). Therefore, the Facility will meet the minimum setback distance to fish-bearing and non-fish-bearing streams under subparts (1) and (2).

Streams within the site boundary (that are not designated as fish-bearing or non-fish-bearing) include a portion of Salt Creek (which flows through Dead Dog Canyon) and 13 unnamed ephemeral or intermittent streams. Twelve of these ephemeral streams are located within the micrositing corridor however solar modules and other permanent fixtures, such as the collector substation and O&M building, will be set back to the extent practicable a minimum distance of 25 feet from all waterbodies (seasonal or permanent) not identified on any federal, state, or local inventory.

*b. Floodplain: Any development including but not limited to buildings, structures or excavation, proposed within a FEMA designated flood zone, or sited in an area where the Planning Director cannot deem the development reasonably safe from flooding shall be subject to Section 3.740 - Flood Hazard Overlay (EPD 1).*

No Federal Emergency Management Agency (FEMA) designated flood zones are located within the site boundary. Additionally, no Flood Hazard Overlay zones are located within the site boundary.

*3. Irrigation Ditches: All dwellings and structures shall be located outside of the easement of any irrigation or water district. In the absence of an easement, all dwellings and structures shall be located a minimum of 50 feet from the centerline of irrigation ditches and pipelines which continue past the subject parcel to provide water to other property owners. Substandard setbacks must receive prior approval from the affected irrigation district. These setbacks do not apply to fences and signs.*

No irrigation or water districts are located within the site boundary. There are a limited number of privately owned irrigation pipelines near or within the place of use irrigation water rights located within the site boundary. However, the Facility's lease restrictions with the property owners who own and maintain these lines require the Facility to avoid impacts these lines.

*4. Wasco County Fairground*

*a. Front Yard: No structure other than a fence or sign shall be located closer than ten (10) feet from the rights of way of a public road.*

*b. Side Yard: No structure other than a fence or sign shall be located closer than seven (7) feet for buildings not exceeding two and one half (2 & 1/2) stories in height; for*

*buildings exceeding two and one half stories in height, such side yard shall be increased three (3) feet in width for every story or portion thereof that such buildings' height exceeds two and one half stories.*

- c. Rear Yard: No structure other than a fence shall be located closer than ten (10) feet from the rear yard property line.*
- d. RV Spaces: RV spaces are subject to the setback requirements of Chapter 17 - Recreational Vehicle Parks.*
- e. Existing & Replacement Structures: All lawfully established structures which do not conform to current setback standards shall be allowed to be expanded, or replaced and expanded into the required setback as long as the expansion does not encroach upon the required setback more than the existing structure.*

The site boundary and micrositing corridor are not located in or near the Wasco County Fairground.

- B. Height: Except for those uses allowed by Section 4.070 - General Exception to Building Height Requirements, no building or structure shall exceed a height of 35 feet. Height is measured from average grade.*

WCLUDO Section 4.070 lists “uses specified in Chapter 19 – Energy Facilities (meteorological towers, transmission towers and lines, and commercial, net-metering, and non-commercial/stand-alone power generating facilities)” as exceptions to the building height requirements because the standards in WCLUDO Chapter 19 govern. See discussion under Section 19.030 below (Section 4.1.5.1) regarding the Facility’s compliance with WCLUDO Chapter 19.

- C. Vision Clearance: Vision clearance on corner properties shall be a minimum of thirty (30) feet.*

WCLUDO Section 4.090 describes the vision clearance area as a triangular area measured from the corner intersection of the street lot lines, and requires this area to contain no planting, fence, wall, structure, or temporary or permanent obstruction exceeding 2.5 feet in height. For purposes of this standard, corner properties should be identified along the outside property lines of the Applicant’s leased boundary, not the internal property lines located within the site boundary.

For any corner lots identified along the perimeter of the site boundary, the associated vision clearance area of 30 feet will be maintained at access road driveways according to the provisions under WCLDU Section 4.090.

*D. Signs*

- 1. Permanent signs shall not project beyond the property line.*
- 2. Signs shall not be illuminated or capable of movement.*
- 3. Permanent signs shall describe only uses permitted and conducted on the property on which the sign is located.*

4. *Size and Height of Permanent Signs:*
  - a. *Freestanding signs shall be limited to twelve square feet in area and 8 feet in height measured from natural grade.*
  - b. *Signs on buildings are permitted in a ratio of one square foot of sign area to each linear foot of building frontage but in no event shall exceed 32 square feet and shall not project above the building.*
5. *Number of permanent signs:*
  - a. *Freestanding signs shall be limited to one at the entrance of the property. Up to one additional sign may be placed in each direction of vehicular traffic running parallel to the property if they are more than 750 feet from the entrance of the property.*
  - b. *Signs on buildings shall be limited to one per building and only allowed on buildings conducting the use being advertised.*
6. *Temporary signs such as signs advertising the sale or rental of the premise are permitted provided the sign is erected no closer than ten feet from the public road right-of-way.*

Any permanent or temporary signs associated with the Facility will conform to WCLUDO Section 3.216 D. Typical sign arrangements at the Applicant's renewable energy sites include one or two permanent free-standing signs located at or near the entrance to the energy site, or at the entrance to the O&M building. The free-standing signs at the Facility will comply with Wasco County's property development standards and be no taller than 8 feet in height measured from the average grade, and be no larger than 12 square feet in area. This development standard is similar to the Applicant's standard practice for signage.

Signs on the O&M building will be mounted on the front façade near the building's main entrance. The sign will not project above the building, and will have an area less than the code's requirement of 1 square foot of sign area per 1 linear foot of building frontage.

The Applicant anticipates using temporary signs during construction to guide construction traffic. Temporary construction signs are addressed in WCLUDO Section 21.410.E.2.g regarding public streets and roadways, and Section 21.420.E.2 regarding private roads. In accordance with these code provisions, the Applicant's temporary construction signs will comply with the *Manual on Uniform Traffic Control Devices*, as published by the Federal Highway Administration, and supplemented by the Oregon Department of Transportation's (ODOT) *Standard Practice and Interpretations*.

- E. *Lighting: Outdoor lighting shall be sited, limited in intensity, shielded and hooded in a manner that prevents the lighting from projecting onto adjacent properties, roadways and waterways. Shielding and hooding materials shall be composed of non-reflective, opaque materials.*

The O&M building, substation, and battery storage facility will have outdoor lighting as needed for safe operation. Lighting at the substation and battery system will only operate when crews are on site for maintenance activities. Lighting at the O&M building will be motion activate or on a timer to limit duration of illumination. All outdoor lighting associated with the Facility will be in compliance with WCLUDO Section 3.216 E.

*F. Parking: Off street parking shall be provided in accordance with Chapter 20.*

See response under Section 4.1.6.3 of this exhibit.

*G. New Driveways: All new driveways and increases or changes of use for existing driveways which access a public road shall obtain a Road Approach Permit from the appropriate jurisdiction, either the Wasco County Public Works Department or the Oregon Dept. of Transportation.*

Facility access roads will be located throughout the site boundary and may require some improvements to the existing driveways, or they may require construction of new driveways from existing county or state roads. Road Approach Permits from the appropriate jurisdiction, either the Wasco County Public Works Department or ODOT, will be obtained prior to construction.

#### **4.1.2.5 Section 3.218 – Agricultural Protection**

*A. Farm-Forest Management Easement: The landowner is required to sign and record in the deed records for the county a document binding the landowner, and the landowner's successors in interest, prohibiting them from pursuing a claim for relief or case of action alleging injury from farming or forest practices for which no action or claim is allowed under ORS 30.936 or 30.937.*

*B. Protection for Generally Accepted Farming and Forestry Practices - Complaint and Mediation Process: The landowner will receive a copy of this document.*

A Farm-Forest Management Easement will be signed and recorded by each of the landowners with property in the site boundary, as required per WCLUDO Section 3.218.

### **4.1.3 Chapter 5 Conditional Use Review**

#### **4.1.3.1 Section 5.020 – Authorization to Grant or Deny Conditional Uses, and Standards and Criteria Used.**

*Conditional uses listed in this Ordinance shall be permitted, enlarged or otherwise altered or denied upon authorization by Administrative Action in accordance with the procedures set forth in Chapter 2 of this Ordinance. In judging whether or not a conditional use proposal shall be approved or denied, the Administrative Authority shall weigh the proposal's appropriateness and desirability or the public convenience or necessity to be served against any adverse conditions that would result from authorizing the particular development at the location proposed, and to*

*approve such use, shall find that the following criteria are either met, can be met by observance of conditions, or are not applicable.*

- A. The proposal is consistent with the goals and objectives of the Comprehensive Plan and implementing Ordinances of the County.*

See Section 4.2 of this exhibit for a discussion of consistency with the Wasco County Comprehensive Plan. The Facility is consistent with the implementing Ordinances of Wasco County as evidenced by the responses to the applicable WCLUDO in Section 4.1 of this exhibit.

- B. Taking into account location, size, design and operational characteristics of the proposed use, the proposal is compatible with the surrounding area and development of abutting properties by outright permitted uses.*

The Applicant leases approximately 10,640 acres of land from five landowners, of which approximately 4,160 acres is included in the micro siting corridor within which the Facility will be constructed. For purposes of analyzing this standard, the “surrounding area” is defined as the land use analysis area (the site boundary plus 0.5 mile from the site boundary), and “abutting properties” are those properties adjacent to the site boundary. The general character of the surrounding area is rural agricultural. The outright permitted uses within the surrounding area and abutting properties are agricultural uses (primarily grazing and limited crop cultivation) and ranch homesites (5 within 0.5 mile of the site boundary).

The Facility will be compatible with adjacent agricultural uses (including grazing and dryland wheat cultivation) in the surrounding area, as it will not limit or impact current or future farm activities on the surrounding land and will not diminish the opportunity for neighboring parcels to expand, purchase, or lease any vacant land available for agricultural uses. No portion of the land within the micro siting corridor is currently leased to non-project land owners for agricultural use. Therefore, there will be no reduction to available agricultural land to the surrounding land owners.

Some increase in traffic on Bakeoven Road and Wilson Road is anticipated during construction, the temporary increase in the level of traffic should not interfere with surrounding agricultural activities as only a small portion of the micro siting corridor is actively farmed and this area is primarily on the south side of Bakeoven Road where tractor and harvest related traffic does not use Bakeoven Road. A very small number of trucks related to cattle transport may use Bakeoven Road a few times a year, but even if this were to coincide with the construction window, any impacts to these ongoing agricultural activities would be insignificant.

Potential noise impacts have been analyzed in Exhibit X through an acoustic modeling analysis. The results of the noise analysis indicate compliance with OAR 340-035-0035 at all noise sensitive receptors (e.g., the ranch dwellings). There are no anticipated impacts to agricultural uses from Facility noise given the Facility’s compliance with OAR 340-035-0035 and the noise reduction measure provided in Exhibit X that will be considered and incorporated into the Facility’s contract specifications. On this basis, the Facility will be compatible with the surrounding area from a noise impact perspective.

Potential visual impacts have been analyzed in Exhibit R, including a determination of the areas from which the proposed Facility will likely be visible and an assessment of the expected effect of the facilities on the existing visual setting. The likelihood of potential adverse impacts to outright permitted uses in the surround area is minimal. No visual impacts are anticipated for agricultural uses, and the closest ranch homestead located outside the site boundary is over 1,600 feet from the closest Facility component; therefore, to the extent there are any potential impacts, such impacts would be minimal. Facility components have been set back from the ranch homesite located within the site boundary (owned by Facility property owners) to minimize visual and noise impacts to these residential uses.

*C. The proposed use will not exceed or significantly burden public facilities and services available to the area, including, but not limited to: roads, fire and police protection, sewer and water facilities, telephone and electrical service, or solid waste disposal facilities.*

For purposes of analyzing this standard, the public facilities and services available in the area are deemed to include public roads (Bakeoven Road and Wilson Road), fire protection districts (Juniper Flat Rural Fire Protection District, Bakeoven Shaniko Rural Fire Protection District), City of Maupin water, and local electric and communication suppliers. For the reasons outlined below, Applicant demonstrates that the Facility will not exceed the carrying capacities of the area's public facilities and services.

- **Roads:** The Facility access roads will connect to Bakeoven Road and Wilson Road. The Applicant will obtain Road Use Agreements and Road Approach Permits from Wasco County, as required, for the construction or improvement of Bakeoven Road and Wilson Road prior to construction. The Applicant will be responsible for the costs associated with improving county owned roads and for building and maintaining road approaches. Financial security regarding county road use, maintenance, and repair related to construction will be described in the Road Use Agreement as agreed to by Wasco County and the Applicant.
- **Fire and Police Protection:** A statement from the Juniper Flat Rural Fire Protection District indicated that they have no concerns with Facility construction or operations with respect to providing fire protection services (see Attachment U-5 of Exhibit U). The Applicant will work with both the Juniper Flat Rural Fire Protection District and the newly formed Bakeoven Shaniko Rural Fire Protection District to finalize a Fire Prevention and Protection Plan (Fire Plan). The Facility will be equipped with fire protection equipment in accordance with the Oregon Fire Code and will also comply with Wasco County's Fire Safety Standards. See Section 4.1.4 of this exhibit for an analysis of the Facility's compliance with these standards.

The Wasco County Sheriff's Office, headquartered in The Dalles, Oregon, is the primary provider of police service in the rural area surrounding the facility. Backup law enforcement service is available from the Oregon State Police Eastern Region, with offices in Madras, Prineville, and Bend. The Applicant anticipates the need for police services at the Facility will be minimal because the Facility will be located on private land, will be accessed via

private roads, and the solar arrays, collector substation and O&M building will be secured by fencing and locked gates (see Exhibit U).

- **Sewer and Water Facilities:** During construction, sanitary wastes will be collected onsite in portable toilets obtained from a licensed contractor. During operations, the O&M building will discharge domestic wastewater to a licensed onsite septic system. The Applicant anticipates that the limited needs for sewage disposal will not require a connection to sewers or sewage treatment facilities. Therefore, the Facility will not burden local sewer systems.

Water for construction, including water needed for a temporary concrete batch plant, will either be supplied from the City of Maupin (under an existing municipal water right) and trucked to the Facility or alternatively, water will be provided from an existing or newly constructed well under a limited license to be issued by the Oregon Water Resources Department (OWRD). See Exhibit O for more information regarding construction water needs. Per the analysis provided in Exhibit O, the City of Maupin has sufficient water capacity to supply construction water for the Facility.

Water for operations will be used for kitchen and bathroom facilities installed in the O&M building. The Applicant expects to rely on an exempt well allowed under Oregon Revised Statute 537.545 to provide water to the O&M building. If water is needed for industrial uses, such as solar panel washing, it will come either from the City of Maupin, from a local landowner with water rights from an existing or newly constructed well operating under a limited license. The Applicant contacted the OWRD (pers. phone comm., December 6, 2018) and received confirmation that the exempt well may continue to be used during the operational phase as long as withdrawals maintain compliance with ORS 537.545(1)(f) by not exceeding 5,000 gallons per day. Therefore, no adverse impacts to water use and supply are anticipated during construction or operations.

- **Telephone and Electrical Service:** The Applicant will contract with local service providers to supply electricity and communications to the O&M building. Communications will connect on-site SCADA systems to Avangrid's National Control Center in Portland, Oregon. The Applicant does not anticipate significant adverse impacts to existing telephone or electrical services.
- **Solid Waste Disposal Facilities:** Solid waste disposal for the Facility during construction and operations will be provided through a private contract with local commercial haulers and is not anticipated to disrupt services already being provided in any incorporated communities or in the larger Wasco County area. The public landfill nearest to the site boundary is the Wasco County Landfill, owned by Waste Connections, Inc., in The Dalles. The Wasco County Landfill has confirmed that it has sufficient capacity to accommodate the Facility's solid waste needs and has projected that 45 years are left in landfill's current footprint (see Exhibit U). The Facility will create limited demands for solid waste disposal and Applicant does not anticipate there will be a burden to existing solid waste disposal facilities.

*D. The proposed use will not unduly impair traffic flow or safety in the area.*

For purposes of evaluating this standard, “area” is defined as the site boundary plus an area within 0.5 mile of the site boundary. For the reasons discussed in Exhibit U, no significant adverse traffic impacts are expected in the area from construction of the proposed Facility.

*E. The effects of noise, dust and odor will be minimized during all phases of development and operation for the protection of adjoining properties.*

For purposes of evaluating this standard, the “adjoining properties” are considered properties immediately adjacent to the site boundary. Three ranch homesites not associated with parcels located within the site boundary are located on parcels adjacent to the site boundary. Potential noise impacts to noise sensitive receptors (e.g., occupied homes) on adjoining properties have been analyzed through a screening-level acoustic modeling analysis. The results of the noise analysis indicate compliance with OAR 340-035-0035 at all noise sensitive receptors (see Exhibit X). The noise analysis in Exhibit X demonstrates that the effects of noise on adjacent properties will be minimal and measures will be taken to minimize impacts, as discussed in Exhibit X.

Excavation and other soil-disrupting activities associated with the construction of the Facility will result in the generation of some airborne dust particles. Best management practices (BMP) will be implemented to minimize the effects of the dust, including the application of water to disturbed ground during construction, graveling of permanent roadways, revegetation, and imposition of construction and operation speed limits of 20 miles per hour on access roads. No odors will be produced from the Facility.

*F. The proposed use will not significantly reduce or impair sensitive wildlife habitat, riparian vegetation along streambanks and will not subject areas to excessive soil erosion.*

Response: For purposes of evaluating this standard, “areas” are considered the proposed micrositeing corridor plus an area within 0.5 miles of the proposed micrositeing corridor. During field surveys, habitat at the Facility met the definitions for Categories 3, 4, 5, and 6 habitats (Table P-3, Attachment P-1). A small area (i.e., 294 acres) was added to the micrositeing corridor after 2018 field surveys were completed. This area, in addition to all areas outside of the proposed micrositeing corridor, but inside the analysis area, were categorized based on desktop analysis. Most of the proposed transmission line corridor and an area along the western edge of the proposed micrositeing corridor were burned in the Boxcar Fire in late June 2018. While fish-bearing streams occur within the analysis area (Bakeoven Creek, Buckhollow Creek), none of these streams, nor any other perennial streams, occur within the proposed micrositeing corridor.

Construction-related impacts include permanent and temporary loss of habitat as described in Exhibit P, Section 8.1. Permanent and temporary impact to habitat is quantified in Table P-5. Most of these potential impacts have been or will be avoided or minimized through micrositeing, timing of construction, project design, and other conditions that will continue to be developed in coordination with ODFW (Exhibit P, Section 9.0). The primary potential impact of the operation of the Project is expected to be habitat loss. After avoidance and minimization measures have been implemented, some impacts to wildlife habitat will remain. Temporary and permanent habitat loss

will be mitigated for according to ODFW Habitat Mitigation Policy goals and standards, as described in the Habitat Mitigation Plan (Exhibit P, Attachment P-2).

The potential impacts from erosion during construction are anticipated to be minimal and are addressed through erosion-control measures as described in Exhibit I and in the ESCP (Attachment I-1). Subsequent revegetation efforts identified in the Revegetation Plan (see Exhibit P, Attachment P-3) will provide for long-term soil stability during operation. Restricting operational activity to permanent roads will minimize erosion. Taking into account BMPs and the mitigation and monitoring methods that will be agreed upon with ODFW, the Facility will not significantly reduce or impair sensitive wildlife habitat or riparian vegetation along streambanks and will not subject these areas to excessive soil erosion.

*G. The proposed use will not adversely affect the air, water, or land resource quality of the area.*

For purposes of evaluating this standard, “area” is defined as the site boundary plus an area within 0.5 mile of the site boundary. Construction, including operation of a temporary concrete batch plant, will have temporary and localized low-level impacts to the air quality of the area due to the operation of construction equipment and generation of airborne dust. BMPs will be implemented to minimize the effects of the dust, including applying water to disturbed ground during construction, graveling of permanent roadways, revegetation, and imposing construction and operation speed limits of 20 miles per hour on access roads. The Applicant or its third-party contractor will obtain a Basic Air Contaminant Discharge Permit from the Oregon Department of Environmental Quality (ODEQ) for the Facility concrete batch plants used during construction. Further, operations will not emit carbon dioxide or other air emissions. Therefore, the Facility will not adversely affect the air quality of the area.

The Applicant’s third-party construction contractor will obtain construction water from the City of Maupin (under an existing municipal water right) and truck the water to the site or obtain water from local landowners with existing, upgraded existing or newly constructed well or wells permitted under a limited water use license. Construction needs for water will not exceed a maximum daily water usage of 308,400 gallons. The City of Maupin has indicated they can provide sufficient water for Facility construction (see Exhibit O, Attachment O-1). In the case that any water is obtained from local landowners under a limited water use license, the Applicant would verify this approach with the Wasco County water master for compliance with state law (see Exhibit O). Therefore, the Facility will not adversely affect water sources in the area.

Impacts to the area’s water quality will be avoided and minimized through the implementation of the Facility’s erosion control measures and BMPs. The Facility design and construction methods will minimize grading and changes to the natural drainage pattern and contain stormwater flow to the extent practicable. During construction, sanitary wastes will be collected onsite in portable toilets obtained from a licensed contractor. During operations, the O&M building will discharge domestic wastewater to a licensed on-site septic system. Therefore, the Facility will not adversely affect the water resources of the area through either stormwater runoff or wastewater disposal.

The Facility will not adversely affect the agricultural land resources of the area, as it will not impact the ability of existing farms and ranches in the area (including the Facility landowners) to continue operation. Approximately 323.7 acres of land currently used for active agricultural use will be converted to use by the Facility; however, only 10.8 acres of high-value farmland is included in the micro-siting corridor. None of this area is used for active agricultural cultivation, but rather for the creation of game habitat for hunting which is not an accepted farming practice. Furthermore, the Applicant anticipates permanently impacting only 10 square feet of high-value farmland due to the Facility's overhead collector line. A Farm-Forest Management Easement will be signed and recorded by each landowner with property within the site boundary, as required per WCLUDO Section 3.218. The proposed use will be compatible with adjacent agricultural uses, as it will not limit or impact current or future farm activities on the surrounding land and will not diminish the opportunity for neighboring parcels to expand, purchase, or lease any vacant land available for agricultural uses. In addition, the Facility will result in a net benefit to agricultural incomes, as the minimal loss of agricultural income due to the limited amount of land occupied by the Facility will be more than offset by revenue to affected farmers/ranchers from Facility leases. The additional revenues received by farmers from Facility lease payments will provide a stable and predictable source of income that will supplement farm/ranch revenues and help ensure that landowners' agricultural operations can remain viable in years with lower crop yields or prices.

*H. The location and design of the site and structures for the proposed use will not significantly detract from the visual character of the area.*

For purposes of evaluating this standard, "area" is defined as the site boundary plus an area within 0.5 mile of the site boundary. The "visual character" of the analysis area is considered to be (or include) the natural landscape, and evident modifications of the landscape, that have occurred through human development actions. The landform elements of the analysis area's natural landscape primarily consist of relatively flat and gently sloping terrain, with few hills or ridges that provide noticeable features of topographic relief. The canyon of Buck Hollow Creek, which flows generally to the northwest toward the Deschutes River, is a significant topographic feature in the northern part of the analysis area. Elsewhere, the plateau is dissected by small streams that typically flow to the west. Vegetation conditions within the area reflect the predominant use as open rangeland and some areas of cultivated land.

Human development activity has resulted in limited modifications of the natural landscape. These occur primarily as widely scattered clusters of ranch structures (homes and outbuildings), fencing, and roads. Paved roads, such as Bakeoven Road, are more noticeable modifications of the landscape where they are visible. Limited other infrastructure facilities are present, although electric transmission lines and communications towers are visible within some parts of the analysis area. A BPA substation is located on the south side of Bakeoven Road and west of the proposed solar arrays. The substation occupies approximately 20 acres and is intersected by three major, high-voltage transmission lines supported on lattice-steel structures. The substation and transmission lines are prominent features of the local visual setting

The presence of the Facility components will change the visual character of the analysis area to a degree. The solar arrays will create non-natural geometric shapes or lines in locations where they are visible, particularly if seen from an elevated vantage point. The transmission line and overhead collection line structures will create recurring vertical elements and long linear features that will be noticeable changes on the landscape in some locations, although they will be similar and subordinate to existing infrastructure in other locations. Although the Facility components will create visual contrast and added modifications to the natural landscape, they will be similar in nature to existing modifications and the underlying visual character of the area will remain. Development of the facilities will result in minimal changes to the existing landforms and only localized changes to the land cover. The landscape will continue to provide open, expansive views to the surrounding region, including the slopes and dominant volcanic peaks of the Cascade Mountains in the distance to the west. Based on the considerations above, the Applicant concludes that the Facility will change the visual character of the of the landscape adjacent to the solar arrays, but the degree of visual change created by the Facility will not significantly detract from the visual character of the analysis area.

- I. The proposal will preserve areas of historic value, natural or cultural significance, including archaeological sites, or assets of particular interest to the community.*

Exhibit S describes the historic and cultural resources within the site boundary and describes the significant potential impacts of the Facility on historic, cultural, and archaeological resources. Exhibit S also provides a list of measures to prevent destruction of the archaeological resources identified during the cultural resource surveys or discovered during construction, including avoidance measures and implementation of a Worker Environmental Awareness Program and Inadvertent Discovery Plan (IDP). The Facility will preserve areas of historic value and natural or cultural significance by implementing these measures designed to prevent the destruction of historic, cultural, and archaeological resources.

- J. The proposed use will not significantly increase the cost of accepted farm or forest practices on surrounding lands devoted to or available for farm and forest use. (Revised 1-92)*
- K. The proposed use will not force a significant change in accepted farm or forest practices on surrounding lands devoted to or available for farm or forest use. (Revised 1-92)*

For purposes of evaluating WCLUDO Section 5.020.J and 5.020.K, “surrounding lands” are defined as parcels within an area 0.5 mile from the site boundary. There are 21 tax parcels located immediately adjacent to the site boundary. Grazing, ranching, and crop cultivation (primarily dryland wheat) constitute the “accepted farming practice” for purposes of analysis this standard. There are no forest practices on surrounding lands. See also the description of adjacent uses in the response to WCLUDO 5.020(B).

Potential impacts to accepted farm practices could include temporary impacts from Facility construction traffic and increased risk of wildland fire. However, these potential impacts will not result in significant impacts to the surrounding agricultural uses for the following reasons.

- Some increase in traffic on Bakeoven Road and Wilson Road is anticipated during construction; however, the temporary increase in the level of traffic should not interfere with surrounding agricultural activities as only a small portion of the micrositing corridor is actively farmed and this area is primarily on the south side of Bakeoven Road where tractor and harvest related traffic does not use Bakeoven Road. A very small number of trucks related to cattle transport may use Bakeoven Road a few times a year, but even if this were to coincide with the construction window, any impacts to these ongoing agricultural activities would be insignificant.
- A Farm-Forest Management Easement will be signed and recorded by each landowner with property within the site boundary, as required per WCLUDO Section 3.218. The proposed use will be compatible with adjacent agricultural uses, as it will not limit or impact current or future farm activities on the surrounding land and will not diminish the opportunity for neighboring parcels to expand, purchase, or lease any vacant land available for agricultural uses. In addition, the current agricultural uses within the site boundary will continue to operate during construction and operation of the Facility.
- The Facility will be equipped with fire protection equipment in accordance with the Oregon Fire Code, and a Fire Plan will be developed for the Facility. See the response to WCLUDO Chapter 10 (Section 4.1.4 below) regarding the Facility's compliance with fire safety standards. Through compliance with fire safety standards and the implementation of a fire protection and prevention plan, the Applicant will minimize the risk of wildland fire during construction and operation.

For the above stated reasons, the Council may find that the Facility will not significantly change the accepted farming practices within the surrounding area. Because the Facility will not result in significant impacts, the Council can draw the conclusion that the Facility will also not result in significant costs to accepted farming practices.

#### **4.1.4 Chapter 10 Fire Safety Standards**

##### *4.1.4.1 Section 10.020 – Applicability of Fire Safety Standards*

Fire Safety Standards will apply to the Facility, as it is a commercial power generating facility located in the resource zone outside of an Urban Growth Boundary. The following subsections discuss each of the Fire Safety Standards applicable to the Facility.

##### *4.1.4.2 Section 10.110 – Siting Standards – Locating Structure for Good Defensibility*

Under the WCLUDO, a “building” includes any structure built for the support, shelter, or enclosure of persons, animals, or property. A “structure,” on the other hand, is anything that is constructed, erected, or air inflated, permanently or temporarily, which requires a location on the ground, including buildings, walls, and fences. The Fire Siting Standards are specific to “buildings,” which

the Applicant interprets to include the O&M building, the battery storage system, and the substation.

*A. Does your building avoid slopes steeper than 40% (more than 40-foot elevation gain over 100 feet horizontal distance)?*

The O&M building, battery storage system, and substation are all located on land flatter than a 40 percent slope. Also, all solar arrays will be located on land with a 5 percent or less grade.

*B. Is your building set back from the top of slopes greater than 30% by at least 50 feet? Or, is your building set back from the top of slopes greater than 30% at least 30 feet? And, no structures or other extensions closer than 30 feet from top of slope?*

The O&M building and collector substation will be set back at least 50 feet from any slopes greater than 30 percent.

#### *4.1.4.3 Section 10.120 – Defensible Space – Clearing and Maintaining a Fire Fuel Break*

*A. Is your building surrounded by a 50-foot wide fire fuel break?*

*B. Is dense unmanaged vegetation beyond 50 feet from the outer edges of your buildings, including any extensions such as decks or eaves, kept to a MINIMUM? If located on steeper ground, have you created and maintained some clearings beyond the 50 feet fire fuel break?*

A 50-foot fire fuel break will be cleared and maintained around the O&M building, battery storage system, and substation. The battery storage system will be located within an approximately 8.4-acre area, and fire prevention and control measures specific to the battery storage system will be implemented (see Section 2.4 of Exhibit B). The fenced areas around the O&M building, collector substation, and battery storage system will be graveled, with no vegetation present. Unmanaged vegetation beyond the 50-foot fuel break located around the O&M building, battery storage system, and substation will be minimal, as these facilities are located in an area of low-growing shrubs and grass.

Vegetation in the transmission corridor, and particularly around related infrastructure (e.g., poles), will be maintained pursuant to the Minimum Vegetation Clearance Distances defined under North American Electric Reliability Corporation and National Electric Code standards.

#### *4.1.4.4 Section 10.130 – Construction Standards For Dwellings And Structures – Decreasing The Ignition Risks By Planning For A More Fire-Safe Structure*

*A. Is your building designed, built, and maintained to include the following features and materials necessary to make the structure more fire resistant?*

*1. Roof Materials: Do you or will you have fire resistant roofing installed to the manufacturers specification and rated by Underwriter's Laboratory as Class A, B, or its equivalent (includes but not limited to: slate, ceramic tile, composition shingles, and metal)? NOTE: To give your*

*structure the best chance of surviving a wild fire, all structural projections such as balconies, decks and roof gables should be built with fire resistant materials equivalent to that specified in the uniform building code.*

Fire resistant roofing will be utilized at the O&M building. No decks or horizontal extensions are planned for the O&M building. No trees will be planted or maintained adjacent to the building. This standard does not apply to the Facility structures including the substation, battery storage system, and solar arrays.

No other standards under this section apply.

#### **4.1.5 Chapter 19 Standards For Non- Commercial Energy Facilities, Commercial Energy Facilities & Related Uses (Amended 4/12)**

##### **4.1.5.1 Section 19.030 – Commercial Power Generating Facilities Review Process & Approval Standard.**

*C. General Standards - The following standards apply to energy facilities as outlined in Section A above, in addition to meeting the Conditional Use Standards listed in Chapter 5:*

*1. Air Safety - All structures that are more than 200 feet above grade or, exceed airport imaginary surfaces as defined in OAR 738-070, shall comply with the air hazard rules of the Oregon Department of Aviation and/or Federal Aviation Administration. The applicant shall notify the Oregon Department of Aviation and the Federal Aviation Administration of the proposed facility and shall promptly notify the planning department of the responses from the Oregon Department of Aviation and/or Federal Aviation Administration.*

*Aerial Sprayers and operators who have requested to be notified will receive all notifications associated with the energy facility as required by Chapter 2, Development Approval Procedures.*

All Facility structures will be less than 200 feet above grade and will not exceed airport imaginary surfaces as defined in OAR 738-070.

*2. Interference with Communications - The energy facility shall be designed, constructed and operated so as to avoid any material signal interference with communication systems such as, but not limited to, radio, telephone, television, satellite, microwave or emergency communication systems. Should any material interference occur, the permit holder must develop and implement a mitigation plan in consultation with the planning department.*

The maximum height of the solar arrays will be 12 feet above grade when the modules are tilted, and the tallest structures will be the 230-kV transmission line towers at up to 100 feet above grade. Therefore, the Facility structures are not expected to result in any material signal interference with communication systems, and this standard is met.

*3. Noise - The energy facility shall comply with the noise regulations in OAR 340-035. The applicant may be required to submit a qualified expert's analysis and written report.*

Potential noise impacts to residential uses in the surrounding area have been analyzed in Exhibit X through a screening-level acoustic modeling analysis. The results of the noise analysis indicate compliance with OAR 340-035-0035 at all noise sensitive receptors. On this basis, the Facility will be compatible with the surrounding area from a noise impact perspective.

#### 4. Visual Impact

*a. Scenic Resources – To issue a conditional use permit for an energy facility, the county must find that the design, construction and operation of the facility, taking into account mitigation, are not likely to result in significant adverse impact to scenic resources or values identified as significant or important in the Wasco County Comprehensive Plan.*

Significant or important scenic resources, as classified in the Wasco County Comprehensive Plan, have been identified within the land use analysis area. See Exhibit R for an analysis of scenic resources under OAR 345-021-0010(1)(r).

*b. Protected Areas - Except as provided in subsections (b) and (c) below, an energy facility shall not be located in the areas listed below:*

*(1) National recreation and scenic areas, including but not limited to the Columbia River Gorge National Scenic Area;*

*(2) Scenic waterways designated pursuant to ORS 390.826, wild or scenic rivers designated pursuant to 16 U.S.C. 1271 et seq., and those waterways and rivers listed as potentials for designation;*

*(3) State parks and waysides as listed by the Oregon Department of Parks and Recreation;*

*(4) State wildlife areas and management areas identified in OAR 635-008;*

*(5) National and state fish hatcheries or national and state wildlife refuges;*

*(6) State natural heritage areas listed in the Oregon Register of Natural Heritage Areas pursuant to ORS 273.581;*

*(7) Wilderness areas established pursuant to The Wilderness Act, 16 U.S.C. 1131 et seq. and areas recommended for designation as wilderness areas pursuant to 43 U.S.C. 1782; and*

*(a) Exceptions to Protected Areas - Except where the following uses are regulated by federal, state or local laws, including but not limited to the Columbia River Gorge National Scenic Area Act and implement land use ordinances, the following may be approve in a protected area identified in subsection b above if other alternative routes or sites have been studied and been determined to have greater impacts*

- *An electrical transmission line;*
- *A natural gas pipeline; or*

- *An energy facility located outside a protected area that includes an electrical transmission line or natural gas or water pipeline as a related or supporting facility located within a protected area.*

*(b) Transmission Line & Pipeline Exception - The provisions of subsection b above do not apply to electrical transmission lines or natural gas pipelines routed within 500 feet of an existing utility right-of-way containing at least one transmission line or one natural gas pipeline.*

*(c) Additional Visual Mitigation Impacts for all Facilities - The design, construction and operation of the energy facility, taking into account mitigation, are not likely to result in significant adverse impact to scenic resources and values identified in subsection (b) above. Methods to mitigate adverse visual impacts could include but are not limited to:*

*(1) Building the energy facility near the edge of contiguous timber areas or using the natural topography to obscure the energy facility;*

*(2) Using materials and colors that blend with the background unless otherwise required by the Federal Aviation Administration or the Oregon Department of Aviation; and*

*(3) Retaining or planting vegetation to obscure views of the energy facility.*

The Facility is located outside of the protected areas listed under WCLUDO Section 19.030.C.4.b. No recreation or scenic areas, scenic waterways, wild or scenic rivers (or waterways and rivers listed as potentials for designation), state parks or waysides, state wildlife areas or management areas, national or state fish hatcheries or national and state wildlife refuges, state natural heritage areas, and wilderness areas (or areas recommended for designation as wilderness areas) are located within the land use analysis area (see Exhibit L for more information regarding protected areas). Therefore, the Facility complies with this provision.

*5. Natural Resource/Wildlife Protection - Taking into account mitigation, siting, design, construction and operation the energy facility will not cause significant adverse impact to important or significant natural resources identified in the Wasco County Comprehensive Plan, Wasco County Land Use and Development Ordinance or by any jurisdictional wildlife agency resource management plan adopted and in effect on the date the application is submitted. As appropriate, the permit holder agrees to implement monitoring and mitigation actions that Wasco County determines appropriate after consultation with the Oregon Department of Fish and Wildlife, or other jurisdictional wildlife or natural resource agency. Measures to reduce significant impacts may include, but are not limited to the following:*

**Response:** Biological surveys were conducted to assess the potential impacts of the Facility on Wasco County's natural resources (see Exhibit P, Attachment P-1). Habitat types and wildlife and fish species known to occur in Wasco County are identified in Tables 13, 14, and 15 of the Wasco County Comprehensive Plan. For the purposes of this analysis, Exhibit Q Table Q-1 and Exhibit P

Table P-4 identify wildlife species that would be considered important or significant if listed under federal or state Endangered Species Acts or listed on ODFW's list of Species of Concern. Big game winter range and riparian and fisheries habitat are identified as sensitive wildlife habitats in the Wasco County Comprehensive Plan. The Facility does not overlap the big game winter range designated in the Wasco County Comprehensive Plan, but we note that the Facility does overlap with mule deer winter range as designated by ODFW and as such, all habitat field-categorized as Category 3, 4, or 5 has been mapped as Category 2 habitat per ODFW's recommendation.

Potential impacts from the construction and operation of the Facility to important or significant natural resources identified in the Wasco County Comprehensive Plan, WCLUDO, or by ODFW's Mule Deer Management Plan<sup>3</sup> will be avoided or minimized through micrositing, timing of construction, project design, and other conditions (Exhibit P, Section 9.0). To the extent that potential adverse impacts cannot be avoided or minimized, the Applicant will work to propose appropriate monitoring and mitigation actions for the Facility (Exhibit P, Section 9.01, 10.0). The Applicant began discussions with ODFW and Wasco County at a meeting on July 12, 2018, and will continue to work with ODFW to determine appropriate monitoring and mitigation actions for the Project.

*a. Providing information pertaining to the energy facility's potential impacts and measures to avoid impacts on:*

*(1) Wildlife (all potential species of reasonable concern);*

**Response:** Wildlife reports have been completed for the Project as shown in Exhibit P, Table P-1.

Before the 2018 special status wildlife and habitat surveys (Exhibit P, Attachment P-1), the Applicant conducted a desktop review to identify all potential species of reasonable concern with the potential to occur at the Facility. For this analysis "species of reasonable concern" was defined as those species listed under federal or state Endangered Species Acts or listed on ODFW's list of Species of Concern. Table P-4 provides a list of state sensitive species that could potentially occur at the Facility, as well as notes on whether or not they have been documented in the proposed micrositing corridor (or nearby) during the various survey efforts. The only federally listed wildlife species with the potential to occur at the Facility, wolverine (*Gulo gulo*), has only remote potential to occur as a transient (Exhibit Q).

No federally or state endangered or threatened wildlife species were documented during surveys. No impacts to fish species are expected as fish-bearing streams will be avoided. No bald eagles and golden eagles were documented during 2018 special status wildlife and habitat surveys, but they are known to occur in the area; these species are protected under the Bald and Golden Eagle Protection Act. Two state sensitive species in the Columbia Plateau Ecoregion were documented within the analysis area (Exhibit P, Section 7.0). Wildlife species could be impacted during

<sup>3</sup> ODFW's Mule Deer Management Plan is the "jurisdictional wildlife agency resource management plan" applicable to the Facility. See Exhibit P, Section 8.2.1 for more information.

construction, operation, and retirement of the Facility, but these impacts are not expected to be significant.

In general, potential project-related impacts to wildlife species of reasonable concern include permanent and temporary loss of habitat, introduction of noxious weeds, potential nesting and breeding disturbance, electrocution, powerline collision, structure collision, vehicular collision, disturbance related to artificial lighting, disturbance to wintering big game, and entrapment within fenced areas. See Exhibit P for more information on avoidance and minimization measures as well as mitigation for wildlife and habitat impacts.

After avoidance and minimization measures have been implemented, some impacts to wildlife habitat and sensitive species will remain (Exhibit P, Sections 9.0 and 10.0). Temporary and permanent habitat loss will be mitigated for according to the Habitat Mitigation Plan (Attachment P-2). The Applicant will conduct revegetation monitoring as described in Attachment P-3 (Revegetation Plan). The Applicant will conduct post-construction fatality monitoring as described in the Wildlife Monitoring Plan (Attachment P-4).

*(2) Wildlife Habitat;*

Response: The Applicant mapped 12 habitat types within the proposed micrositing corridor (see Table P-3):

1. Seasonal Pond
2. Intermittent or Ephemeral Streams
3. Emergent Wetlands
4. Shrub-scrub Wetlands
5. Eastside Riparian
6. Eastside Grassland
7. Shrub-Steppe
8. Juniper Woodland
9. Orchards, Vineyards, Wheat Crops and Other Row Crops
10. Planted Grassland
11. Cliffs, Caves, and Talus
12. Urban and Mixed Environs

These habitat types can be categorized as Category 2, 3, 4, 5, or 6 per ODFW's Fish and Habitat policy; however, the analysis area is located entirely within the ODFW Mule Deer Winter Range, and as such, all habitat field-categorized as Category 3, 4, or 5 has been mapped as Category 2 habitat regardless of habitat quality per ODFW's recommendation. Developed areas (e.g., urban or mix environs) and dry-land wheat areas retained their field-verified habitat categorization as Category 6 habitat. Impacts to wetland and waters, riparian, shrub-steppe habitats and rocky terrain have been avoided to the extent possible by micrositing (Exhibit P, Table P-5). No Oregon white oaks were found.

No EPD-7 natural areas listed in the Comprehensive Plan overlap with the proposed micrositng corridor or the proposed site boundary. The closet natural areas to the Facility are on the west side of the Deschutes River.

There are no EPD-8 overlay zone designations within or near the proposed site boundary. The Project will not impact Big Game Winter Range Habitat as defined by Wasco County, located east of Tygh Valley and Dufur. Prairie falcon nests were documented during 2011 raptor nest surveys more than two miles from the Facility (NWC 2011), and golden eagle nests have been documented during eagle nest surveys (NWC 2011, WEST 2018, Figure P-5). However, no known prairie falcon or golden eagle nests occur within 1,320 feet of any proposed Facility components; therefore, no conflicts with the EDP-8 Sensitive Bird Overlay are expected.

*(3) Endangered Plants; and*

Response: A botanical survey was completed for the Facility to determine the presence of endangered plants (Attachment P-1), which could include the sensitive species that have the potential to occur near the Facility per Table Q-1. None were found during field surveys.

*(4) Wetlands & Other Water Resources.*

Response: Based on the results of the wetland delineations conducted in 2018 (Attachment J-2), 26 wetlands and 5 other water features were delineated within the site boundary (see Exhibit J, Section 3.3.2). Facilities including access roads and the transmission line were located to avoid all wetlands and other waters; therefore, no adverse impacts to any waters of the state are expected.

Construction of the Project would not involve any in-water work in any perennial or fish-bearing streams. While fish-bearing streams occur within the analysis area (Bakeoven Creek, Buckhollow Creek), neither of these nor any other perennial streams occur within the proposed micrositng corridor.

*b. Conducting biologically appropriate baseline surveys in the areas affected by the proposed energy facility to determine natural resources present and patterns of habitat use.*

Response: Biologically appropriate baseline surveys, conducted to determine natural resources present and patterns of habitat use, have been completed in the areas potentially affected by the Facility. The survey reports are described in Exhibit P, Table P-1 and Exhibit J, Section 3.3.

*c. Selecting locations to reduce the likelihood of significant adverse impacts on natural resources based on expert analysis of baseline data.*

Response: The proposed micrositng corridor represents areas of the proposed site boundary where solar arrays and all other related and supporting facilities may be located. In developing the micrositng corridor, the Applicant considered the following factors:

- Avoidance of fish bearing waters, vernal pools, and large wetland complexes to the extent practicable;
- Avoidance of ODFW Category 1 habitat;

- Avoidance of Comprehensive Plan designated EPD-7 Natural Areas and EDP-8 Sensitive Bird Overlay;
- To the extent feasible, siting on previously disturbed habitat, including dryland wheat and planted grassland, and outside sagebrush steppe, which is an ODFW conservation strategy habitat.
- Siting away from identified nests of Swainson's hawk, ferruginous hawk, and golden eagles such that these nests will not be disturbed by the Facility;
- Avoidance of open water habitat and cliff habitat;
- Co-location of access roads and electrical lines with existing farm roads; and
- Minimization of the use overhead collection lines to the extent possible.

These voluntary measures demonstrate the Applicant's interpretation of baseline survey results to minimize significant impact on natural resources. Surveys were conducted in a manner consistent with standards presented in the Oregon Columbia Plateau Ecoregion wind energy siting and permitting guidelines (ODFW, ODOE, and USFWS 2008). As the micrositing process continues, the Applicant will balance a number of technical and engineering factors to select locations that reduce impacts on natural resources to the extent practicable. The ultimate location of facilities within the micrositing corridor will be determined through a detailed environmental and engineering evaluation before construction permits are issued.

*d. Utilizing turbine towers that are smooth steel structures that lack features that would allow avian perching. Where horizontal surfaces cannot be avoided, antiperching devices shall be installed where it is determined necessary to reduce bird mortality.*

Response: No turbine towers are proposed as part of the Facility.

*e. Designing and installing all aboveground transmission line support structures following the current suggested practices for avian protection on power lines published by the Avian Power Line Interaction Committee.*

Response: The Applicant will use Facility-specific measures that follow APLIC guidelines for minimizing avian electrocutions (APLIC 2006). In addition, the applicant will install spiral markers will be installed on the ground wire of the proposed 230-kilovolt transmission line in areas over canyons or within 2 miles of a known eagle nest to minimize collision potential.

*f. Utilizing towers and transmission line support structures designed so the foundation area and supports avoid the creation of artificial habitat or shelter for raptor prey.*

Response: After construction, the restored area around each transmission structure will be designed to avoid creation of artificial habitat or shelter for raptor prey. All temporarily impacted areas will be replanted with a native, low-growing seed mix that is compatible with adjacent land uses. Seed mixes and techniques are described in the Revegetation Plan (Exhibit P, Attachment P-3)

*g. Controlling weeds to avoid the creation of artificial habitat suitable for raptor prey such as spreading gravel on turbine pad.*

Response: Same response to subpart (f) above.

*h. Avoiding construction activities near raptor nesting locations during sensitive breeding periods and using appropriate no construction buffers around known nest sites.*

Response: If the Facility is constructed during the sensitive breeding periods, then the Applicant will implement construction buffers around active raptor nests. The Applicant's biologist will determine the presence of active raptor nests, and associated buffer, in the year of construction. Based on the surveys conducted in 2011, 2013, and 2018 (NWC 2011; WEST 2013, 2018; Attachment P-1; Figure P-5), there are no known raptor nests within the micro-siting area, except for one burrowing owl burrow that was active in 2018. The Applicant will work with ODFW to ensure that construction buffers are in place around sensitive raptor nests during sensitive breeding periods (Exhibit P, Section 9.0).

*i. Locating transmission lines or associated transmission lines with the energy facility to minimize potential impacts (e.g., 50 feet from the edge of the nearest wetland or water body except where the line is required to cross the wetland or water body; or separating transmission lines or associated transmission lines with the energy facility from the nearest wetland or water body by topography or substantial vegetation to the extent practical, except where the line is required to cross the wetland or water body).*

*j. Locating transmission towers or associated transmission towers outside of Class I or II streams unless:*

*(1) Adjoining towers and conductors cannot safely and economically support the line(s) that span the stream without an in stream tower; and*

*(2) The lines cannot be safely and economically placed under the water or streambed.*

Response: Transmission line structures will be sited to avoid wetlands and water bodies, including Class I and II streams, to the extent practicable. Transmission line structures will be set back from the edge of the wetland or waterbody by 50 feet, or to the maximum extent practicable; any unavoidable impacts to wetlands or waters will be minimized through soil compaction reduction techniques and disturbed areas will be replanted with a native, low-growing seed mix that is compatible with adjacent land uses. Seed mixes and techniques are described in the Revegetation Plan (Exhibit P, Attachment P-3).

*(3) Developing a plan for post-construction monitoring of the facility site using appropriate survey protocols to measure the impact of the project on identified natural resources in the area.*

Response: The Applicant will conduct revegetation monitoring as described in Exhibit P, Attachment P-3 (Revegetation Plan). Monitoring related to mitigation success is described in the Habitat Mitigation Plan (Attachment P-2). The Applicant will conduct post-construction fatality monitoring as described in the Wildlife Monitoring Plan (Attachment P-4).

*6. Protection of Historical and Cultural Resources - The applicant shall complete a cultural resources survey of areas where there will be temporary or permanent disturbance. During construction, cultural resources included in the Wasco County Comprehensive Plan shall be flagged and avoided in areas of potential temporary or permanent disturbance, and construction activities monitored to ensure all cultural resources in such areas are avoided, unless appropriate permits are obtained from the Oregon State Historic Preservation Office. Prior to construction an Inadvertent Discovery Plan (IDP) shall be developed that must outline the procedures to be followed in the case previously undiscovered archeological, historical or cultural artifacts are encountered during construction or operation of the energy facility, in compliance with ORS 358.905-358.955 and any other applicable local, state and federal law.*

The entirety of the micro-siting area has been surveyed for cultural resources by the Applicant's consultant, PaleoWest Archaeology (Exhibit S). The Applicant has also been consulting with the Confederated Tribes of the Warm Springs Reservation of Oregon in an effort to identify traditional cultural resources (such as Historic Properties of Religious and Cultural Significance to Indian Tribes) that could be affected by the Facility. As noted in Exhibit S, all archaeological sites considered to be significant by the analysis will be avoided and will have a 20-meter buffer to insure they are not inadvertently disturbed during construction. An IDP will be developed and implemented as described in Exhibit S to ensure that the potential for significant impacts on cultural resources is minimized.

*7. Fire Protection & Emergency Response - A fire protection and emergency response plan shall be developed and implemented in consultation with the applicable fire district or department and/or land management agency to minimize the risk of fire and respond appropriately to any fire or emergency that occurs onsite for all phases of the life of the facility. In developing the plan the applicant shall take into account, among other things, the terrain, dry nature of the region, address risks on a seasonal basis, and identify the locations of fire extinguishers, nearby hospitals, telephone numbers for emergency responders, and first aid techniques.*

The Facility is located in the Bakeoven Shaniko Rangeland Fire Protection District. The Facility is located in a high fire hazard area of Wasco County due to the hot and dry climatic conditions prevalent during the fire season (Hulbert 2005). The Facility will implement a Fire Plan during construction and operation in coordination with the Oregon State Fire Marshall and Bakeoven-Shaniko Rangeland Fire Protection Association. The Fire Plan includes emergency response and evacuation procedures that include immediate reporting notification of local fire agencies. Staff will be equipped with fire suppression equipment, radio and cellular access, and pertinent telephone numbers for reporting a fire.

*8. Public Safety - A public safety plan shall be developed and implemented to exclude members of the public from hazardous areas within the Energy Facility Project Area.*

The Facility's Fire Plan will be implemented during construction and operation. The Fire Plan includes measures to prevent the public from accessing potentially hazardous areas within the site boundary. Public access to the solar arrays will be restricted to avoid potential safety hazards. The

collector substation and O&M building will be fenced and gates will be locked to prevent unauthorized entry.

*9. Transportation Plan - A transportation plan shall be developed and implemented in consultation with the Wasco County Road Department and/or the Oregon Department of Transportation (ODOT). The plan shall be consistent with any applicable requirements from the Wasco County Transportation System Plan and shall also provide or address:*

*a. The size, number, and location of vehicle access points off of public roads.*

Exhibit U discusses the transportation routes that will provide access to the Facility during construction and operations. The primary transport route of construction vehicles and some workforce traffic will be via Interstate Highway 84 (I-84) to U.S. Highway (US) 97 (Sherman Highway) at Biggs Junction, southbound through the town of Shaniko, and continue west on Bakeoven Road to the site boundary. Bakeoven Road will be the primary county road that will be used to access Facility infrastructure. New access roads will be built as necessary to accommodate access to the remaining Facility areas. Where feasible, the existing ranch road approaches will be utilized to minimize the number of new access points from Bakeoven Road and Wilson Road.

The Applicant will obtain Road Use Agreements and Road Approach Permits from Wasco County and ODOT, as required, for the use of state and county roads and for construction or improvement of driveways off of Bakeoven Road and Wilson Road prior to construction. These driveways will be maintained by the Applicant in accordance with the standards required by Wasco County.

*b. Use of existing roads to the extent practical to minimize new access roads.*

Existing roads will be utilized to the extent practical to minimize the construction of new access roads; however, in some cases, lease agreements or landowner preference limit the use of existing ranch roads that could otherwise serve the Facility.

*c. Restoring the natural grade and revegetating all temporary road cuts, used during construction of the energy facility. The applicant shall specify the type and amount of native seed or plants used to revegetate the disturbed areas and a timeline to complete this work.*

As construction is completed, the temporarily used portions access will be restored to match surrounding conditions through the removal of gravel and reseeded with native plants to return the area to its original condition.

*d. A Road Impact Assessment/Geotechnical Report for roads to be used by the project. Said report should include an analysis of project-related traffic routes to be used during phases of construction, project operation and decommissioning. The report and any subsequent amendments shall be used as a discipline study and shall be incorporated into the Road Use Agreement between the Applicant and the County.*

The Applicant will complete a Road Impact Assessment/Geotechnical Report prior to construction, as part of the Road Use Agreement between the Applicant and Wasco County.

*10. Road Use Agreement - Where applicable, the Wasco County Road Department shall require the applicant to enter into a Road Use Agreement with the County to ensure that project construction traffic is mitigated and any damage to county roads that is caused by the construction of the energy facility or its related or supporting facilities is repaired by the applicant, and such county roads are restored to pre-construction conditions or better (this includes a weed plan and providing for re-vegetation).*

- *General design standards for roads shall, in general, conform to policies set forth in Chapter 21.*
- *As part of the Road Use Agreement the applicant shall also obtain a utility permit for all project utility installation and approach permits for road approach access to county roads.*

A Road Use Agreement with Wasco County and any necessary utility permits or approach permits will be obtained prior to construction to ensure that Facility construction traffic is mitigated, any damage to county roads that is caused by the construction of the Facility is repaired, and roads are restored to pre-construction conditions or better.

*11. Onsite Access Roads and Staging Areas - The impact of onsite access roads and staging areas within the Energy Facility Project Area shall be limited by:*

- a. Constructing and maintaining onsite access roads for all-weather use to assure adequate, safe and efficient emergency vehicle and maintenance vehicle access to the site;*
- b. Using existing onsite access roads to the extent practical and avoiding construction of new on-site access roads as much as possible; and*
- c. Restoring the natural grade and revegetating all temporary access roads, road cuts, equipment staging areas and field office sites used during construction of the energy facility. The applicant shall specify the type and amount of native seed or plants used to revegetate the disturbed areas and a timeline to complete this work.*

On-site access road and staging area design is discussed in Exhibit B. Access roads will be graded and covered with a graveled, all-weather surface. Existing roads will be utilized to the extent practical to minimize the construction of new access roads; however, in some cases, lease agreements or landowner preference limit the use of existing ranch roads that could otherwise serve the Facility. As construction is completed, the temporarily used portions of the construction staging and equipment laydown areas and access roads will be restored to match surrounding conditions through the removal of gravel and reseeding with native plants to return the area to its original condition.

*12. Dust Control - All approved non-paved temporary or permanent roads and staging areas within the Energy Facility Project Area shall be constructed and maintained to minimize dust, which may be addressed through the Road Use Agreement. If roads and staging areas are not construct with material that would prevent dust, the permit holder must regularly water*

*roads and staging areas as necessary or apply an approved dust suppression agent such as Earthbind 100 to minimize dust and wind erosion.*

BMPs will be implemented to minimize the effects of the dust, including the application of water to disturbed ground during construction, graveling of permanent roadways, revegetation, and imposition of construction and operation speed limits of 20 miles per hour on Facility access roads.

*13. Erosion and Sediment Control - All ground disturbing activities shall be conducted in compliance with a National Pollutant Discharge Elimination System (NPDES) permit as may be required by Oregon Department of Environmental Quality. Where applicable, an NPDES permit must be obtained. The plan must include best management practices for erosion control during construction and operation and permanent drainage and erosion control measures to prevent damage to local roads or adjacent areas and to minimize sediment runoff into waterways.*

The Facility will comply with the ODEQ erosion control measures, and the Applicant will obtain a NPDES 1200-C permit from ODEQ through the submittal and approval of the Erosion Control Plan.

*14. Weed Control - A weed plan shall be developed in consultation with the Wasco County Weed Department and implemented during construction and operation of the energy facility.*

A Noxious Weed Control Plan has been developed in consultation with the Wasco County Weed Department Supervisor (see Exhibit P, Attachment P-5).

*15. Signs - Outdoor displays, signs or billboards within the energy facility project boundary shall not be erected, except:*

*a. Signs required for public or employee safety or otherwise required by law; (e.g., OSHA or compliance with the Manual of Uniform Traffic Control Devices (MUTCD) administered through the County Road Department); and*

*b. No more than two signs relating to the name and operation of the energy facility of a size and type to identify the property for potential visitors to the site, but not to advertise the product. No signs for advertising of other products are permitted.*

Any signs erected as part of the Facility will conform with this provision of the WCLUDO.

*16. Underground Systems - Where reasonably practicable, power collector and communication systems shall be installed underground, at a minimum depth of 3 feet. Shallower depths may be authorized where notification and safety measures are taken and wires are placed in schedule 40 conduit. The cable collector system shall be installed to prevent adverse impacts on agriculture operations and natural resources.*

Underground portions of the Facility's power collector line system will be buried in the soil at least 3 feet below the ground surface. See Exhibit B for more information regarding the design of the Facility's power collector and communication systems.

*17. Operation & Maintenance Buildings - Permanent maintenance/operations buildings shall be located in the same zone as the principal energy facility, except that such buildings may be constructed in a separate zone if:*

- a. The building is designed and constructed generally consistent with the character of similar buildings used in the surrounding area; and*
- b. The building will be removed or converted to another approved use upon decommissioning of the energy facility consistent with the provisions of this ordinance.*

The entire site boundary is located within the AG-1 zone; therefore, the O&M building is located in the same zone as the principal energy facility.

*18. Coordination and Documentation - Prior to commencement of any construction, all other necessary permits shall be obtained, e.g. building permit, rural address, road approach, utility and other permits from the Wasco County Public Works Department, and/or from ODOT as well as any other applicable local, state or federal permits or approvals.*

Exhibit E provides a list of potential permits required for the Facility. The Applicant will obtain required federal, state, and county permits necessary prior to start of construction.

*19. Termination and Decommissioning. For an energy facility sited through EFSC, compliance with EFSC's financial assurance and decommissioning standards shall be deemed to be in compliance with these requirements.*

- a. The applicant shall prepare a decommissioning plan that describes the actions to restore the site to a useful, non-hazardous condition, including options for postdismantle or decommission land use, information on how impacts on fish, wildlife and the environment would be minimized during the dismantling or decommissioning process, and measures to protect the public against risk or danger resulting from post-decommissioning site conditions in compliance with the requirements of this section.*
- b. The applicant shall provide a detailed cost estimate, a comparison of that estimate with funds to be set aside, in the form of a financial assurance (bond, letter of credit, insurance policy other such form of guarantee acceptable to Wasco County), and a plan for assuring the availability of adequate funds for completion of dismantling or decommissioning. The cost estimate and financial assurance may take into account salvage value associated with the project, and can be requested for review and update by Wasco County at their discretion (e.g., every 5 years).*
- c. The following shall be required as conditions of the Wasco County approval:*

*(1) If operation of the energy facility ceases or begins construction of the project, but does not complete it, the permit holder shall restore the site according to a plan approved by Wasco County. A plan shall be submitted that ensures the site will be restored to a useful, non-hazardous condition without significant delay, including but not limited to the following:*

*(a) Removal of aboveground and underground equipment, structures and foundations to a depth of at least three feet below grade (four feet if cropland). Underground equipment, structures and foundations need not be removed if they are at least three feet below grade and do not constitute a hazard or interfere with agricultural use or other resource uses of the land. Restoration of the surface grade and soil after removal of aboveground structures and equipment.*

*(b) Removal of graveled areas and access roads and restoration of surface grade and soil.*

*(c) Revegetation of restored soil areas with native seed mixes, plant species suitable to the area, consistent with Wasco County's weed control plan.*

*(d) For any part of the energy facility on leased property, the plan may incorporate agreements with the landowner regarding leaving access roads, fences, gates or buildings in place or regarding restoration of agricultural crops or forest resource land. Said landowner will be responsible for maintaining said facilities for purposes permitted under applicable zoning.*

*(e) The underground power collector and communication lines need not be removed if at a depth of three feet or greater. These cables can be abandoned in place if they are deemed not a hazard or interfering with agricultural use or other consistent resource uses of the land.*

*(f) The plan must provide for the protection of public health and safety and for protection of the environment and natural resources during site restoration.*

*(g) The plan must include a schedule for completion of site restoration work.*

*(2) Before beginning construction of the energy facility, the permit holder must submit in a form and amount satisfactory to Wasco County, assuring the availability of adequate irrevocably committed funds to restore the site to a useful, non-hazardous condition naming Wasco County as beneficiary or payee. The form may include posting a bond, issuing an irrevocable letter of credit, purchasing a paid up insurance policy or by other means acceptable by Wasco County and shall ensure continuity between owners.*

*(3) The amount of the financial assurance (bond or other such form of guarantee) shall be annually adjusted for inflation using the U.S. Gross Domestic Product Implicit Price Deflator, Chain-Weight, as published in the Oregon Department of Administrative Services' "Oregon Economic and Revenue Forecast," or by any successor agency (the "Index"). The permit holder (including possible successor if sold or transferred) shall increase the amount of the financial assurance annually by the percentage increase in the Index and shall pro-rate the amount within the year to the date of retirement. If at any time the Index is no longer published, Wasco County shall*

*select a comparable index for adjusting the amount. The amount of the financial assurance shall be prorated within the year to the date of decommissioning.*

*(4) Per the request of Wasco County, the permit holder (including possible successor if sold or transferred) shall describe the status of the financial assurance in a report (e.g., annual update report submitted to Wasco County).*

*(5) The financial assurance shall not be subject to revocation or reduction before retirement of the energy facility site.*

Exhibit W addresses retirement of the Facility.

*20. Final Location - The actual latitude and longitude location or Oregon State Plane NAD83 HARN (international feet) coordinates of the energy facility and related or supporting facilities shall be provided to the County GIS Department once commercial electrical power production begins. Alternatively, this information could be provided in GIS layer consistent with the datum referenced above or any other datum deemed acceptable by the Wasco County GIS Department.*

The latitude and longitude location or Oregon State Plane North American Datum 1983 (NAD83) High Accuracy Reference Network (HARN) coordinates of the final location of the Facility will be provided to Wasco County's Geographic Information Systems (GIS) Department within 90 days of commercial operations.

*21. Power Production Reporting - The County may require a report of nonproprietary power production for any time frame after the energy facility first begins production if permitted through the County. If requested, the permit holder shall have 180 days to produce said report.*

The Applicant will provide a Power Production Report after the Facility begins commercial operation, if requested by Wasco County.

*D. Specific Standards - The following standards apply to specific types of energy facilities as described, in addition to the General Standards in Section C above.*

*2. Solar Energy Facilities:*

*a. Ground Leveling – The solar energy facility shall be designed and constructed to minimize ground leveling and to the extent reasonably practicable, limit ground leveling to those areas needed for effective solar energy collection.*

The solar array is sited on relatively flat areas, which will allow for minimal ground leveling. The extent of grading needed will be determined prior to construction through the geotechnical investigation and final engineering design process. Ground leveling will be minimized to the extent reasonably practicable.

*b. Misdirection of Solar Radiation - The solar energy facility shall be designed, constructed, and operated to prevent the misdirection of concentrated solar radiation onto nearby properties, public roadways or other areas accessible to the public, or mitigated accordingly.*

The Facility will generate electricity using photovoltaic (PV) solar panels and will not be utilizing concentrated solar radiation technology. Therefore, this standard does not apply.

*c. Glare - The solar energy facility shall be designed, constructed and operated such that any significant or prolonged glare is directed away from any nearby properties or public roadways, or mitigated accordingly.*

The potential for glare from the solar panels is considered in the scenic resources assessment in Exhibit R. The solar arrays are designed to generate power through the absorption of sunlight, resulting in limited reflectivity (glare) that may also be visible within the surrounding area. The solar modules will be mounted on a tracking system that rotates the modules throughout the day as the sun's angle changes. The movement of the modules, combined with the solar module's antireflective coating, will minimize glare.

*d. Cleaning Chemicals and Solvents - During operation of the solar energy facility, all chemicals or solvents used to clean solar panels or heliostats shall be low in volatile organic compounds and to the extent reasonably practicable, the permit holder shall use recyclable or biodegradable products.*

The Applicant anticipates washing the solar PV panels twice a year using water. If cleaning agents are required, the Applicant will use recyclable or biodegradable products to the extent reasonably practicable.

*e. Wildlife - Measures to reduce wildlife impact may include using suitable methods such as coloration or sound producing devices to discourage birds from entering areas of concentrated solar energy near solar-thermal mirrors or other devices that concentrate solar radiation.*

The Facility will generate electricity using PV solar panels and will not be utilizing concentrated solar radiation technology. Therefore, this standard does not apply.

#### **4.1.6 Chapter 20 Site Plan Review**

##### **4.1.6.1 Section 20.030 – Contents of the Site Plan**

*The Site Plan shall clearly indicate the following information:*

- A. Lot dimensions.*
- B. Location, size, height, of all existing or proposed buildings and structures, and illustrating the buildings and parking facilities on abutting properties.*
- C. Location, size and dimension of all yards and setbacks and all spaces between buildings.*
- D. Walls and fences: Location, height and materials.*
- E. Off street parking:*
  - 1. Location, dimensions and method of improvement of all driveways and parking areas consistent with Sections 20.050 & 20.080.*

2. *Number of spaces consistent with Section 20.050 & 20.080 and internal circulation pattern.*
  3. *Size and location of existing and proposed curb openings.*
- F. Access: Pedestrian, vehicular, service; and definitions of all points of ingress and egress.*
- G. Signs: Location, size, height, material and method of illumination.*
- H. Loading: Location, dimensions, number of spaces, internal circulation and access from public right of way consistent with 20.070 & 20.080.*
- I. Lighting: General nature, location and hooding devices (not including interior building lighting).*
- J. The location, dimensions and methods of improvement for all property to be dedicated to general public purposes or to public utilities.*
- K. A detailed plan for landscaping, if determined necessary by the Planning Director which shall clearly illustrate:*
1. *Plants and tree species, their initial sizes and other proposed landscaping materials.*
  2. *The location and dimensions of all areas to be devoted to landscaping, and location of automatic sprinkler systems.*
- L. Outdoor storage and activities, if permitted in the zone, showing type, location and height of screening devices.*
- M. Drainage and grading plan.*
- N. Identification of proposed trash storage locations, including proposed enclosure design construction and access for pick up purposes.*
- O. Location of existing utility poles.*
- P. Such data as may be required by the Planning Director to act on the application.*

The Applicant has disregarded the requirement to include site plans compliant with WCLUDO Section 20.030 as this provision is procedural and not applicable substantive criteria to the ASC.

#### *4.1.6.2 Section 20.040 – Approval Standards*

*Upon completion of the Site Plan Review, the Approving Authority shall approve, approve with conditions, or disapprove the site plan. In approving the plan, the Approving Authority shall find that:*

- A. All provisions of this ordinance and other applicable ordinances are complied with.*
- B. Elements of the site plan are arranged so that:*
  1. *Traffic congestion is avoided.*
  2. *Pedestrian and vehicular safety and welfare are protected.*

3. *Significant features and public amenities are preserved and maintained.*
  4. *There will be minimal adverse effect on surrounding property.*
- C. *Proposed lighting is arranged to direct light away from adjoining properties.*
- D. *Proposed signs will not interfere with traffic or limit visibility by size, location or illumination.*

See the response to WCLUDO Chapter 3.210 and Chapter 19.030 standards for evidence that the Facility meets the approval standards under Section 20.040.

#### 4.1.6.3 Section 20.050 – Off Street Parking

*\*\*\* The following are the uses and minimum standards provided for off street parking:*

##### *G. Industrial*

1. *Storage warehouse, manufacturing establishment, rail or trucking freight terminal: One (1) space per employee.*
2. *Wholesale establishment: One (1) space per employee plus one (1) space per seven hundred (700) square feet of patron serving area.*

WCLUDO 20.050(G) specifies off-street parking standards for industrial uses, including a storage warehouse at one space per employee. No parking standard is provided for a commercial power generating facility. During operation, the Applicant anticipates employing from 5 to 10 full-time employees upon commencing commercial operations with most employees parking at the O&M building for daily operations. Applicant proposes a minimum of 10 parking spaces to accommodate the anticipated number of permanent employees.

#### 4.1.6.4 Section 20.055 – Bicycle Parking Requirements

*At the time of erection of a new structure or at the time of enlargement or change in use of an existing structure, bicycle parking shall be provided in accordance with the following standards:*

- A. *Number of Bicycle Parking Spaces - A minimum of two (2) bicycle parking spaces per use is required for all uses with greater than 10 vehicle parking spaces.*
- C. *Location and Design - Bicycle parking shall be conveniently located with respect to both the road right-of-way and at least one building entrance (e.g., no farther away than the closest parking space). It should be incorporated whenever possible into building design and coordinated with the design of street furniture when it is provided. Street furniture includes benches, street lights, planters and other pedestrian amenities.*
- D. *Visibility and Security - Bicycle parking shall be visible to cyclists from roadway sidewalks or building entrances, so that it provides sufficient security from theft and damage;*

*E. Options for Storage - Bicycle parking requirements for long-term and employee parking can be met by providing a bicycle storage room, bicycle lockers, racks, or other secure storage space inside or outside of the building;*

*F. Lighting - Bicycle parking shall be least as well-lit as vehicle parking for security.*

*G. Reserved Areas - Areas set aside for bicycle parking shall be clearly marked and reserved for bicycle parking only.*

*H. Hazards - Bicycle parking shall not impede or create a hazard to pedestrians. Parking areas shall be located to avoid conflict with vision clearance standards (Section 4.090 Vision Clearance).*

A minimum of one bicycle parking space will be accommodated at the O&M building.

#### **4.1.6.5 Section 20.070 – Off Street Loading**

*B. Merchandise, materials or supplies: Buildings or structures to be built or substantially altered to receive and distribute materials or merchandise by truck shall provide and maintain off street loading berths in sufficient numbers and size to adequately handle the needs of the particular use. If loading space has been provided in connection with an existing use or is added to an existing use, the loading space shall not be eliminated if elimination would result in less space than is required to adequately handle the needs of the particular use. Off street parking areas used to fulfill the requirements of this Ordinance shall not be used for loading and unloading operations except during periods of the day when not required to take care of parking needs.*

The O&M building will include adequate space for delivery of parts and supplies within the O&M building yard.

#### **4.1.6.6 Section 20.080 – General Provisions – Off Street Parking and Loading**

The parking lot associated with the O&M building will meet the design requirements, and adequate parking spaces will be available for use by the time the building is occupied.

## **4.2 Applicable Wasco County Comprehensive Plan Goals and Policies**

As required under WCLUDO Section 5.020.A., the Applicant must show that the Facility is consistent with the goals and objectives of the WCCP. The following provides an analysis of the Facility's compliance with applicable WCCP policies. These policies include the provisions Wasco County identified in its response to the Facility's Notice of Intent (Wasco County 2019a). The WCCP implements locally the statewide planning goals DCLD identified in its response to the Facility's Notice of Intent (Murphy 2019).

## 4.2.1 Chapter 5. J. Parks and Recreation and Scenic Areas

### 3. Outstanding Scenic and Recreational Areas

*Outstanding scenic and recreational areas have exceptional qualities which draw visitors from outside the county, as well as provide local citizens with excellent recreational opportunities. These areas are listed in Table 11.*

This policy is implemented, in part, in section WCLUDO Section 19.030.C.4, which is addressed in Section 4.1.5.1 of this exhibit. As discussed in Section 4.1.5.1, there are no scenic resources identified as significant or important in the WCCP located within the land use analysis area. Therefore, the Facility would not have a significant, adverse impact on the scenic resource values identified in the WCCP. See Exhibit R for an analysis of scenic resources under OAR 345-021-0010(1)(r).

## 4.2.2 Chapter 15 Goals and Policies

### GOAL # 3 – AGRICULTURAL LANDS

*To preserve and maintain agricultural lands.*

#### Policy 1

*Maintain Exclusive Farm Use zoning.*

#### Implementation

*B. Minimum lot sizes in agricultural zones shall be appropriate for the preservation of ground water resources, continued agricultural use and aesthetic qualities.*

The Facility does not involve a zone change or a partition within the EFU zone. All minimum lot sizes will remain the same. Therefore, the Facility is consistent with this policy.

### GOAL #5 – OPEN SPACES, SCENIC AND HISTORIC AREAS AND NATURAL RESOURCES

*To conserve open space and protect natural and scenic resources.*

#### Policy 1 – Mineral Resources

*Protect and utilize appropriately the mineral and aggregate resources of Wasco County, and minimize conflict between surface mining and surrounding land uses.*

#### Policy 2 – Mineral Resources

*The County shall maintain an inventory of mineral and aggregate resource sites. The comprehensive plan inventory shall consist of three parts:*

*-An inventory of "Significant Sites" identified through the Goal 5 process as important resources that will be protected from conflicting uses;*

*- An inventory of "Potential Sites" for which sufficient information concerning the location, quality, and quantity of a resource site is not adequate to allow the County to make a determination of significance;*

*- An inventory of "Other Sites" for which available information demonstrates that the site is not a significant resource to be protected.*

This policy is implemented in WCLUDO Section 3.800 Mineral and Aggregate Overlay (EPD-5). The site boundary and land use analysis area contain no Significant Aggregate Sites in the Mineral and Aggregate Overlay (EPD-5), which are the only mineral and aggregate sites considered Goal 5 resources by the County. Therefore, the Facility will not impact Goal 5 mineral and aggregate resources.

*Policy 5 – Wild & Scenic Rivers*

*The Deschutes and John Day River Scenic Waterways shall be maintained and protected as natural and open space areas with consideration for agriculture and recreation.*

This policy is implemented in WCLUDO Section 19.030.C.4.b, which is addressed in Section 4.1.5.1 of this exhibit. As discussed in Section 4.1.5.1, there are no scenic resources identified as significant or important in the WCCP, including the Deschutes and John Day River Scenic Waterways, located within the land use analysis area. The John Day Scenic Waterway is located more than 15 miles from the site boundary and intervening terrain will block views from the John Day River toward the Facility. The site boundary extends to within approximately 2.5 miles of the Deschutes River Scenic Waterway; however, no Facility structures will be visible from the Deschutes River. Therefore, the Facility would not have a significant, adverse impact on the Deschutes and John Day River Scenic Waterways and to the extent this policy applies, the Facility is consistent with the policy.

*Policy 9 – Fish and Wildlife*

*-Encourage land use and land management practices which contribute to the preservation and enhancement of fish and wildlife resources, with consideration for private agricultural practices.*

*-To conserve and protect existing fish and wildlife areas.*

*-To maintain wildlife diversity and habitat so that it will support optimum numbers of game and nongame wildlife for recreation and aesthetic opportunities.*

This policy is implemented, in part, in section WCLUDO Section 19.030.C.5, which is addressed in Section 4.1.5.1 of this exhibit. The Applicant demonstrates in the response to WCLUDO Section 19.030.C.5 that avoidance and minimization of impacts to fish and wildlife were considered in developing the micrositing corridor, after the completion of substantial resource surveys to identify fish, wildlife, and associated habitat and habitat use. In addition, the response to WCLUDO Section 19.030.C.5 refers to avoidance and minimization measures and a commitment to work with ODFW to propose appropriate monitoring and mitigation actions for the Facility. On this basis, and in consideration of the complete response to WCLUDO Section 19.030.C.5, the Facility is consistent with Policy 9.

*Policy 10 – Historic, Cultural, And Archeological Resources*

*Preserve the historical, archaeological, and cultural resources of the County.*

This policy is implemented in the response to WCLUDO Section 5.020(I), which is addressed in Section 4.1.5.1 of this exhibit. As noted in the response to WCLUDO Section 19.030.C.6, impacts to

identified significant historical, archaeological, and cultural resources will be avoided and an IDPF will be implemented to ensure that the potential for significant impacts on cultural resources is minimized. Therefore, considering the complete response to WCLUDO Section 19.030.C.6, the Facility is consistent with this policy.

*GOAL # 6 – AIR, WATER AND LAND RESOURCES QUALITY*

*To maintain and improve the quality of the air, water and land resources of the County.*

*Policy 1*

*Encourage land uses and land management practices which preserve both the quantity and quality of air, water and land resources*

This policy is implemented in the response to WCLUDO Section 5.020(G), which is addressed in Section 4.1.3.1 of this exhibit. The Facility will have temporary and localized low-level impacts to air quality due to the operation of construction equipment and generation of airborne dust, and BMPs will be implemented to minimize the effects of the dust. Impacts to the area's water quality will be avoided and minimized through the implementation of the Facility's erosion control measures and BMPs. Although some agricultural land will be removed from agricultural use, the Facility will not adversely affect the agricultural land resources of the area, as it will not impact the ability of existing farms and ranches in the area (including the Facility landowners) to continue operation. The Facility will result in a net benefit to agricultural incomes, as the minimal loss of agricultural income due to the limited amount of land occupied by the Facility will be more than offset by revenue to local farmers/ranchers from Facility leases. The additional revenues received by farmers from Facility lease payments will provide a stable and predictable source of income that will supplement farm/ranch revenues and help ensure that landowners' agricultural operations can remain viable in years with lower crop yields or prices. Therefore, considering the complete response to WCLUDO Section 5.020(G), the Facility is consistent with this policy.

*Policy 4*

*Noise levels should be maintained in compliance with state and federal standards.*

*Implementation*

*A. Noise levels for all new industries must be kept within standards set by state and federal agencies.*

*B. Consideration for the effects of noise on the surrounding environment will be given when a new development of any kind is proposed.*

*C. Noise sensitive areas should be identified and only compatible uses permitted in their vicinity.*

This policy is implemented in the response to WCLUDO Sections 5.020(B) and (E) in Section 4.1.3.1, as well as 19.030.C.3, which is addressed in Section 4.1.5.1 of this exhibit. As noted in those sections, the Facility will meet the ODEQ noise standard. On this basis, the Facility will comply with ODEQ noise standards and will be compatible with the surrounding area.

*GOAL # 9 – ECONOMY OF THE STATE**To diversify and improve the economy of Wasco County.**Policy 1**Maintain agriculture and forestry as a basis of the County's rural economy.*

As described in Section 4.1.3.1 of this exhibit, the Facility will not adversely affect the agricultural land resources of the area, as it will not impact the ability of existing farms and ranches in the area (including the Facility landowners) to continue operation. Approximately 323.7 acres of land will be removed from active agricultural production; however, only 10.8 acres of high-value farmland is included in the micrositing corridor. None of this area is used for active agricultural cultivation, but rather for the creation of game habitat for hunting which is not an accepted farming practice. Furthermore, the Applicant anticipates permanently impacting only 10 square feet of high-value farmland due the Facility's overhead collector line. A Farm-Forest Management Easement will be signed and recorded by each landowner with property within the Site Boundary, as required per WCLUDO Section 3.218. The proposed use will be compatible with adjacent agricultural uses, as it will not limit or impact current or future farm activities on the surrounding land and will not diminish the opportunity for neighboring parcels to expand, purchase, or lease any vacant land available for agricultural uses.

The Facility will help maintain agricultural uses in Wasco County by providing stable revenue for Facility landowners, who will receive lease payments for use of their land. The Facility will also result in a net benefit to agricultural incomes, as the minimal loss of agricultural income due to the limited amount of land occupied by the Facility will be more than offset by revenue to local farmers/ranchers from solar facility leases. The additional revenues received by farmers from Facility lease payments will provide a stable and predictable source of income that will supplement farm/ranch revenues and help ensure that landowners' agricultural operations can remain viable in years with lower crop yields or prices.

Wasco County's rural economy will also benefit from the Facility either through the payment of property taxes or through fees paid directly to the county under a program such as the Rural Renewable Energy Development incentive program or the Strategic Investment Program where fees are paid directly to the county in lieu of property taxes. The income generated through either the Facility's property tax revenue or the Facility's service fee payments could fund infrastructure improvements, such as rural fire fighting engines and equipment, that would benefit Wasco County's agricultural and forestry-based economy.

*Policy 2**Commercial and industrial development compatible with the County's agricultural and forestry based economy will be encouraged.*

The Facility is a commercial use that will benefit Wasco County's agriculture-based economy by providing a net benefit to the agricultural incomes of the farmers and ranchers involved with the Facility. As described above in response to Policy (1), the loss of agricultural income due to the approximately 323.7 acres of land that the Facility proposes to withdraw from farm or ranch production will be more than offset by revenue to local farmers from Facility land leases. Also, the

Facility supports Wasco County's Goal #13, which identifies the county's policy to identify, protect, and develop potential renewable energy resources within the county boundaries. The Facility supports this goal by developing an energy facility that is renewable and nonpolluting.

*Policy 3*

*Wasco County will support the expansion and increased productivity of existing industries and firms as a means to strengthen local and regional economic development.*

Through the Facility's lease payments, landowners will receive a stable, long-term income for the farming operation, compared to current revenues from agricultural products that can fluctuate significantly on a seasonal basis. Lease payments are dependable sources of income and improve the potential that landowners and farm operators can purchase additional equipment and hire staff, as needed, to support their existing operations and potentially expand. This will directly support the local economy.

The Facility will benefit the local economy in the short term by providing temporary construction-related employment. During construction, construction workers and their employers will purchase goods and supplies, stay in area hotels, and eat at local restaurants, all of these providing an economic benefit to the local and regional economy by supporting area businesses. Development of the Facility will increase economic diversity within Wasco County and offer nonagricultural employment opportunities for local residents. When operational, the Facility will add an estimated 5-10 full- and part-time jobs within Wasco County, a portion of which will be filled locally. The actual number of operational staff will depend on size of the Facility. Finally, operation of the Facility will also produce additional revenue for Wasco County through the community service fee the Facility would pay directly to Wasco County under a Strategic Investment Program (SIP) agreement. This additional revenue will contribute to improved local services such as roads, schools, police, and fire that benefit Wasco County and the region.

*GOAL #11 – PUBLIC FACILITIES AND SERVICES*

*To plan and develop a timely, orderly and efficient arrangement of public facilities and services to serve as a framework for urban and rural development.*

*Policy 1*

*Provide an appropriate level of fire protection, both structural and wildfire, for rural areas.*

This policy is implemented in WCLUDO Chapter 10. The Facility is located in the Bakeoven Shaniko Rural Fire Protection District. The cities of Maupin and Shaniko both have fire departments; however, these fire departments are small, with limited resources (Hulbert 2005). The Applicant will notify the Bakeoven Shaniko Rural Fire Protection District of construction plans and phasing, identify the location of and access to Facility structures, and provide mutual assistance in the case of fire in or around the site boundary. The Facility will be equipped with fire protection equipment in accordance with the Oregon Fire Code. A Facility Fire Plan will be developed to eliminate the causes of fire, prevent loss of life and property by fire, and to comply with the Wasco County Fire Safety Standards in WCLUDO, Chapter 10. See Section 4.1.4 of this exhibit for a discussion of the Facility's compliance with Wasco County's Fire Safety Standards.

*Policy 3**Minimize adverse impacts resulting from power line corridor and utility development.**B. When economically and physically feasible, transmission lines should be laid underground.*

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*E. Maximum utilization of existing utility right-of-way should be encouraged to minimize the need for additional rights-of-way.*

This policy is implemented in WCLDO 3.214(L) and also reflected in state law, which requires the Applicant to evaluate associated transmission lines under ORS 215.274 as they are considered a subset of the transmission lines that could be evaluated as utility facilities necessary for public service under ORS 215.283(1)(c)(B). ORS 215.274 requires an analysis of alternative transmission corridor routes to avoid and minimize impacts associated with siting transmission lines in the EFU zone. The Applicant analyzes possible transmission line corridor routes in Section 4.3.1 of this exhibit to demonstrate that the proposed route must be sited on high-value farmland or arable land in order to achieve a reasonably direct route or meet unique geographical needs. The Facility collector system will be located underground to the extent feasible; however, the proposed 230-kV transmission line cannot be laid underground due to the presence of soils with low thermal conductivity, which prevents adequate heat dissipation from the conductor or rocky conditions that significantly increase trenching costs. Therefore, portions of the proposed transmission line will be constructed by the Applicant on private easements obtained from willing landowners, who will be compensated for use of their property and any loss of agricultural income and, where possible, the transmission line will be routed along an existing right-of-way. 3.5 miles of the proposed 230-kV transmission line will be located parallel to the existing Wasco County right-of-way associated with Bakeoven Road. However, the Applicant determined that routing the 230-kV transmission line along Bakeoven Road for the entire transmission line route will not be feasible due to Bakeoven Road's right-of-way not providing sufficient space to accommodate curvatures in the transmission line route and due to the lack of easements to place structures on private property parallel to along the entire extent of Bakeoven Road. Therefore, the Facility complies with this policy.

*GOAL #12 – TRANSPORTATION**To provide and encourage a safe, convenient and economic transportation system.**Policy 1**Develop and maintain an adequate County road system.*

This policy is implemented through WCLUDO Section 19.030.C. subparts 9 and 10.] The Applicant proposes several measures to ensure that the construction and operation of the Facility will maintain Wasco County's road system in as good or better quality than prior to the Facility's construction. The Applicant will enter into a Road Use Agreement with Wasco County and will implement a Transportation Plan, which will be developed in consultation with the Wasco County Road Department. There are places on the proposed routes that will require improvements to accommodate new access road driveways and construction traffic. These improvements will remain in place following construction. This is a benefit to Wasco County because the Facility will

bear the cost of these improvements, and when the improvements are completed, they will be available for public use. For these reasons, the Facility is consistent with this policy.

*GOAL #13 – ENERGY CONSERVATION*

*To conserve energy.*

*Policy 1*

*The County will work with appropriate State and Federal agencies to identify and protect, and if feasible, develop potential energy resources, especially renewable energy resources.*

This policy is a directive to Wasco County and is not directly applicable to the Facility. The policy does identify, however, the importance that Wasco County places on developing renewable energy resources within the county boundaries. The Facility supports this goal by developing an energy facility that is renewable and nonpolluting.

*Policy 2*

*Reduce the consumption of non-renewable sources of energy whenever possible.*

*A. Conversion of energy sources from non-renewable sources to renewable sources shall be encouraged.*

*B. The allocation of land and uses permitted on the land should seek to minimize the depletion of non-renewable sources of energy.*

The Facility is a renewable solar generating facility and, while it does not propose to convert nonrenewable energy sources to renewable energy, the Facility will provide additional capacity from renewable energy sources so that nonrenewables, such as coal and fossil fuels, may be needed less than if the Facility were not constructed. For these reasons, the Facility is consistent with this policy.

*Policy 6*

*Use of renewable energy shall be encouraged.*

The Facility is a renewable solar generating facility and therefore contributes to renewable energy use in Wasco County. For this reason, the Facility is consistent with this policy.

### **4.3 Directly Applicable Goals, Statutes, and Administrative Rules**

*(iii) Identify all Land Conservation and Development Commission administrative rules, statewide planning goals and land use statutes directly applicable to the facility under ORS 197.646(3) and describe how the proposed facility complies with those rules, goals and statutes.*

ORS 197.646(1) requires that a local government amend its comprehensive plan and land use regulations to comply with new requirements in land use statutes, statewide planning goals, or rules implementing the statutes or the goals. When a local government has not adopted amendments as required by ORS 197.646(1), the new requirements apply directly to the local government's land use decisions.

Here, Wasco County has yet to adopt into its local land use regulations provisions implementing ORS 215.274<sup>4</sup> governing associated transmission lines on EFU land. Wasco County has also not implemented OAR 660-033-0130(38). Therefore, the Applicant evaluates ORS 215.274 and OAR 660-033-0130(38) directly.

### 4.3.1 Oregon Revised Statutes

#### *215.274 – Associated Transmission Lines Necessary for Public Service*

*(1) As used in this section, "associated transmission line" has the meaning given that term in ORS 469.300*

Per ORS 469.300, "Associated transmission lines" means new transmission lines constructed to connect an energy facility to the first point of junction of such transmission line or lines with either a power distribution system or an interconnected primary transmission system or both or to the Northwest power grid. The Facility's proposed 230-kV transmission line will connect the Facility's collector substation to the existing BPA Maupin Substation, thereby connecting the proposed energy facility to the Northwest power grid. As such, the 230-kV transmission line is an "associated transmission line" under ORS 469.300 and ORS 215.274.

*(2) An associated transmission line is necessary for public service if an applicant for approval under ORS 215.213 (Uses permitted in exclusive farm use zones in counties that adopted marginal lands system prior to 1993) (1)(c)(B) or 215.283 (Uses permitted in exclusive farm use zones in nonmarginal lands counties) (1)(c)(B) demonstrates to the governing body of a county or its designee that the associated transmission line meets:*

*(a) At least one of the requirements listed in subsection (3) of this section; or*

*(b) The requirements described in subsection (4) of this section.*

The proposed 230-kV transmission line does not meet the requirements of subsection (3) and therefore the Applicant demonstrates that the transmission line is necessary for public service under subsection (4), specifically ORS 215.274(4)(a)(A), (B), and (C)

*(4)*

*(a) Except as provided in subsection (3) of this section, the governing body of a county or its designee shall approve an application under this section if, after an evaluation of reasonable alternatives, the applicant demonstrates that the entire route of the associated transmission line meets, subject to paragraphs (b) and (c) of this subsection, two or more of the following factors:*

The Applicant demonstrates in the following analysis that the associated transmission line satisfies the requirements of ORS 215.274(4) by meeting the factors listed in subpart (4)(a)(A), (B), and (C). The majority of the 230-kV transmission line route follows the same route that was approved by

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<sup>4</sup> OAR 660-033-0130(16)(b) mirrors ORS 215.274 therefore the Applicant disregards it for purposes of the analysis.

Wasco County under ORS 215.274(4)(a)(A), (B), and (C) for the Imperial Wind Project Conditional Use Permit (Wasco County 2019b). The Facility's proposed 230-kV transmission line is the same as the previously-approved transmission line route except for the last 2.5 miles before the Maupin Substation, where the route has been realigned 30 feet to the north to take advantage of private land newly under lease by the Applicant.

Although the 230-kV transmission line avoids high-value farmland, no alternative transmission line corridor could avoid arable land. This is because the existing Maupin Substation is a fixed corridor end point for all alternative transmission line routes and even if the location of the Facility's collector substation could be moved within the site boundary, no feasible alternative route exists that can connect the Facility to the Maupin Substation without crossing arable land due to the geographic limitations of gullies, ravines, and steep slopes in the areas where there are predominantly non-arable soils (Figure K-4). The proposed transmission line route is the most direct and most efficient route between the Maupin Substation and the Facility and therefore provides the least impactful transmission line route that is not co-located with an existing linear feature. The Applicant evaluated three alternative transmission routes that would co-locate the transmission line with existing linear features and thereby minimize impacts to arable lands.

- Co-locating the transmission line on the existing 65-kV transmission line owned by Wasco Electric Cooperative which runs southeast from the Maupin Substation, generally along Bakeoven Road toward US 97, and passes within approximately 3,300 feet of the Facility collector substation.
- Siting the transmission line within a new right-of-way that parallels the existing 65-kV transmission line owned by Wasco Electric Cooperative.
- Co-locating the transmission line within the Bakeoven Road right-of-way.

There are no other linear features that could provide potential co-location opportunities and therefore the Applicant has evaluated a reasonable range of alternative transmission routes. The following analysis provides the results of the evaluation of the alternative transmission line routes.

*(A) Technical and engineering feasibility;*

The Applicant evaluated the technical and engineering feasibility of the alternative transmission routes described above that would minimize potential impacts to arable land. The Applicant considered co-locating the proposed 230-kV transmission line with the existing 65-kV line that runs southeast from the Maupin Substation, generally along Bakeoven Road. However, the Applicant determined that the existing 65-kV line's structures do not have the necessary height or strength to support a 230-kV line, which would require a minimum of an additional 10 feet of ground clearance that the existing 65-kV structures cannot accommodate. Therefore, co-locating the two lines would require removing the existing 65-kV structures and replacing them with taller, sturdier structures that could accommodate two circuits. The process of removing the existing structures, installing new structures, and installing the conductors would likely take 4.5 to 6 months, during which there could be prolonged disruptions to electric services along the existing line. The installation process would include site preparation, tear down, foundation construction and pole setting/installation,

and installing insulators and other hardware. Based on the reasons stated above, the Applicant determined that it is not feasible to co-locate the proposed 230-kV transmission line on an existing transmission line. Therefore, the 230-kV transmission line will not satisfy this requirement.

The Applicant also considered a route that would parallel the existing 65-kV Wasco Electric Cooperative transmission line right-of-way from the Maupin Substation to a point within 3,300 feet of the Facility's collector substation. There are several spans where the 65-kV line departs the Bakeoven Road right-of-way to follow a more efficient, direct line through private land, but mostly the 65-kV line is within the 60-foot-wide County right-of-way. The Applicant determined that this route was not technically feasible because portions of this route would not have sufficient right-of-way available to accommodate minimum separation criteria for safety. The 65-kV line crosses Bakeoven Road several times, which makes it impractical to install a 230-kV line that parallels the 65-kV line because fall distance separation would be needed between the two lines. Fall distance separation is equal to structure height plus 10 percent, conservatively assumed to be 50 feet from the 65-kV line and 100 feet for the 230-kV line. The minimum separation distance between the two lines would be the fall distance for the taller structures (100 feet), which would ensure that if one structure failed, it would not affect the adjacent line. This separation distance allows for the safety and resiliency of electrical transmission infrastructure. In this case, installation of parallel lines would result in the 230-kV line being placed outside the County road right-of-way. The Applicant lacks easements from landowners along the entire route of the 65-kV line to place the 230-kV line structures on private property. Transmission lines also need to be set back 6 to 8 feet from nonparticipating property lines to prevent wind-induced movements of the conductor from infringing on property boundaries. The Applicant has co-located the proposed 230-kV with Bakeoven Road where feasible, such as the straight section near the BPA's Maupin Substation, but a transmission line that follows Bakeoven Road for its entire length is not feasible due to space limitations to accommodate two transmission lines within the Bakeoven Road right-of-way and the lack of easements to place structures on private property along the entire extent of Bakeoven Road. Based on the above stated reasons, it is not feasible for the Facility's 230-kV transmission line to parallel an existing transmission line and the 230-kV transmission line will not satisfy this requirement.

The Applicant considered a transmission line corridor between the Maupin Substation and the Facility collector substation that paralleled Bakeoven Road. 3.5 miles of the proposed 230-kV transmission line will be co-located parallel to the existing Wasco County right-of-way associated with Bakeoven Road. However, the Applicant determined that routing the 230-kV transmission line within the Bakeoven Road right-of-way for the entire transmission line route will not be feasible because the Bakeoven Road right-of-way does not provide sufficient space to accommodate curvatures in the transmission line route. The 230-kV line will typically have 700-foot-long spans between structures. Each span of a transmission line between structures is straight and does not curve. Every change of direction requires either a self-supporting (steel or laminated wood) pole or a guyed pole that requires additional space to accommodate guy wires. More than one pole might be required for sharper turns. Following Bakeoven Road for the entire transmission line route is not practicable as it would require poles at each road curvature, and require a much larger right-of-

way. As the Bakeoven Road right-of-way is only 60 feet and contains the 65-kV line already, it would not accommodate the space required to install poles at each curve. For these reasons, the Applicant determined that siting the 230-kV transmission line within or adjacent to the Bakeoven Road right-of-way was only feasible for the first 3.5 miles of the line, where the road right-of-way is straight and turning structures are not required. Also, as stated above, paralleling the Bakeoven Road outside and adjacent to the road right-of-way for its entire length is not feasible due to the lack of easements to place structures on private property along the entire extent of Bakeoven Road. Therefore, the 230-kV transmission line will not satisfy this requirement.

The proposed 230-kV transmission line route is feasible to develop within the 0.5-mile-wide transmission line corridor (as defined in OAR 345-001-0010(13)) because it represents the straightest route, with the shortest length, and least impacts as it avoids sensitive habitat and impacts to high-value farmland and minimizes impacts to arable. Therefore, it meets the technical and engineering feasibility criterion.

*(B) The associated transmission line is locationally dependent because the associated transmission line must cross high-value farmland, as defined in ORS 195.300, or arable land to achieve a reasonably direct route or to meet unique geographical needs that cannot be satisfied on other lands;*

The Facility's 230-kV transmission line is locationally dependent because it must cross arable land to achieve a reasonably direct route, and to meet unique geographical needs that cannot be satisfied on other lands. The transmission line must interface with the solar facility, which includes areas of arable soils (see Figure K-4) from which the power will be generated. Solar energy facilities have specific geographical siting needs that require slopes below 15 percent and locations away from objects or landforms that could shield the sun. The transmission line must also be located near the point of interconnection with BPA at the Maupin Substation, which itself is located on arable land.

As shown on Figure K-4, arable soils dominate within the site boundary and the arable land areas are patchy and highly irregular in shape and size, making them difficult to avoid in a coherent way when siting a linear transmission line between the Facility and the Maupin Substation. Any reasonably direct route between the Maupin Substation and the Facility collector substation will impact Class III soils (arable lands), given the prevalence of the soils between the two points (see Figure K-4) and the other existing constraints (land ownership, environmentally sensitive lands, and topography). Consequently, given that any route will impact arable land, and the fact that the proposed transmission line route offers the most direct path between the two substations, taking into account maximizing use of existing utility right-of-way to the maximum extent practicable, site constraints and the geographical requirements of siting a solar facility, the Applicant asserts that there is no reasonable alternative to consider under this factor. Therefore, the proposed route is locationally dependent because it must cross arable land to achieve a reasonably direct route and it meets this factor.

*(C) Lack of an available existing right of way for a linear facility, such as a transmission line, road or railroad, that is located above the surface of the ground;*

There are limited existing aboveground linear facility rights-of-way located within the site boundary. Alternative transmission line routes that considered co-locating the proposed 230-kV line within the existing rights-of-way of Bakeoven Road and the 65-kV Wasco Electric Cooperative transmission line were evaluated. The Applicant determined that siting the proposed 230-kV line within the 65-kV Wasco Electric Cooperative transmission line right-of-way was not technically feasible because of spacing issues. The minimum separation distance that would be required between the two lines would result in the 230-kV line being placed outside the County road right-of-way and the 65-kV Wasco Electric Cooperative transmission line right-of-way. The Applicant lacks easements from landowners along the 65-kV Wasco Electric Cooperative transmission line right-of-way to place the 230-kV line structures on private property for the entire route. Transmission lines also need to be set back 6 to 8 feet from nonparticipating landowners to prevent wind-induced movements of the conductor from infringing on property boundaries. If the 230-kV line were sited parallel to the existing 65-kV line, and thereby placed outside the County road right-of-way, more impacts to arable land would occur as compared to the proposed route.

The Applicant will utilize to the maximum extent practicable the existing right-of-way associated with Bakeoven Road by siting 3.5 miles of the proposed 230-kV transmission line parallel to Bakeoven Road. Routing the 230-kV transmission line within the Bakeoven Road right-of-way for the entire transmission line route will not be feasible due to spacing constraints. Bakeoven Road right-of-way is only 60 feet and contains the 65-kV line already. Spacing constraints would require a minimum of 100 feet spacing between the 230-kV line and the 65-kV line. Therefore, the existing Bakeoven Road right-of-way would not accommodate the space required to install the 230-kV line.

Any alternative route that would utilize existing road right-of-way or existing transmission line right-of-way would significantly increase the length of the line, require acquisition of numerous new land rights, increase construction costs, and potentially interfere with existing utility infrastructure already located within the right-of-way.

*(b) The applicant shall present findings to the governing body of the county or its designee on how the applicant will mitigate and minimize the impacts, if any, of the associated transmission line on surrounding lands devoted to farm use in order to prevent a significant change in accepted farm practices or a significant increase in the cost of farm practices on the surrounding farmland.*

The Applicant has minimized the length of the transmission line segment across agricultural land to decrease the number of poles that are needed. Pole structures will be spaced as close as 500 feet apart but will generally have 700-foot-long spans. Conservatively, the permanent footprint of each pole structure is 40 square feet. No pole structures will be located on cultivated cropland (see Figure K-3); therefore, the Applicant has avoided impacts to lands devoted to active agricultural uses. The Applicant has long-term energy leases that allow the landowner to continue ranching operations around the transmission line pole structures where ranching activities do not affect the safe operation and maintenance of the transmission line. In addition, the lease payments will help offset minor changes to accepted farming practices or increases in the cost of such practices. The landowner will continue to have access to the underlying agricultural land during line operation.

For the above stated reasons, the proposed 230-kV transmission line route will not result in a significant change to, or a significant increase in the cost of, farm and forest practices on surrounding farmlands and this criterion is met.

*(c) The governing body of a county or its designee may consider costs associated with any of the factors listed in paragraph (a) of this subsection, but consideration of cost may not be the only consideration in determining whether the associated transmission line is necessary for public service.*

The proposed route is the shortest and most direct route to connect the Maupin Substation to the collector substation, which is less expensive to build than a longer route. The proposed 230-kV transmission line route satisfies the locationally dependent requirement of ORS 215.274(4) and is allowed under ORS 215.274.

### **4.3.2 Oregon Administrative Rules**

#### *OAR 660-033-0130(38) – Photovoltaic Solar Power Generation Facility*

*(38) A proposal to site a photovoltaic solar power generation facility shall be subject to the following definitions and provisions:*

*(a) “Arable land” means land in a tract that is predominantly cultivated or, if not currently cultivated, predominantly comprised of arable soils.*

*(b) “Arable soils” means soils that are suitable for cultivation as determined by the governing body or its designate based on substantial evidence in the record of a local land use application, but “arable soils” does not include high-value farmland soils described at ORS 195.300(10) unless otherwise stated.*

*(c) “Dual-use development” means developing the same area of land for both a photovoltaic solar power generation facility and for farm use.*

*(d) “Nonarable land” means land in a tract that is predominantly not cultivated and predominantly comprised of nonarable soils.*

*(e) “Nonarable soils” means soils that are not suitable for cultivation. Soils with an NRCS agricultural capability class V–VIII and no history of irrigation shall be considered nonarable in all cases. The governing body or its designate may determine other soils, including soils with a past history of irrigation, to be nonarable based on substantial evidence in the record of a local land use application.*

*(f) “Photovoltaic solar power generation facility” includes, but is not limited to, an assembly of equipment that converts sunlight into electricity and then stores, transfers, or both, that electricity. This includes photovoltaic modules, mounting and solar tracking equipment, foundations, inverters, wiring, storage devices and other components. Photovoltaic solar power generation facilities also include electrical cable collection systems connecting the photovoltaic solar generation facility to a transmission line, all*

*necessary grid integration equipment, new or expanded private roads constructed to serve the photovoltaic solar power generation facility, office, operation and maintenance buildings, staging areas and all other necessary appurtenances. For purposes of applying the acreage standards of this section, a photovoltaic solar power generation facility includes all existing and proposed facilities on a single tract, as well as any existing and proposed facilities determined to be under common ownership on lands with fewer than 1320 feet of separation from the tract on which the new facility is proposed to be sited. Projects connected to the same parent company or individuals shall be considered to be in common ownership, regardless of the operating business structure. A photovoltaic solar power generation facility does not include a net metering project established consistent with ORS 757.300 and OAR chapter 860, division 39 or a Feed-in-Tariff project established consistent with ORS 757.365 and OAR chapter 860, division 84.*

As described in Section 3.2.2, the site boundary comprises arable soils and has some currently cultivated areas. Therefore, portions of the site boundary meet the definition of arable land. Per the Facility description provided in Exhibit B, the Facility and its associated appurtenances meet the definition of “photovoltaic solar power generation facility.”

*(g) For high-value farmland described at ORS 195.300(10), a photovoltaic solar power generation facility shall not use, occupy, or cover more than 12 acres unless:*

*(A) The provisions of paragraph (h)(H) are satisfied; or*

*(B) A county adopts, and an applicant satisfies, land use provisions authorizing projects subject to a dual-use development plan. Land use provisions adopted by a county pursuant to this paragraph may not allow a project with a nominal electric generating capacity greater than 3 Mw or in excess of 20 acres. Land use provisions adopted by the county must require sufficient assurances that the farm use element of the dual-use development plan is established and maintained so long as the photovoltaic solar power generation facility is operational or components of the facility remain on site.*

As described above in Section 3.2.4.1, there is approximately 121 acres of high-value farmland within the site boundary, with approximately 10.8 acres within the micro-siting corridor. The underlying soils are NRCS Class III or Class VII and only designated high-value because the soils are in a “place of use” for an existing water right. The Applicant anticipates that the Facility will avoid impacts to all high-value farmland with the exception of approximately up to 10 square feet for a collector line pole that will parallel Bakeoven Road. Regardless, as there are less than 12 acres of high-value farmland within the micro-siting corridor, the Facility will not use, occupy, or cover more than 12 acres of high-value farmland and the Applicant satisfies the requirements of OAR 660-033-0130(g).

*(h) The following criteria must be satisfied in order to approve a photovoltaic solar power generation facility on high value farmland described at ORS 195.300(10):*

As discussed above, the micrositing corridor includes approximately 10.8 acres of high-value farmland. Therefore the Facility may use high-value farmland although it will be below the 12-acre threshold described in subpart (g) above.

*(A) The proposed photovoltaic solar power generation facility will not create unnecessary negative impacts on agricultural operations conducted on any portion of the subject property not occupied by project components. Negative impacts could include, but are not limited to, the unnecessary construction of roads dividing a field or multiple fields in such a way that creates small or isolated pieces of property that are more difficult to farm, and placing photovoltaic solar power generation facility project components on lands in a manner that could disrupt common and accepted farming practices;*

See the response to the Wasco County Conditional Use Review (WCLUDO Section 5.020, Section 4.1.3 of the exhibit) for an analysis of potential impacts to the agricultural uses within the micrositing corridor. Specifically, see the response WCLUDO Sections 5.020 subparts (G), (J), and (K).

*(B) The presence of a photovoltaic solar power generation facility will not result in unnecessary soil erosion or loss that could limit agricultural productivity on the subject property. This provision may be satisfied by the submittal and county approval of a soil and erosion control plan prepared by an adequately qualified individual, showing how unnecessary soil erosion will be avoided or remedied. The approved plan shall be attached to the decision as a condition of approval;*

The potential impacts from erosion during construction are anticipated to be minimal and are addressed through erosion-control measures as described in Exhibit I and in the ESCP (Attachment I-1). Subsequent revegetation efforts outside of the Facility's fence line are identified in the Revegetation Plan (see Exhibit P, Attachment P-3) will provide for long-term soil stability during operation. Restricting operational activity to permanent roads will minimize erosion. The Facility will comply with the ODEQ erosion control measures, and the Applicant will obtain a NPDES 1200-C permit from ODEQ through the submittal and approval of the Erosion Control Plan.

*(C) Construction or maintenance activities will not result in unnecessary soil compaction that reduces the productivity of soil for crop production. This provision may be satisfied by the submittal and county approval of a plan prepared by an adequately qualified individual, showing how unnecessary soil compaction will be avoided or remedied in a timely manner through deep soil decompaction or other appropriate practices. The approved plan shall be attached to the decision as a condition of approval;*

The Facility will limit mass grading to new access roads, solar array, the battery storage system, O&M building, staging area, and the collector substation. Construction vehicles will be limited to access roads and approved routes, and cross-country travel outside the fence line will be prohibited. Along the transmission line, the Applicant will minimize grading to the extent

practicable but localized grading may be needed at pole locations or portions of access routes. By limiting the extent of grading to specific areas needed for construction, the Facility will not result in unnecessary soil compaction that would reduce the productivity of soils for crop production or grazing. Soil compaction in agricultural areas outside the fenceline will be avoided or remedied in a timely manner through deep soil decompaction or other appropriate practices agreed upon with the landowner.

*(D) Construction or maintenance activities will not result in the unabated introduction or spread of noxious weeds and other undesirable weed species. This provision may be satisfied by the submittal and county approval of a weed control plan prepared by an adequately qualified individual that includes a long-term maintenance agreement. The approved plan shall be attached to the decision as a condition of approval;*

The Noxious Weed Control Plan (see Exhibit P, Attachment P-5) specifically addresses noxious weeds along solar fence lines. Measures to minimize the spread of noxious weeds were developed in consultation with the Wasco County Weed Master, as requested by ODFW in their comments on the NOI (ODFW 2019). Weed control measures would follow the Applicant's Noxious Weed Control Plan.

*(E) Except for electrical cable collection systems connecting the photovoltaic solar generation facility to a transmission line, the project is not located on those high-value farmland soils listed in OAR 660-033-0020(8)(a);*

The Facility is not located on high-value farmland soils listed in OAR 660-033-0020(8)(a). See Section 3.2.4.1 above.

*(F) The project is not located on those high-value farmland soils listed in OAR 660-033-0020(8)(b)-(e) or arable soils unless it can be demonstrated that:*

*(i) Non high-value farmland soils are not available on the subject tract;*

*(ii) Siting the project on non high-value farmland soils present on the subject tract would significantly reduce the project's ability to operate successfully; or*

*(iii) The proposed site is better suited to allow continuation of an existing commercial farm or ranching operation on the subject tract than other possible sites also located on the subject tract, including those comprised of non high-value farmland soils; and*

Of the high-value farmland definitions provided under OAR 660-033-0020(8)(b)-(e), only subpart (b) may apply to the Facility as subparts (c), (d), and (e) refer to lands west of the Cascade Mountains. As noted in the footnote under Section 3.2.4.1, the Applicant considered whether any portion of the actively farmed land within the site boundary met the definition of high-value farmland under ORS 215.705(2) and OAR 660-033-0020(8)(b) and concluded that the definition did not apply. It is possible the argument could be made that 26.8 acres of land within the site boundary currently used for cultivation of lavender could meet the definition of "specified perennials

under ORS 215.705(2); however, the 26.8 acres of land currently used to cultivate lavender is outside the micrositing corridor. Therefore, the Applicant satisfies the requirements of OAR 660-033-0130(h)(F) as the Facility will not use land that meets the definition of high-value farmland under OAR 660-033-0020(8)(b)-(e).

*(G) A study area consisting of lands zoned for exclusive farm use located within one mile measured from the center of the proposed project shall be established and:*

*(i) If fewer than 48 acres of photovoltaic solar power generation facilities have been constructed or received land use approvals and obtained building permits within the study area, no further action is necessary.*

*(ii) When at least 48 acres of photovoltaic solar power generation facilities have been constructed or received land use approvals and obtained building permits, either as a single project or as multiple facilities within the study area, the local government or its designate must find that the photovoltaic solar power generation facility will not materially alter the stability of the overall land use pattern of the area. The stability of the land use pattern will be materially altered if the overall effect of existing and potential photovoltaic solar power generation facilities will make it more difficult for the existing farms and ranches in the area to continue operation due to diminished opportunities to expand, purchase or lease farmland, acquire water rights, or diminish the number of tracts or acreage in farm use in a manner that will destabilize the overall character of the study area.*

Fewer than 48 acres of photovoltaic solar power generation facilities have been constructed or received land use approvals and obtained building permits within the 1-mile study area.

*(i) For arable lands, a photovoltaic solar power generation facility shall not use, occupy, or cover more than 20 acres. The governing body or its designate must find that the following criteria are satisfied in order to approve a photovoltaic solar power generation facility on arable land:*

OAR 660-033-0130(38) defines arable land as “land in a tract that is predominantly cultivated or, if not currently cultivated, predominantly comprised of arable soils.” Table K-3 provides the total area of arable land within the site boundary, micrositing corridor, and solar array area.

Approximately 88 percent of the total micrositing corridor is comprised of arable land, with the solar array area being comprised of approximately 93 percent of arable land. The remaining acres within the site boundary, micrositing corridor, and solar array area are composed of nonarable land.

Based on the above information, the Facility will use, occupy, or cover more than 20 acres of arable land and therefore the Applicant seeks a Goal 3 exception.

*(A) The project is not located on those high-value farmland soils listed in OAR 660-033-0020(8)(a);*

The Facility is not located on high-value farmland soils listed in OAR 660-033-0020(8)(a). See Section 3.2.4.1 above.

*(B) The project is not located on those high-value farmland soils listed in OAR 660-033-0020(8)(b)-(e) or arable soils unless it can be demonstrated that:*

The Facility is not located on high-value farmland soils listed in OAR 660-033-0020(8)(b)-(e); no such soils occur within the micrositing corridor.

*(i) Nonarable soils are not available on the subject tract; (ii) Siting the project on nonarable soils present on the subject tract would significantly reduce the project's ability to operate successfully; or*

*(iii) The proposed site is better suited to allow continuation of an existing commercial farm or ranching operation on the subject tract than other possible sites also located on the subject tract, including those comprised of nonarable soils;*

Although there are nonarable soils located within the subject tracts associated with the solar array area (see NRCS Soil Classification VII and VIII on Figure K-4), siting the Facility on the non-arable soils would significantly reduce the Facility's ability to operate successfully because most of the non-arable soils are located either on slopes that are north facing, over 15 percent or within a drainage, making them unsuitable for construction and operation of a photovoltaic solar power generation facility. Figure K-4 shows the NRCS Soil Capability Classifications within the land use analysis area and shows the extent of the subject tracts associated with the solar array area and located within the land use analyses area.<sup>5</sup> The non-arable soils (Class VII and VIII) are shown primarily along drainages and slopes. Slopes above 15 percent would require extensive grading to allow for the construction of a photovoltaic solar power generation facility. Extensive amounts of cut and fill would significantly increase construction costs and could lead to greater impacts to soil erosion and sediment loss. The industry standard for siting solar photovoltaic energy projects is to avoid building on slopes over 15 percent.

*(C) No more than 12 acres of the project will be sited on high-value farmland soils described at ORS 195.300(10);*

The Applicant demonstrates compliance with this standard as described above.

*(D) A study area consisting of lands zoned for exclusive farm use located within one mile measured from the center of the proposed project shall be established and:*

*(i) If fewer than 80 acres of photovoltaic solar power generation facilities have been constructed or received land use approvals and obtained building permits within the study area no further action is necessary.*

*(ii) When at least 80 acres of photovoltaic solar power generation facilities have been constructed or received land use approvals and obtained building permits,*

<sup>5</sup> The Applicant is only required to analyze land within the land use analysis area for purposes of demonstrating compliance with the Land Use Standard.

*either as a single project or as multiple facilities, within the study area the local government or its designate must find that the photovoltaic solar power generation facility will not materially alter the stability of the overall land use pattern of the area. The stability of the land use pattern will be materially altered if the overall effect of existing and potential photovoltaic solar power generation facilities will make it more difficult for the existing farms and ranches in the area to continue operation due to diminished opportunities to expand, purchase or lease farmland, acquire water rights or diminish the number of tracts or acreage in farm use in a manner that will destabilize the overall character of the study area; and*

Fewer than 80 acres of photovoltaic solar power generation facilities have been constructed or received land use approvals and obtained building permits within the 1-mile study.

*(E) The requirements of OAR 660-033-0130(38)(h)(A), (B), (C) and (D) are satisfied*

See the response to OAR 660-033-0130(38)(h)(A), (B), (C) and (D) above.

*(k) An exception to the acreage and soil thresholds in subsections (g), (h), (i), and (j) of this section may be taken pursuant to ORS 197.732 and OAR chapter 660, division 4.*

The Facility will exceed 20 acres of arable land, and therefore the Applicant is seeking an exception pursuant to ORS 197.732 and OAR chapter 660, division 4 (see Section 4.5).

#### **4.4 Non-compliance with Applicable Substantive Criteria**

*(iv) If the proposed facility might not comply with all applicable substantive criteria, identify the applicable statewide planning goals and describe how the proposed facility complies with those goals.*

The solar array does not meet WCLUDO 3.215(M) as it will preclude more than 20 acres from use as a commercial agricultural enterprise. The Applicant demonstrates below in Section 4.5 that an exception to Statewide Planning Goal 3 is justified.

#### **4.5 Statewide Planning Goal 3 Exception**

*(v) If the proposed facility might not comply with all applicable substantive criteria or applicable statewide planning goals, describe why an exception to any applicable statewide planning goal is justified, providing evidence to support all findings by the Council required under ORS 469.504(2).*

For purposes of the Goal 3 analysis, the Applicant analyzes the 4,160-acre micro-siting corridor which includes a total of 3,686 acres of arable land. Although the largest anticipated Facility footprint is about 2,717 acres, the Applicant is requesting the flexibility to site the solar array area anywhere within the micro-siting corridor. Therefore, the Goal 3 analysis is structured to evaluate

the entire solar micro-siting area and seeks to remove a maximum of 3,686 arable land acres from Goal 3 protection<sup>6</sup>.

The Applicant demonstrates below that a reason exception is warranted under ORS 469.504(2)(c) and OAR 345-022-0030(4)(c). Further, the Applicant demonstrates that locating the solar array anywhere within the solar micro-siting area, subject to the proposed conditions, will be compatible with adjacent farm uses.

ORS 469.401(3) provides the process by which the Applicant must coordinate with affected state agencies, counties, cities, or other political divisions of the state for matters included in and governed by the site certificate that would otherwise be within the jurisdiction of the affected state agency, county, city, or political subdivision (absent EFSC review). ORS 469.401(3) applies generally; it is not specific to land use but covers the range of approvals required for the construction and operation of the Facility. ORS 469.401(3) requires that the affected state agency, county, city, or political division of the state, upon the Applicant filing the proper application and filing fee, must issue the permits, licenses, and certificates addressed in the site certificate without a hearing or other proceeding. While the statutory language only references “permits, licenses, and certificates,” the provision expressly applies to all matters included in and governed by the site certificate.

The Applicant is requesting approval for commercial utility facility under WCLUDO Section 3.210, Section 5.020, Chapter 10, and Section 19.030 and a Goal 3 exception request. Outside of the EFSC process, approval for a commercial utility facility is in the form of a quasi-judicial land use decision authorizing a conditional use permit. In comparison, approval of a Goal 3 exception is in the form of a quasi-legislative land decision amending a county’s comprehensive plan to include the exception and remove the specified land from Goal 3 protection. While still a land use approval, granting a Goal 3 exception request does not amount to a “permit” within the meaning of ORS 215.402(4). Nonetheless, both are land use reviews included in site certificate pursuant to ORS 469.504(1)(b) and 469.504(2)(c). Therefore, following issuance of the site certificate, the Applicant will file a conditional use permit application and filing fee along with a comprehensive plan amendment application and filing fee with Wasco County pursuant to ORS 469.401(3). Upon submission of the proper applications and filing fees, Wasco County must issue a conditional use permit and adopt a comprehensive plan amendment pursuant to the conditions in the site certificate and without hearing or other procedures. The Applicant proposes a condition to this effect.

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<sup>6</sup> The Applicant anticipates impacting less than 3,686 acres of arable lands in the final design and the final acreage requested to be removed from Goal 3 protection will be provided with the Facility’s as-built drawings.

#### 4.5.1 *Demonstration that a “Reasons” Exception is Appropriate*

*ORS 469.504(2)(c)(A); OAR 345-022-0030(4)(c)(A) Reasons justify why the state policy embodied in the applicable goal should not apply;*

The state policy embodied in Goal 3 is the preservation and maintenance of agricultural land for farm use. As discussed in Section 4 of this exhibit, the Facility will not result in significant adverse impacts on accepted farm practices in the land use area. However, the Applicant must also demonstrate why the Goal 3 policy should not apply to the Facility. The Applicant’s justification for not applying the Goal 3 arable land acreage limitation to the Facility is presented directly below.

- The majority (91 percent, or 3,351.5 acres) of the 3,686 acres of arable land subject to the Goal 3 exception is non-irrigated, uncultivated agricultural land. No irrigated actively cultivated farmland will be removed from production due to the Goal 3 exception<sup>7</sup>. Less than 9% of the arable land subject to the Goal 3 exception includes non-irrigated currently cultivated land (a total of 323.7 acres); the remaining land removed from agricultural use is rangeland or former Conservation Reserve Program (CRP) land.
- The Goal 3 exception does not seek to permanently remove land from agricultural use. Per the terms of the lease, the land will be returned to agricultural use following retirement and restoration of the solar array.
- The majority (91 percent, or 3,351.5 acres) of the arable land within the micrositing corridor has historically been enrolled in the Conservation Reserve Program (CRP) or used for winter and spring cattle grazing as the land is not economically viable to cultivate crops. As the CRP typically only applies to a parcel for 10-15 years, much of the land historically enrolled in the CRP is no longer eligible and therefore no longer provides income to the land owners. Solar energy lease payments would replace the lost CRP income, thus providing economic support for land owners to continue their agricultural activities on their other lands not subject to the Goal 3 exception.
- Construction of the Facility will result in a net benefit to the landowner’s agricultural incomes, as the revenue generated from solar facility leases will more than offset the minimal loss of agricultural income from the removal of the solar array area from agricultural use. The additional revenues received by farmers from lease payments will provide a stable and predictable source of income that will supplement farm/ranch revenues and help ensure these properties can stay in these farmer’s families’ hands rather than being sold to corporations or subdivided.
- For any properties associated with the Facility enrolled in the farm deferral program that may be disqualified from that program as a result of the goal exception process, the Applicant will compensate the landowner for any back taxes due as well as future taxes (as

<sup>7</sup> Although the micrositing corridor includes 10.8 acres with a place of use irrigation water right, this acreage is not currently used for crop cultivation nor has it historically been used for crop cultivation.

required in the land lease agreements). Therefore, disqualification from the farm deferral program will have no economic impact to the farm/ranch owners.<sup>8</sup>

- Up to 3,686 acres of solar generation promotes rural economic development by creating jobs and adding to the tax base of Wasco County.
- The Facility supports Wasco County's Goal 13, which identifies the County's policy to identify, protect, and develop potential renewable energy resources within the county boundaries. The Facility supports this goal by developing an energy facility that is renewable and nonpolluting.
- Wasco County's rural economy will also benefit from the Facility through the community service fee the Facility will pay directly to Wasco County under a Strategic Investment Program (SIP) agreement<sup>9</sup>. The SIP agreement will provide a 15-year property tax incentive to the Facility and will require the Facility to pay a community service fee directly to Wasco County. The Facility's community service fee payments could fund infrastructure improvements that would benefit Wasco County's agricultural and forestry-based economy.
- The availability of reliable renewable energy that will be produced by the solar array is attractive to recruiting and retaining energy-dependent businesses to Oregon that have renewable energy procurement policies.
- Oregon's Renewable Portfolio Standard (RPS) establishes a requirement for how much of Oregon's electricity must come from renewable resources like solar. The current RPS is set at 50 percent by 2040. In addition to Oregon's RPS, private companies have their own renewable energy procurement policies, which increase the demand for renewable energy in Oregon. These public and private policies are intended to reduce greenhouse gas emissions, mitigate climate impact, and reduce reliance on carbon-based fuels. Solar generation, like the proposed solar array, helps further these public and private policies and outweigh temporarily removing up to 3,686 acres from Goal 3 protection.

#### **4.5.2 Evidence that Environmental, Socioeconomic, and Energy Consequences Favor the Exception**

*ORS 469.504(2)(c)(B); OAR 345-022-0030(4)(c)(B) The significant environmental, economic, social and energy consequences anticipated as a result of the proposed facility have been identified and adverse impacts will be mitigated in accordance with rules of the Council applicable to the siting of the proposed facility;*

Environmental. When considering the environmental consequences, the Council takes into consideration factors such as (1) water quality, (2) environmental safety and spill prevention, (3) soil erosion, (4) stormwater and wastewater management, (5) air emissions, and (6) impacts to

<sup>8</sup> This bullet is a direct response to Wasco County's letter Response to Bakeoven Solar Project Notice of Intent (item #5)(Wasco County 2019a).

<sup>9</sup> <http://www.oregon4biz.com/Oregon-Business/Tax-Incentives/SIP/>

habitat. Such factors are considerations under several of the Council's review standards already. The Council may rely on findings presented in the following exhibits to determine that the potential environmental adverse impacts associated with the solar array have been identified and will be mitigated, including Exhibit I (Soils), Exhibit J (Wetlands), Exhibit P (Fish and Wildlife Habitats and Species), Exhibit Q (Threatened and Endangered Plant and Animal Species), and Exhibit U (Public Services, addressing wastewater and stormwater).

The region has warmed nearly 2 degrees Fahrenheit since 1900 because of increased greenhouse gas emissions (Dalton et al. 2017). This warming includes warmer waters that affect both river and coastal ecosystems, threatening salmon runs and other important marine and freshwater species. Additionally, in eastern Oregon, large mountain areas have been hit by mountain pine beetle infestations, wildfires, or both, causing widespread shifts in forest ecosystems (Dalton et al. 2017). A mission of Oregon's Climate Action Plan is to achieve a reduction in greenhouse gas emissions levels to at least 45 percent below 1990 emissions levels by 2035 at least 80 percent below 1990 emissions levels by 2050. One of the measures identified to accomplish this is through supporting renewable energy development such as solar facilities (Oregon House Bill 2020). Therefore, the Facility may contribute to the reduction of greenhouse gas emissions, which thereby may result in a beneficial environmental impact.

Economic. When considering the economic consequences, the Council takes into consideration actors such as (1) any increased burden on public services, (2) benefits to the rural tax base (3) job creation, and (4) revenue for area landowners. Exhibit U contains a discussion on the potential impacts on public services, including fire, safety, and transportation. It also provides information on job creation during construction and operation. Exhibit W discusses retirement and restoration of the Facility and demonstrates that no burden will be placed on the area landowners or the County because the Applicant is obligated to retire and restore the site and will have a financial assurance in place to guarantee such work.

Social. When considering the social consequences, the Council takes into consideration factors such as access and impact to resources of importance to the public such as protected areas, recreation, cultural resources, and scenic areas. The Council also takes into consideration impacts to public and community services. Exhibit L demonstrates that the Facility will not adversely impact protected areas within the analysis area and, similarly, Exhibits R, S, and T demonstrate the same for scenic resources, cultural resources, and recreation, respectively. Exhibit U demonstrates that the solar array will not result in adverse impacts on public or community services such as health care, education, housing, water supply, waste disposal, transportation, or fire and safety.

Energy. When considering the energy consequences, the Council takes into consideration factors such as how much energy the proposed facility will require, the source of the energy, and whether the proposed facility promotes important energy policies. As discussed above, the solar array will generate reliable renewable energy for sale to the public and, while doing so, promote Oregon's RPS and commitment to rural economic development.

Conclusion. On balance, the Council may find that the environmental, economic, social, and energy consequences associated with the solar array have been identified and where necessary, adverse

impacts have been minimized or mitigated. No additional conditions of approval other than those proposed above are required to make this finding.

#### **4.5.3 Compatibility with Adjacent Land Uses**

*ORS 469.504(2)(c)(C); OAR 345-022-0030(4)(c)(C) The proposed facility is compatible with other adjacent uses or will be made compatible through measures designed to reduce adverse impacts.*

Uses on the surrounding land, including abutting properties, are generally agricultural ranching with some mixed residential/agricultural uses associated with ranch homesites.

Adjacent uses include ongoing farming operations. Section 4.1.3.1, in response to WCLUDO Section 5.020, discusses the Facility's compatibility with adjacent uses including efforts to avoid, minimize, and mitigate adverse impacts to farm uses within the land use analysis area. The solar array will remove up to 3,686 acres from farm use for the life of the Facility but will not adversely impact ongoing agricultural operations, specifically cattle ranching and dryland crop cultivation.

## **5.0 Conclusion**

Based on the foregoing analysis, the Facility complies with the applicable substantive criteria from Wasco County except for WCLUDO 3.215(M). However, the Applicant demonstrates that a Goal 3 exception is warranted under ORS 469.504(2)(c) and OAR 345-022-0030(4)(c). The Goal 3 exception is warranted to allow a locationally dependent facility that will fulfill important state and county goals by providing renewable energy while minimizing impacts on local farming practices. Accordingly, the information contained in this exhibit provides the Council with sufficient information to make a determination that the Facility complies with the land use standard set forth in OAR 345-022-0030.

## 6.0 Submittal Requirements and Approval Standards

### 6.1 Submittal Requirements

**Table K-5. Submittal Requirements Matrix**

Requirement	Location
OAR 345-021-0010 (1)(k) Information about the proposed facility's compliance with the statewide planning goals adopted by the Land Conservation and Development Commission, providing evidence to support a finding by the Council as required by OAR 345-022-0030. The applicant shall state whether the applicant elects to address the Council's land use standard by obtaining local land use approvals under ORS 469.504(1)(a) or by obtaining a Council determination under ORS 469.504(1)(b). An applicant may elect different processes for an energy facility and a related or supporting facility but may not otherwise combine the two processes. Once the applicant has made an election, the applicant may not amend the application to make a different election. In this subsection, "affected local government" means a local government that has land use jurisdiction over any part of the proposed site of the facility. In the application, the applicant shall:	Section 1.0
(A) Include a map showing the comprehensive plan designations and land use zones in the analysis area.	Section 2.0
(B) If the applicant elects to obtain local land use approvals:	N/A
(i) Identify the affected local government(s) from which land use approvals will be sought.	N/A
(ii) Describe the land use approvals required in order to satisfy the Council's land use standard.	N/A
(iii) Describe the status of the applicant's application for each land use approval.	N/A
(iv) Provide an estimate of time for issuance of local land use approvals.	N/A
(C) If the applicant elects to obtain a Council determination on land use:	Section 4.0
(i) Identify the affected local government(s).	Section 4.0
(ii) Identify the applicable substantive criteria from the affected local government's acknowledged comprehensive plan and land use regulations that are required by the statewide planning goals and that are in effect on the date the application is submitted and describe how the proposed facility complies with those criteria;	Sections 4.1 and 4.2
(iii) Identify all Land Conservation and Development Commission administrative rules, statewide planning goals and land use statutes directly applicable to the facility under ORS 197.646(3) and describe how the proposed facility complies with those rules, goals and statutes.	Section 4.3
(iv) If the proposed facility might not comply with all applicable substantive criteria, identify the applicable statewide planning goals and describe how the proposed facility complies with those goals.	Section 4.4

Requirement	Location
(v) If the proposed facility might not comply with all applicable substantive criteria or applicable statewide planning goals, describe why an exception to any applicable statewide planning goal is justified, providing evidence to support all findings by the Council required under ORS 469.504(2).	Section 4.5
(D) If the proposed facility will be located on federal land:	N/A
(i) Identify the applicable land management plan adopted by the federal agency with jurisdiction over the federal land;	N/A
(ii) Explain any differences between state or local land use requirements and federal land management requirements.	N/A
(iii) Describe how the proposed facility complies with the applicable federal land management plan.	N/A
(iv) Describe any federal land use approvals required for the proposed facility and the status of application for each required federal land use approval.	N/A
(v) Provide an estimate of time for issuance of federal land use approvals.	N/A
(vi) If federal law or the land management plan conflicts with any applicable state or local land use requirements, explain the differences in the conflicting requirements, state whether the applicant requests Council waiver of the land use standard described under paragraph (B) or (C) of this subsection and explain the basis for a waiver.	N/A

## 6.2 Approval Standards

**Table K-6. Approval Standard**

Approval Standard	Location
<b>OAR 345-022-0030 Land Use</b>	
(1) To issue a site certificate, the Council must find that the proposed facility complies with the statewide planning goals adopted by the Land Conservation and Development Commission.	Sections 4.3 and 4.4
(2) The Council shall find that a proposed facility complies with section (1) if:	-
(a) The applicant elects to obtain local land use approvals under ORS 469.504(1)(a) and the Council finds that the facility has received local land use approval under the acknowledged comprehensive plan and land use regulations of the affected local government; or	N/A
(b) The applicant elects to obtain a Council determination under ORS 469.504(1)(b) and the Council determines that:	Section 4.0
(A) The proposed facility complies with applicable substantive criteria as described in section (3) and the facility complies with any Land Conservation and Development Commission administrative rules and goals and any land use statutes directly applicable to the facility under ORS 197.646(3);	Sections 4.1, 4.2, and 4.3

Approval Standard	Location
(B) For a proposed facility that does not comply with one or more of the applicable substantive criteria as described in section (3), the facility otherwise complies with the statewide planning goals or an exception to any applicable statewide planning goal is justified under section (4); or	Sections 4.4 and 4.5
(C) For a proposed facility that the Council decides, under sections (3) or (6), to evaluate against the statewide planning goals, the proposed facility complies with the applicable statewide planning goals or that an exception to any applicable statewide planning goal is justified under section (4).	Sections 4.4 and 4.5
(3) As used in this rule, the “applicable substantive criteria” are criteria from the affected local government’s acknowledged comprehensive plan and land use ordinances that are required by the statewide planning goals and that are in effect on the date the applicant submits the application. If the special advisory group recommends applicable substantive criteria, as described under OAR 345-021-0050, the Council shall apply them. If the special advisory group does not recommend applicable substantive criteria, the Council shall decide either to make its own determination of the applicable substantive criteria and apply them or to evaluate the proposed facility against the statewide planning goals.	Sections 4.1 and 4.2
(4) The Council may find goal compliance for a proposed facility that does not otherwise comply with one or more statewide planning goals by taking an exception to the applicable goal. Notwithstanding the requirements of ORS 197.732, the statewide planning goal pertaining to the exception process or any rules of the Land Conservation and Development Commission pertaining to the exception process, the Council may take an exception to a goal if the Council finds:	Section 4.5
(a) The land subject to the exception is physically developed to the extent that the land is no longer available for uses allowed by the applicable goal;	N/A
(b) The land subject to the exception is irrevocably committed as described by the rules of the Land Conservation and Development Commission to uses not allowed by the applicable goal because existing adjacent uses and other relevant factors make uses allowed by the applicable goal impracticable; or	N/A
(c) The following standards are met:	Section 4.5
(A) Reasons justify why the state policy embodied in the applicable goal should not apply;	Section 4.5
(B) The significant environmental, economic, social and energy consequences anticipated as a result of the proposed facility have been identified and adverse impacts will be mitigated in accordance with rules of the Council applicable to the siting of the proposed facility; and	Section 4.5
(C) The proposed facility is compatible with other adjacent uses or will be made compatible through measures designed to reduce adverse impacts.	Section 4.5
(5) If the Council finds that applicable substantive local criteria and applicable statutes and state administrative rules would impose conflicting requirements, the Council shall resolve the conflict consistent with the public interest. In resolving the conflict, the Council cannot waive any applicable state statute.	N/A

Approval Standard	Location
(6) If the special advisory group recommends applicable substantive criteria for an energy facility described in ORS 469.300(10)(a)(C) to (E) or for a related or supporting facility that does not pass through more than one local government jurisdiction or more than three zones in any one jurisdiction, the Council shall apply the criteria recommended by the special advisory group. If the special advisory group recommends applicable substantive criteria for an energy facility described in ORS 469.300(10)(a)(C) to (E) or a related or supporting facility that passes through more than one jurisdiction or more than three zones in any one jurisdiction, the Council shall review the recommended criteria and decide whether to evaluate the proposed facility against the applicable substantive criteria recommended by the special advisory group, against the statewide planning goals or against a combination of the applicable substantive criteria and statewide planning goals. In making the decision, the Council shall consult with the special advisory group, and shall consider:	N/A
(a) The number of jurisdictions and zones in question;	N/A
(b) The degree to which the applicable substantive criteria reflect local government consideration of energy facilities in the planning process; and	N/A
(c) The level of consistence of the applicable substantive criteria from the various zones and jurisdictions.	N/A

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# Figures

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# Bakeoven Solar Project

## Figure K-1 Land Use Analysis Area

WASCO COUNTY, OREGON

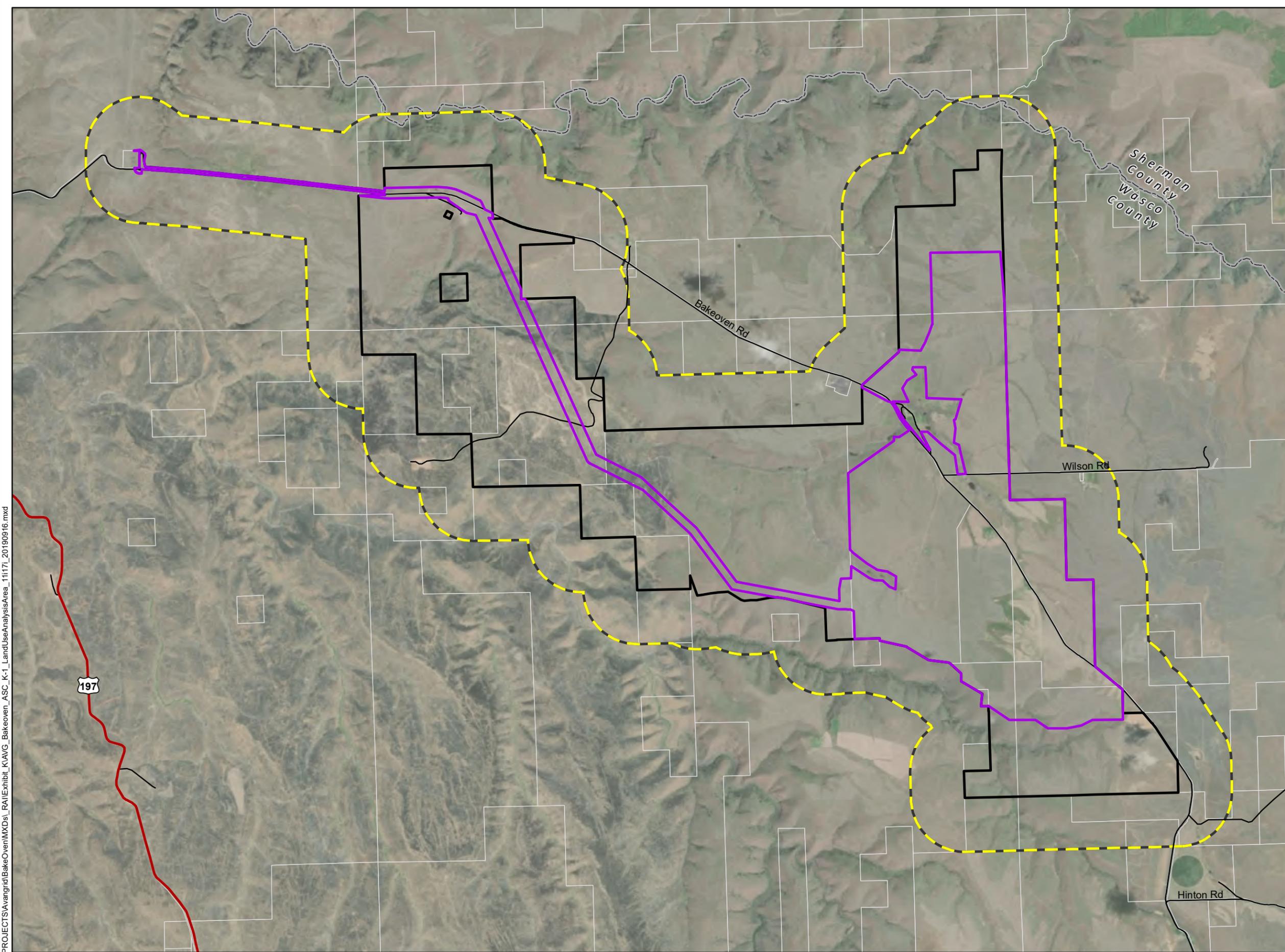
- Proposed Site Boundary
  - Proposed Micrositing Corridor
  - Analysis Area (0.5-mile Buffer)
  - Wasco County Tax Lot Boundary
- Basemap Features**
- US Highway
  - Local Road
  - County Boundary



### Data Sources

Avangrid-Project Infrastructure;  
USDA-Aerial Imagery; Census Bureau-Tiger Roads

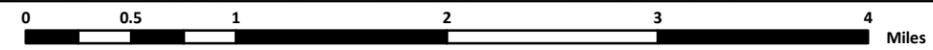
### Reference Map



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1:55,000 WGS 1984 UTM Zone 10N



NOT FOR CONSTRUCTION

# Bakeoven Solar Project

## Figure K-2 Zoning and Comprehensive Plan Designations

WASCO COUNTY, OREGON

-  Proposed Site Boundary
  -  Proposed Micrositing Corridor
  -  Analysis Area (0.5-mile Buffer)
  -  Wasco County Tax Lot Boundary
  -  Wasco County Exclusive Farm Use Zone A-1 (160), Comprehensive Plan Designation – Agriculture
  -  Sherman County Exclusive Farm Use Zone F-1
- Basemap Features**
-  US Highway
  -  Local Road
  -  County Boundary



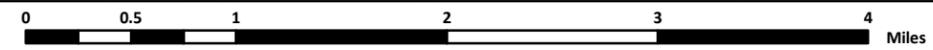
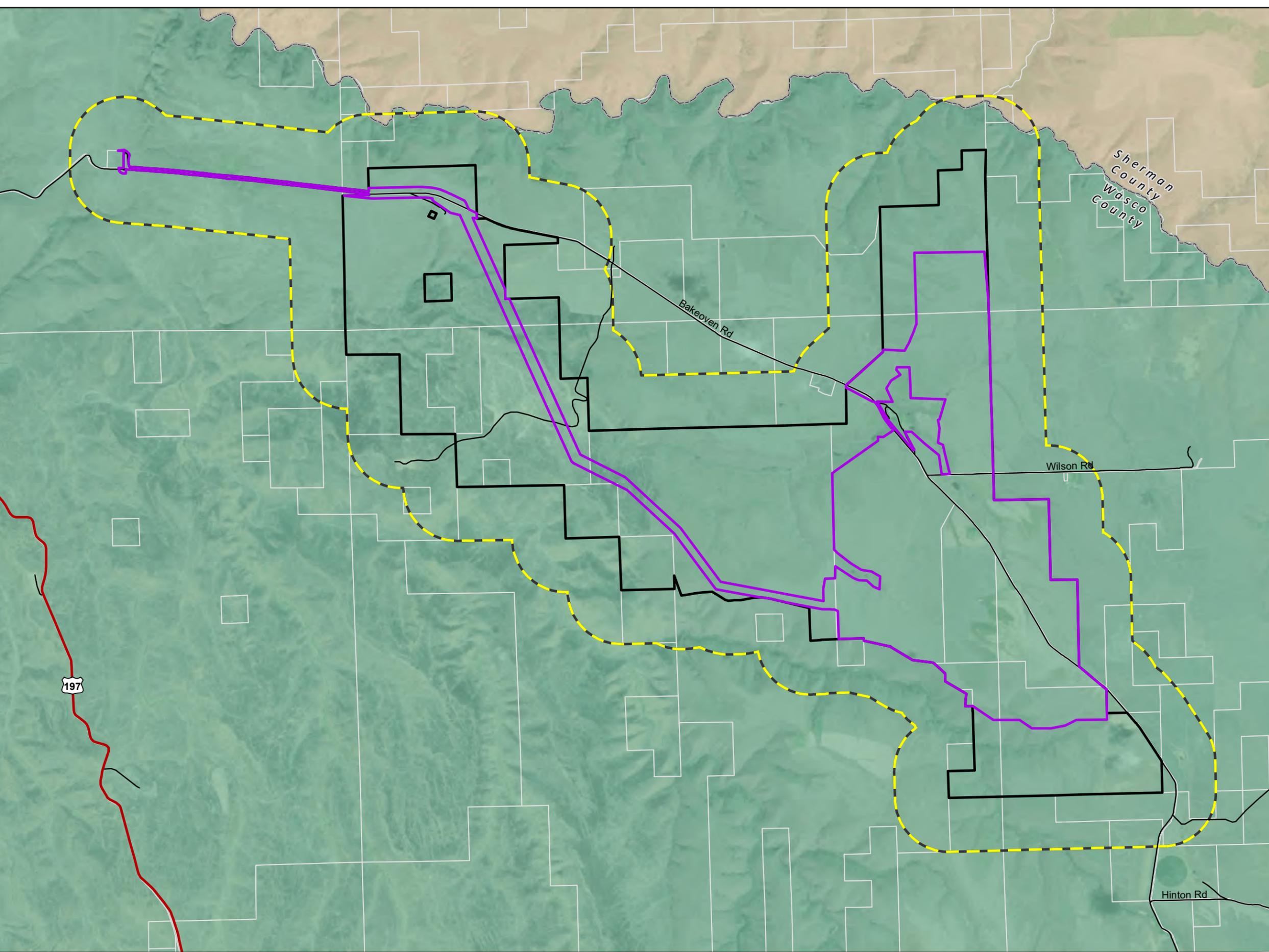
**Data Sources**

Avangrid-Project Infrastructure;  
USDA-Aerial Imagery; Census Bureau-Tiger Roads

**Reference Map**



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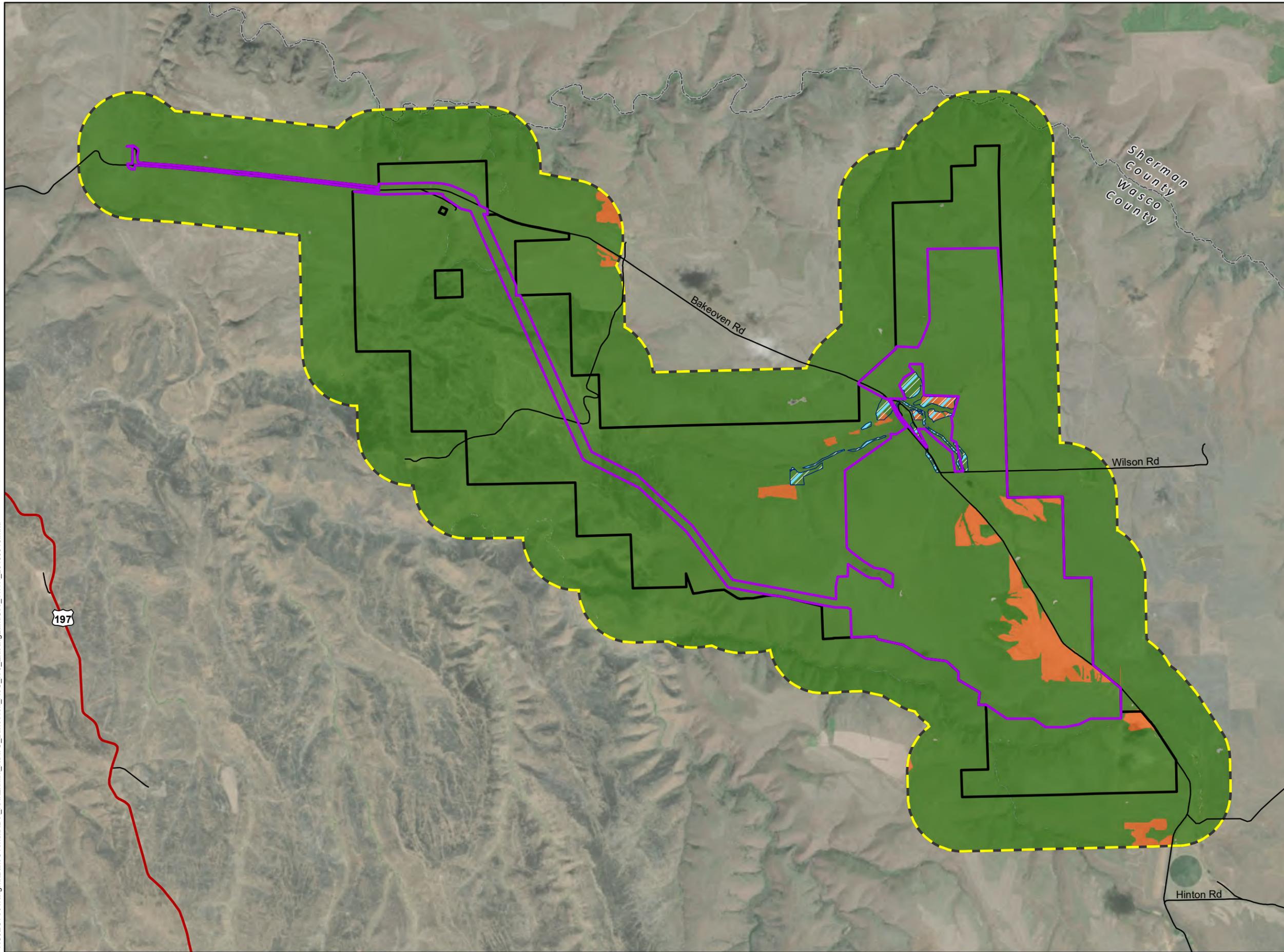


# Bakeoven Solar Project

## Figure K-3 Existing Land Use and Water Rights

WASCO COUNTY, OREGON

- Proposed Site Boundary
  - Proposed Micrositing Corridor
  - Analysis Area (0.5-mile Buffer)
  - Water Right Authorized Place of Use
- Basemap Features**
- US Highway
  - Local Road
  - County Boundary
- Existing Land Use**
- Cultivated Land
  - Non-Cultivated Land



### Data Sources

Avangrid-Project Infrastructure;  
USDA-Aerial Imagery; Census Bureau-Tiger Roads

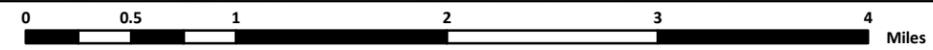
### Reference Map



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# Bakeoven Solar Project

**Figure K-4**  
**NRCS Soil Capability Classifications**

WASCO COUNTY, OREGON

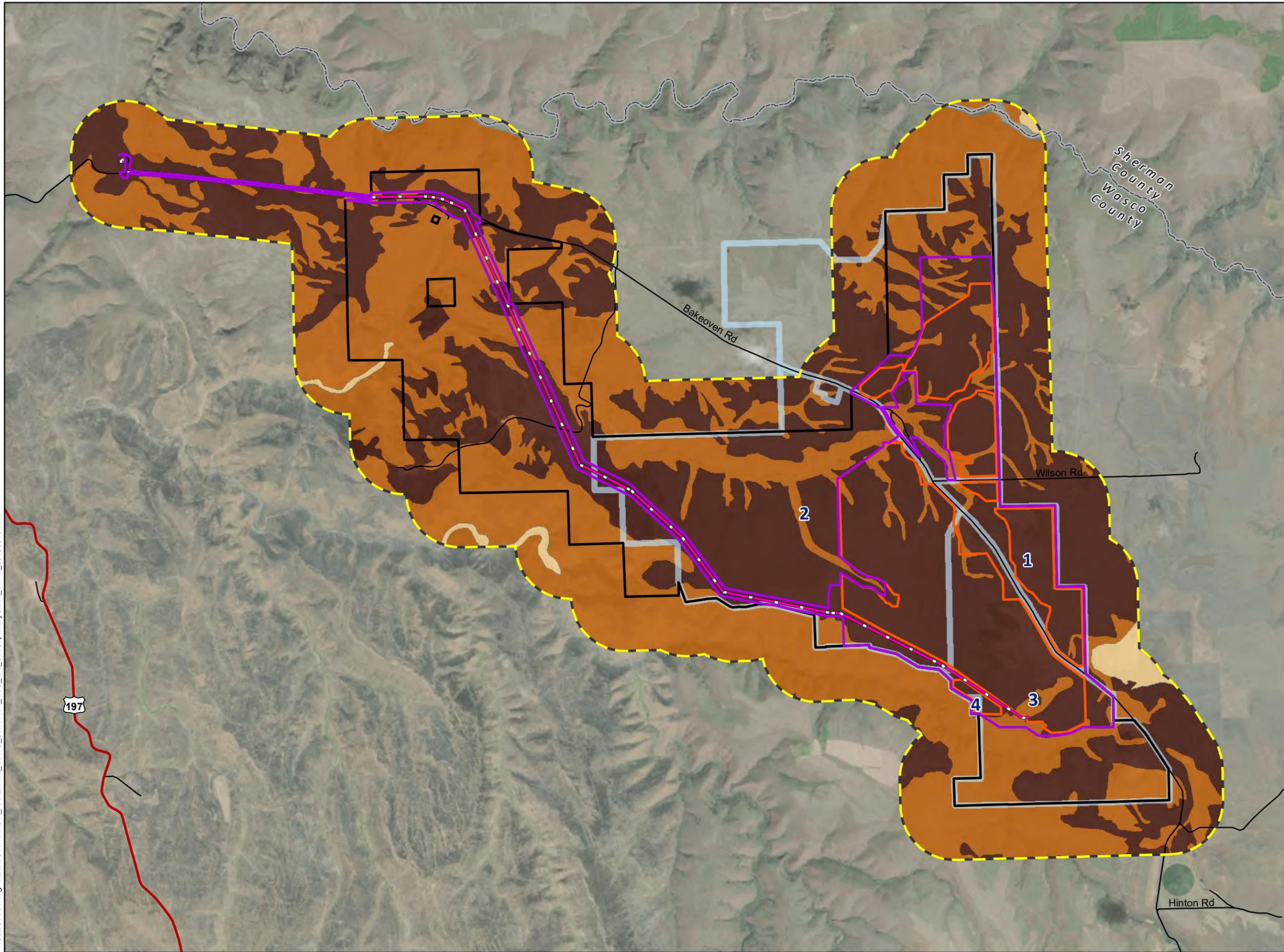
-  Proposed Site Boundary
-  Proposed Micrositing Corridor
-  Analysis Area (0.5-mile Buffer)
-  Tract Boundary
- Basemap Features**
-  US Highway
-  Local Road
-  County Boundary
- Proposed Facility Layout**
-  Transmission Line (230kV)
-  Fence Line
- NRCS Soils Capability Class**
-  Class III
-  Class VII
-  Class VIII



**Data Sources**

Avangrid-Project Infrastructure;  
USDA-Aerial Imagery; Census Bureau-  
Tiger Roads; NRCS-Soils

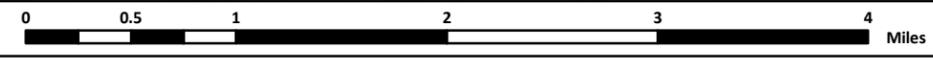
**Reference Map**



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# Bakeoven Solar Project

## Figure K-5 Arable and Non-Arable Lands

WASCO COUNTY, OREGON

-  Proposed Site Boundary
  -  Proposed Micrositing Corridor
  -  Analysis Area (0.5-mile Buffer)
  -  Tract Boundary
  -  Arable Land – Consolidated\*
  -  Non-arable Land
- Basemap Features**
-  US Highway
  -  Local Road
  -  County Boundary
- Proposed Facility Layout**
-  Transmission Line (230 kV)
  -  Fence Line

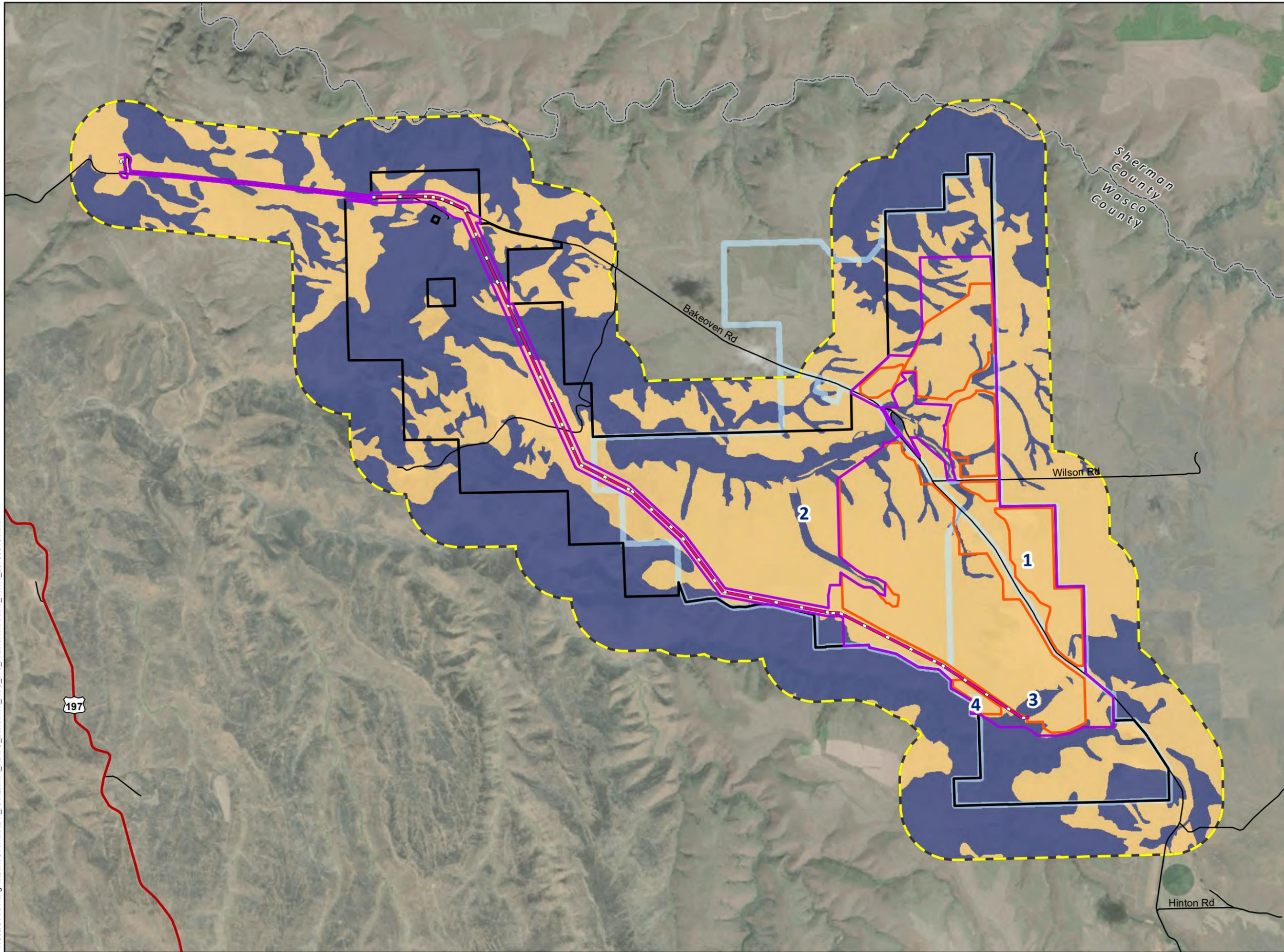
*\*Includes arable soils, cultivated lands, and high-value farmland*



**Data Sources**

Avangrid-Project Infrastructure;  
USDA-Aerial Imagery; Census Bureau-Tiger Roads

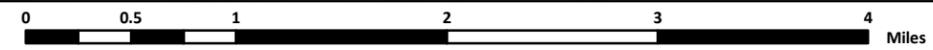
**Reference Map**



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1:55,000 WGS 1984 UTM Zone 10N



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# Bakeoven Solar Project

## Figure K-6 High-value Farmland

WASCO COUNTY, OREGON

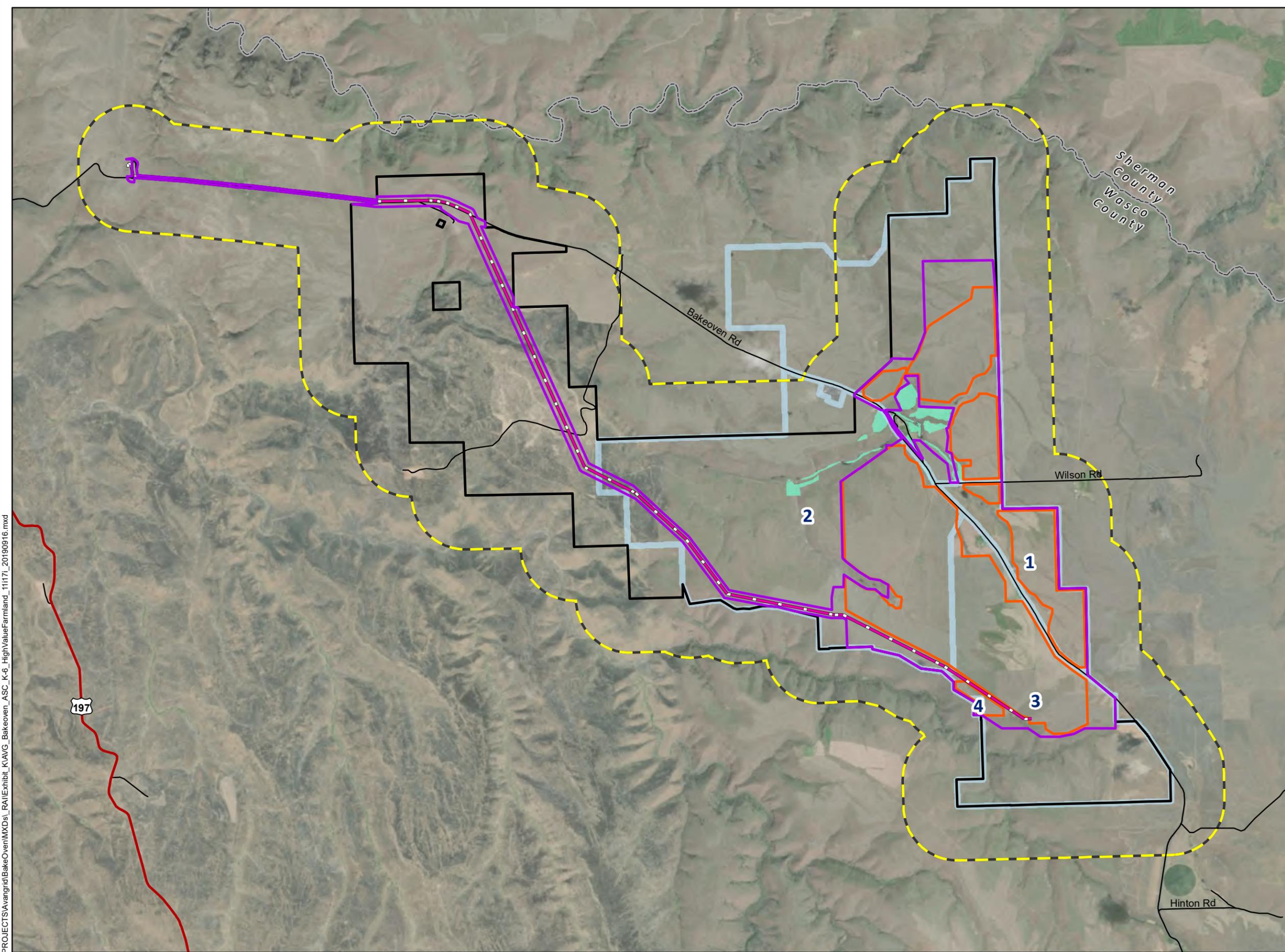
-  Proposed Site Boundary
  -  Proposed Micrositing Corridor
  -  Analysis Area (0.5-mile Buffer)
  -  Tract Boundary
  -  High-value Farmland (i.e. irrigation place of use)
- Basemap Features**
-  US Highway
  -  Local Road
  -  County Boundary
- Proposed Facility Layout**
-  Transmission Line (230 kV)
  -  Fence Line



**Data Sources**

Avangrid-Project Infrastructure;  
USDA-Aerial Imagery; Census Bureau-Tiger Roads

**Reference Map**



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