

**BEFORE THE
ENERGY FACILITY SITING COUNCIL
OF THE STATE OF OREGON**

In the Matter of the Request for Amendment #2 of
the Site Certificate for the Summit Ridge Wind Farm

)
)
)
)
FINAL ORDER ON REQUEST FOR
CONTESTED CASE,
AMENDMENT #2 AND REQUEST
FOR TRANSFER OF THE SITE
CERTIFICATE

November 4, 2016

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ACRONYMS AND ABBREVIATIONS

AIR	Additional Information Requests
ASC	application for site certificate
AVWS	Audio Visual Warning Systems
Council	Energy Facility Siting Council
CRGNSA	Columbia River Gorge National Scenic Area
DEA	David Evans and Associates, Inc.
Department	Oregon Department of Energy
DEQ	Department of Environmental Quality
DSL	Department of State Lands
EFU	exclusive farm use
EPD	environmental protection overlay districts
ESCP	Erosion and Sediment Control Plan
FAA	Federal Aviation Administration
FEMA	Federal Emergency Management Agency
FGRV	Friends of the Grande Ronde Valley
GIS	geographic information system
HMA	habitat mitigation area
HMP	habitat mitigation plan
I-84	Interstate 84
IEC	International Electrotechnical Commission
ISO	International Organization for Standardization
kV	kilovolt
LotusWorks	LotusWorks-Summit Ridge I, LLC
MW	megawatt
NPDES	National Pollutant Discharge Elimination System

NWC	Northwest Wildlife Consultants, Inc.
O&M	operation and maintenance
OAR	Oregon Administrative Rule
ODA	Oregon Department of Agriculture
ODFW	Oregon Department of Fish and Wildlife
ORS	Oregon Revised Statute
OWRD	Oregon Water Resources Department
pASC	preliminary application for site certificate
PUC	Public Utilities Commission
RFA	request for amendment
SAG	special advisory group
SCADA	Supervisory Control and Data Acquisition
SHPO	State Historic Preservation Office
TIA	Traffic Impact Analysis
WCCP	Wasco County Comprehensive Plan
WCLUDO	Wasco County Land Use and Development Ordinance
WMMP	Wildlife Monitoring and Mitigation Plan

1 **I. INTRODUCTION**

2
3 The Oregon Energy Facility Siting Council (Council) issues this final order in accordance with
4 Oregon Revised Statute (ORS) 469.405 and Oregon Administrative Rule (OAR) 345-027-0070 for
5 the request by LotusWorks-Summit Ridge I, LLC (LotusWorks or certificate holder) for
6 Amendment #2 of the Summit Ridge Wind Farm Site Certificate and the transfer request. This
7 final order addresses a request by the certificate holder for a second site certificate
8 amendment and a transfer request to reflect a change in the ownership structure of
9 LotusWorks and the resulting new parent company, Summit Ridge Wind Holdings, LLC.

10
11 In addition, the certificate holder requests Council approval of the following amendments:

- 12
- 13 • Extension of the construction commencement and completion deadlines by two years;
 - 14 • Administrative adjustment to authorize a lesser setback from the right-of-way of any
15 dedicated road within the site boundary than is required by Wasco County Land Use
16 and Development Ordinance (WCLUDO) Section 19.030(D)(1)(c)(2);¹ and,
 - 17 • Addition of a new turbine option that, if selected, would: 1) reduce the total electrical
18 capacity of the facility from 194.4-megawatt (MW) to 192 MW; 2) reduce the total
19 number of wind turbines from a maximum of 72 to a maximum of 64; 3) include larger
20 generators, a reduced hub height, and a greater rotor diameter; 4) decrease the overall
21 height of the turbines by approximately two meters; and, 5) decrease the minimum
22 blade tip clearance from 23 to 18 meters above ground.
- 23

24 The certificate holder is requesting the option of developing either the new turbine option or
25 the existing option approved by the Council through Amendment #1 to the site certificate.
26
27

¹ This adjustment would be authorized through amendment of Condition 6.28 of the site certificate.

1 **I.A. Name and Address of Certificate Holder**

2
3 LotusWorks-Summit Ridge I, LLC
4 9611 NE 117th Ave
5 Suite 2840
6 Vancouver, WA 98662
7

8 Individual Responsible for Submitting this Amendment Request:

9
10 Steven A. Ostrowski, Jr.
11 Manager
12 LotusWorks-Summit Ridge I, LLC
13 9611 NE 117th Ave
14 Suite 2840
15 Vancouver, WA 98662
16

17 **I.B. Description of the Facility**

18
19 The Council issued the site certificate for the Summit Ridge Wind Farm (facility) on August 19,
20 2011, authorizing the construction and operation of a wind energy generation facility. The
21 Council approved the first request to amend the site certificate in August 2015, which extended
22 the construction deadlines by two years, reduced the maximum number of wind turbines from
23 87 to 72, reduced the peak generating capacity from 200.1 MW to 194.4 MW, increased the
24 maximum wind turbine hub height from 80 to 91 meters, increased the maximum blade tip
25 height from 132 to 152 meters, decreased the blade tip minimum clearance from 28 to 23
26 meters, and reduced the facility site boundary from approximately 13,000 acres to
27 approximately 11,000 acres. As discussed in the *Amended Final Order on Amendment #1 of the*
28 *Site Certificate (Amended Final Order on Amendment #1)*, the facility site boundary and
29 microsite corridor are the same.²
30

31 As approved under the *First Amended Site Certificate for the Summit Ridge Wind Farm (First*
32 *Amended Site Certificate)*, the facility consists of up to 72 wind turbines as well as related and
33 supporting facilities located on private land in Wasco County 17 miles southeast of The Dalles

² *Amended Final Order on Amendment #1* at 2. The Council has recognized the need for wind energy developers to have flexibility to “microsite” the final location of wind turbines and related infrastructure after issuance of a site certificate, based on turbine selection, geotechnical constraints, site-specific wind resource factors, avoidance of high-value wildlife habitat, and the desire to reduce conflict with farming practices.

1 and eight miles east of Dufur.³ The related and supporting facilities include a power collection
2 system, a collector substation, a 230-kilovolt (kV) transmission line, a Supervisory Control and
3 Data Acquisition (SCADA) system, an Operation and Maintenance (O&M) building,
4 meteorological (met) towers, access roads, temporary roadway modifications, and additional
5 temporary construction areas (including laydown areas, crane paths, and a concrete batch
6 plant).⁴
7

³ *Amended Final Order on Amendment #1* at 1, August 7, 2015

⁴ SRWAMD2Doc49 2016-09-29. In a public comment on the proposed order, Ms. Gilbert commented that because the grid-interconnection transmission line is less than 10 miles long, the 230 kV line cannot be treated as a separate energy facility. The 230 kV transmission line, as approved in the 2011 Final Order, was evaluated as a related and supporting facility to the energy facility and was included in the site boundary; it was not identified as a separate energy facility. Therefore, this comment is not addressed further in this order.

II. THE AMENDMENT PROCESS

II.A. Requested Amendments

LotusWorks requests an amendment to the site certificate to (1) transfer ownership of the existing site certificate from LotusWorks – Summit Ridge I, LLC to Summit Ridge Wind Holdings, LLC, as the new parent company, and Summit Ridge Wind, LLC as the transferee and new certificate holder; (2) authorize a lesser setback for select turbines from the right-of-way of any dedicated road within the site boundary than is required by WCLUDO Section 19.030(D)(1)(c)(2); (3) extend the deadline to begin construction from August 19, 2016 to August 19, 2018; (4) extend the deadline to complete construction from August 19, 2019 to August 19, 2021; and (5) add a new turbine option that, if selected, would reduce the maximum number of wind turbines from 72 to 64; reduce the peak generating capacity from 194.4 MW to 192.0 MW; decrease the maximum wind turbine hub height from 91 meters to 84 meters; decrease the maximum blade tip height from 152 meters to 150 meters; and decrease the blade tip minimum clearance from 23 meters to 18 meters (requested amendments). LotusWorks submitted the request to extend the construction commencement deadline at least six months prior to the construction commencement deadline and therefore satisfies the deadline requirement pursuant to OAR 345-027-0030.

OAR 345-027-0060(1)(d) requires that the certificate holder provide the specific language of the site certificate, including affected conditions, that the certificate holder proposes to change, add, or delete by an amendment. In RFA #2 the certificate holder referred to the new turbine option as the 3.0 MW turbine option. However, in the section of RFA #2 responding to the requirements of OAR 345-027-0060(1)(d) the certificate holder did not request changes, additions, or deletions to the language in the site certificate with regards to a specific generating capacity for an individual turbine. In addition, Condition 5.5 of the site certificate states that the “certificate holder may select turbines of any type, subject to the following restrictions and compliance with all other site certificate conditions...” The list of restrictions contained in Condition 5.5 do not pertain to the specific generating capacity of individual turbines. Following review of the proposed order, the Council determined that compliance with Council standards would not be affected by the generating capacity of individual turbines but by parameters such as the total number of turbines, turbine hub height, maximum blade tip height, and minimum blade tip clearance. Therefore, instead of referring to a 3.0 MW turbine option throughout this final order, the Council refers to the “new turbine option.”

II.B. Procedural History

The Council issued the *Final Order on the Application for Site Certificate for the Summit Ridge Wind Farm (Final Order on the Application)* on August 19, 2011. The site certificate became effective upon execution on that day. On August 15, 2014 LotusWorks submitted to the

1 Department its RFA #1 for the facility. RFA #1 requested extension of the construction
2 commencement and completion deadlines by two years, reduction of the maximum number of
3 wind turbines, reduction of the maximum facility output, increase in the allowable size of the
4 wind turbines, and reduction of the facility site boundary. The Council issued a *Final Order on*
5 *Amendment #1 of the Site Certificate* on May 15, 2015. Prior to the Council's approval of RFA
6 #1, Irene Gilbert, on behalf of the Friends of the Grande Ronde Valley (FGRV) requested a
7 contested case both on the substance of the proposed order and on the Department's
8 recommendation that the Council find that the certificate holder had demonstrated good cause
9 for filing the construction deadline extension request less than six months before that deadline.
10 The Council found that the good cause determination was not an issue that could be the basis
11 for a contested case. The Council also denied the request for contested case on the substantive
12 issue. On June 19, 2015 Irene Gilbert, on behalf of FGRV, submitted a timely request for
13 reconsideration of the denial of the contested case request. The Council granted this request at
14 its June 25, 2015 Council meeting and directed staff to review the merits of FGRV's request for
15 reconsideration and present modified recommended findings to the Council. Based on
16 modification of the Department's recommended findings, the Council approved the *Amended*
17 *Final Order on Amendment #1* during its August 7, 2015 Council meeting.

18
19 On February 11, 2016, the certificate holder submitted to the Department its RFA #2 for the site
20 certificate for the facility. On February 16, 2016, RFA #2 was posted to the Department's
21 website. On February 19, 2016, on behalf of the certificate holder, the Department sent notice
22 of RFA #2 with instructions for review and comment to reviewing agencies; the notice
23 requested receipt of comments by April 18, 2016. On March 17, 2016, the Department sent
24 notice of RFA #2 to all persons on the Council's mailing list, to the special list established for the
25 facility, and to an updated list of property owners supplied by the certificate holder.

26
27 On March 17, 2016, the Department notified the certificate holder that the agency anticipated
28 issuing the proposed order no later than August 9, 2016. The Department issued Additional
29 Information Requests (AIRs) to the certificate holder on May 26 and July 6, 2016 and received a
30 response from the certificate holder on June 3 and July 20, 2016. On August 8, 2016, the
31 Department notified the certificate holder in writing that the agency needed additional time to
32 prepare the proposed order. The Department issued the proposed order on August 30, 2016,
33 specifying September 29, 2016 as the deadline for public comments and requests for a
34 contested case on the proposed order. Notice was also posted on the Department's website,
35 along with the proposed order. The Department provided notice of the proposed order to
36 reviewing agencies on September 6, 2016, which established a deadline of October 7, 2016 for
37 submitting agency comments on the proposed order and requesting a contested case. The
38 Department received three comments and one request for a contested case. The contested
39 case request also included substantive comments on the proposed order. Therefore, the
40 Department construed the request as both comments on the proposed order under OAR 345-
41 027-0070(5) and a request, pursuant to OAR 345-027-0070(6), that the Council hold a contested

case proceeding on the issues identified in the respective letter. The Department provided each of the Council members a copy of the comments and request for contested case as an attachment to the staff report dated October 21, 2016. Council held an informational hearing on the transfer request at the November 3, 2016 Council meeting conducted at the Discovery Center in the The Dalles, Oregon. The Council considered the proposed order, public and agency comments, and request for contested case at the November 4, 2016 Council meeting held at the same location. At the November 4, 2016 Council meeting, the Council voted to deny the request for contested case, and to approve both RFA #2 and the transfer request.

II.C. Reviewing Agency Comments on Request for Amendment #2

As presented in Attachment B of the proposed order, the Department received comments on LotusWorks' RFA #2 from the following reviewing agencies:

- Oregon Department of Aviation
- Oregon Department of Environmental Quality
- Oregon Department of Fish and Wildlife
- Oregon Department of State Lands (DSL)
- Oregon Public Utilities Commission
- Wasco County Planning Department (Planning Department)

Issues raised by reviewing agencies regarding compliance with an applicable Council standard are addressed in Section III.A, *Applicable Division 27 Rule Requirements* of this proposed order.^{5,6}

II.D. Public Comments on Request for Amendment #2

No public comments were received on the requested amendments.

II.E. Comments and Requests for Contested Case on the Proposed Order

⁵ SRWAMD2Doc21 Agency Comment_ODA (R. Meinke)_2016-06-29. In email correspondence, the Oregon Department of Agriculture confirmed that they had no additional comments or concerns related to the requested amendment.

⁶ SRWAMD2Doc14 Agency Comment_Wasco County (A. Brewer)_2016-03-14. In a comment letter, the Wasco County Planning Department confirmed that the Wasco County Board of Commissioners, appointed as the SAG for the Summit Ridge Wind Farm in July 2009 in anticipation of submittal of the Notice of Intent for the Application for Site Certificate, had no comments on the certificate holder's RFA #2.

1 II.E.1. Agency Comments on the Proposed Order

2
3 The Oregon Department of Fish and Wildlife (ODFW) submitted comments on the proposed
4 order related to Recommended Site Certificate Condition 10.15 and requested inclusion of a
5 more complete set of raptor nest disturbance guidelines that would provide the appropriate
6 disturbance buffer and avoidance period in the event that one or more raptor species other
7 than red-tailed hawks are discovered prior-to or during construction. ODFW's comments are
8 further evaluated in Section III.B.8 *Fish and Wildlife Habitat* of this final order.

9
10 The Confederated Tribes of the Umatilla Indian Reservation submitted comments on the
11 proposed order confirming that the tribal government did not have any comments or concerns
12 following review of maps and cultural information included in the proposed order.

13
14 II.E.2. Comments on the Proposed Order

15
16 Irene Gilbert⁷

17
18 Irene Gilbert's comment and request for contested case identified ten issues and included
19 language of selected statutes and rules related to contested case issues. To the extent they
20 raise issues of compliance with a Council standard, Ms. Gilbert's issues are construed as
21 comments and are evaluated in the findings related to those Council Standards.

22
23 II.E.3. Analysis of the Request for Contested Case

24
25 In her request for contested case, Ms. Gilbert identified ten issues and included language of
26 selected statutes and rules related to the contested case issues. Ms. Gilbert specifically
27 requested that the analysis (of the request for contested case) include "[t]he actual wording of
28 the issue and basis for the request." Consistent with past practice, Ms. Gilbert's letter has been
29 provided in its entirety to the Council as an attachment to the staff report dated October 21,
30 2016. Additionally, the exact language in each of the ten issues is provided below in italics. The
31 Council's evaluation and decision on each issue is presented below.

32
33 Irene Gilbert Contested Case Issue Number One

34
35 Ms. Gilbert states:
36

⁷ The October 21, 2016 Staff Report to Council includes an evaluation of the comments on the proposed order and request for contested case submitted by Ms. Irene Gilbert on September 29, 2016, individually and on behalf of Friends of the Grande Ronde Valley

1 *"The site certificate fails to provide protection for views from the Wild and Scenic*
2 *Deschutes River Canyon and the river itself.*

3
4 *The developer should be required to design the development so that turbines are placed*
5 *outside the views from the area of the Deschutes River Canyon designated as "Wild and*
6 *Scenic".*

7
8 *OAR 345-022-0040 states: The site certificate must show that the applicant can design*
9 *and construct the facility to reduce cumulative adverse environmental effects in the*
10 *vicinity by practical measures including designing the components of the facility to*
11 *minimize adverse visual features."*

12
13 Issue 1(a)

14
15 *"Visual Impacts to Deschutes are protected by the following applicable standards:*

16
17 *WCCP Goal 5, Policy 5 The Deschutes and John Day River Scenic Waterways shall be*
18 *maintained and protected as natural and open space areas with consideration for*
19 *agriculture and recreation.*

20
21 *WCCP Goal 6, Policy 1: Encourage land uses and land management practices which*
22 *preserve both the quantity and quality of air, water and land resources."*

23
24 Issue 1(b)

25
26 *"OAR 345-022-0040*
27 *(3) Except as provided in sections (2) and (3), the Council shall not issue a site certificate*
28 *for a proposed facility located in the areas listed below. To issue a site certificate for a*
29 *proposed facility located outside the areas listed below, the Council must find that,*
30 *taking into account mitigation, the design construction and operation of the facility are*
31 *not likely to result in significant adverse impact to the areas listed below. References in*
32 *this rule to protected areas designated under federal or state statutes or regulations are*
33 *to the designations in effect as of May 11, 2007.*

34
35 *Note: BLM recommended in their letter of Sept. 18, 2014 that turbines be placed outside*
36 *the viewshed of the lower descutes river. Oregon Parks and Recreation commented on*
37 *sept. 9, 2014 that turbines will be visible from the Deschutes river along several*
38 *locations. Oregon Wild, Doug Heiker expressed concern regarding negative impacts on*
39 *scenic values. Friends of the Grande Ronde Valley also commented on negative impacts*
40 *to viewscales.*

1 *Given the number of comments of concern it appears likely there will be significant*
2 *negative impacts. The file does not contain a preponderance of evidence to support a*
3 *finding that the development will not result in significant impacts to viewsapes."*

4
5 Issue 1(c)

6
7 *"OAR 345-024-0015 Siting Standards for Wind Energy Facilities*
8 *To issue a site certificate for a proposed wind energy facility, the Council must find that*
9 *the applicant can design and construct the facility to reduce cumulative adverse*
10 *environmental effects in the vicinity by practicable measures including, but not limited*
11 *to, the following:*

12
13 *"(5) Designing the components of the facility to minimize adverse visual features." The*
14 *site certificate fails to include meaningful requirements that will protect the Wild and*
15 *Scenic Deschutes River corridor from the intrusion of turbines into the viewsapes.""*

16
17 Ms. Gilbert's first issue asserts that the facility should be designed to protect the area of the
18 Deschutes River Canyon designated as "Wild and Scenic" (referred to below as the "Lower
19 Deschutes River Canyon") from any visual impact from the facility and references Goals 5 and 6
20 from the Wasco County Comprehensive Plan (WCCP), OAR 345-022-0040 (Protected Areas
21 standard), and OAR 345-024-0015 (Cumulative Effects Standard for Wind Energy Facilities). For
22 purposes of organizing the Council's analysis of Issue 1, the response below is presented in
23 three subparts, 1(a) through 1(c), based on the referenced land use goals and Council
24 standards.

25
26 Evaluation of Issue 1(a)

27
28 In Issue 1(a), Ms. Gilbert indicates that visual impacts at the Lower Deschutes River Canyon are
29 protected under Goal 5 and Goal 6 of the WCCP. Applicable WCCP goals and policies are
30 addressed under the Council's Land Use standard. As explained in Section III.B.5 Land Use of the
31 proposed order, WCCP Goal 5, Policy 5 provides a broad directive for the Deschutes and John
32 Day River Scenic Waterways to be maintained and protected as natural and open spaces. The
33 goal language does not expressly or directly apply to the development of facilities outside of
34 but visible from these waterways. As stated in this final order, the Council finds that the facility,
35 as amended, would not be located within the boundary of scenic waterways and therefore is
36 consistent with WCCP Goal 5, Policy 5. Even if Goal 5, Policy 5 were broadly interpreted to
37 relate to visual impacts of surrounding development on the waterways, the policy does not
38 require a specific level of protection of scenic views.

39
40 As explained in this final order, WCCP Goal 6, Policy 1 encourages land uses and management
41 practices that preserve air, water, and land resources. First, the policy appears to be a directive

1 to the county to encourage the identified land use and management practices through the land
2 use code. More importantly, the policy does not address land uses and activities in or near
3 specific areas (e.g., wild or scenic rivers) and does not mention the Lower Deschutes River
4 Canyon. In this final order, the Council finds that, subject to compliance with the conditions
5 presented in Section IV.C.2, including compliance with the Revegetation and Weed Control
6 Plan, the facility, as amended, is consistent with this goal.

7
8 Ms. Gilbert provides no explanation of how facility visibility at the Lower Deschutes River
9 Canyon would be inconsistent with WCCP Goal 5 (Policy 5) and Goal 6 (Policy 1); moreover, she
10 does not explain how the visual impact assessment as presented in RFA #2 and evaluated in the
11 proposed order is not sufficient for demonstrating consistency with WCCP Goal 5 and Goal 6.
12 The Council does not consider the general reference to a local land use goal and policy and
13 generalized assertion that the local goals and policies establish a prohibition limiting the
14 visibility of a facility from a specific area to be a significant issue of law or fact.

15
16 Evaluation of Issue 1(b)
17

18 In Issue 1(b), Ms. Gilbert indicates that visual impacts at the Lower Deschutes River Canyon are
19 protected under the Council's Protected Areas standard. In reference to comments submitted
20 on the record during the Council's review of RFA #1, she expresses a belief that the number of
21 comments received demonstrates that visibility of the facility should be considered a significant
22 adverse visual impact at the Lower Deschutes River Canyon. She also states that, "[t]he file does
23 not contain a preponderance of evidence to support a finding that the development will not
24 result in significant impacts to viewsapes."

25
26 Ms. Gilbert references comments submitted by Bureau of Land Management (BLM), Oregon
27 Parks and Recreation Department (OPRD), FGRV, and Oregon Wild on RFA #1, related to the
28 visibility of the facility from the Deschutes River. The Department noted and the Council agrees
29 that, aside from Ms. Gilbert's request for a contested case (considered herein) that was
30 submitted on behalf of both her as an individual and as a representative of FGRV, none of these
31 other entities submitted comments on RFA #2. Comments raised on a previous amendment
32 request but not raised on the current amendment request are outside the scope of the
33 Council's review of RFA #2. Therefore, comments made by BLM, OPRD, and Oregon Wild on
34 RFA #1 are not considered further.

35
36 Because the facility, as amended, would not be located within a designated protected area, the
37 applicable subsection of the Protected Areas standard requires the Council to find that, taking
38 into account mitigation, the design, construction, and operation of a facility, as amended, is not
39 likely to result in significant adverse impacts to any protected area as defined by OAR 345-022-
40 0040. The Protected Areas standard does not prohibit all visual impacts to protected areas. As
41 described in this final order, visibility of the facility, as amended, from the Lower Deschutes

1 River Canyon would be about the same or slightly less than the turbine option approved in RFA
2 #1. Moreover, based on the visual impact assessment as presented in this final order, views of
3 the facility, as amended, from the Lower Deschutes River Canyon would be visually subordinate
4 to the surrounding landscape and would not dominate the view. Based on this information, the
5 Council finds that the facility, as amended, would not result in a significant adverse visual
6 impact to the Lower Deschutes River Canyon. While the Council agrees with Ms. Gilbert that
7 there would be “visual impacts” of the facility at the Lower Deschutes River Canyon, Ms. Gilbert
8 does not explain how the facility, as amended, would result in significant adverse impact to this
9 protected area, nor does Ms. Gilbert describe under Issue 1(b) what additional evidence should
10 be provided “to support a finding that the development will not result in significant impacts to
11 viewsapes” (see Response to Issue 2 below).

12
13 While Ms. Gilbert expresses a belief that the “file does not contain a preponderance of
14 evidence to support a finding that the development will not result in significant impacts to
15 viewsapes,” she does not explain how the visibility analysis presented in the proposed order is
16 insufficient nor does she explain how visual impacts of the facility, as presented in the proposed
17 order, would result in a significant adverse visual impact to the Lower Deschutes River Canyon.
18 To support the Council’s understanding of the information on the record, visual simulations of
19 the facility, as amended, from viewpoints on the Lower Deschutes River Canyon are discussed
20 in response to Ms. Gilbert’s Issue 2 below, are attached to this staff report as Attachment 2,
21 and was presented to Council at the November 4th meeting.

22 23 Evaluation of Issue 1(c) 24

25 In Issue 1(c), Ms. Gilbert seems to base her request that the facility be sited to eliminate facility
26 visibility from areas of the Lower Deschutes River Canyon on the Cumulative Effects Standard
27 for Wind Energy Facilities (OAR 345-024-0015). The referenced standard, however, does not
28 require the Council to find that the facility, as amended, would have no cumulative
29 environmental impacts nor does it establish a requirement to eliminate or even reduce a
30 facility’s potential visibility from specific areas (e.g., wild or scenic rivers). Rather, the standard
31 requires that the Council find that the certificate holder is able to use “practicable measures” in
32 “designing the components of the facility to minimize adverse visual features.” To ensure
33 compliance with this standard, the Council previously imposed site certificate conditions
34 related to the design of turbine components. Specifically, site certificate conditions require
35 wind turbine towers to be coated with neutral gray, white, or off-white tones to blend in with
36 the surrounding landscape (Condition 6.15); wind turbines to be equipped with minimum
37 lighting required by the Federal Aviation Administration, and the substation and operation and
38 maintenance facilities to have shielded or downward directed lighting (Condition 6.23). The
39 Council considers these to be “practicable measures” for the design and construction of the
40 facility components to reduce cumulative effects, and therefore finds that, subject to the

1 existing site certificate conditions, the facility, as amended, complies with the Council's
2 Cumulative Effects Standard for Wind Energy Facilities.

3
4 For the reasons described above, the Council finds that Ms. Gilbert's Issue 1 (1(a), 1(b), and
5 1(c)) did not raise a significant issue of fact or law that may affect the Council's determination
6 that the facility, as amended, meets an applicable standard.

7
8 **Irene Gilbert Contested Case Issue Two**

9
10 Ms. Gilbert states:

11
12 *"The file for the Summit Ridge Wind Development does not contain information*
13 *necessary to make a determination regarding whether the development will have a*
14 *significant impact on views from the Wild and Scenic Deschutes River.*

15
16 *The applicant has the responsibility for assuring that the file contains documentation*
17 *that their development meets the siting requirements.*

18
19 *There are only 5 visual representations of the visual impacts of the development on a*
20 *project that according to Figure R-I will be visible along approx. 30 miles of the river.*
21 *There are areas exceeding 5 miles with no visual analysis. The visual representations*
22 *were made from viewpoints easily accessible by vehicle. The "wild" portions of the river*
23 *where impacts are going to be considered the most significant and offensive are going to*
24 *be areas absent a developed access. The approach used is comparable to modeling*
25 *impacts on wilderness by completing them from a parking lot.*

26
27 *Critical Information Missing: There is no information regarding the actual number of*
28 *turbines that will be visible from the Wild and Scenic Deschutes River. In addition, there*
29 *is no indication of the number of turbines with just the blades visible as opposed to*
30 *portions of the supporting structures. This information is considered by virtually any*
31 *observer as being necessary to make a determination regarding whether or not impacts*
32 *are "significant."*

33
34 Ms. Gilbert's second issue does not cite an EFSC standard, rule or statute. Ms. Gilbert's second
35 issue, however, asserts that the information in the record, including the "visual representations
36 of the visual impacts" of the facility, is not sufficient "to make a determination regarding
37 whether the development will have a significant impact on views from the Wild and Scenic
38 Deschutes River." Ms. Gilbert expresses a belief that the visual representations of the facility,
39 as amended, are insufficient because there are areas (along the river) exceeding five miles with
40 no visual analysis, the locations selected for visual simulations were accessible by vehicle and
41 not representative of the "wild" areas that would be most impacted, and the visual

1 representations do not identify the number of turbines or components of the turbines that
2 would be visible from the river.

3
4 The Council is required to find that the preponderance of evidence on the record support the
5 conclusion that the facility, as amended, complies with the requirements adopted by Council
6 and with all other Oregon statutes and administrative rules identified in the project order (OAR
7 345-022-0000(1)). Although visual simulations may be provided as evidence to support a finding
8 of compliance for standards which require an evaluation of visual impacts, such as the
9 Protected Areas standard, the Council's Division 21 rules do not require visual simulations, nor
10 are visual impacts required to be evaluated from every possible viewpoint. Instead, the Council
11 must evaluate whether there is sufficient information in the record to demonstrate that
12 significant adverse visual impacts from the facility are not likely to occur to a designated area,
13 which in this case is the wild and scenic segment of the Deschutes River.

14
15 As described in RFA #2 Attachment 2, the certificate holder's consultant (David Evans and
16 Associates, Inc.; hereafter DEA) performed a visibility analysis using Geographic Information
17 Systems (GIS) and topographic information (specifically from the U.S. Geological Survey digital
18 elevation models) following the same methodology described in the application for site
19 certificate (ASC) Exhibit R. As described in ASC Exhibit R, DEA used these information sources
20 and computer modeling techniques to determine areas from which the facility, as amended,
21 would potentially be visible. Figures 1 through 6 in RFA #2 Attachment 2 provide an overview of
22 the results of the visibility analysis (higher resolution 'zoomed in' maps are provided in
23 Attachment E to this final order). These figures indicate that the facility, as amended, would be
24 visible from various locations along the Lower Deschutes River Canyon. As stated in ASC Exhibit
25 R, following the visibility analysis, DEA selected locations from which to perform visual
26 simulations (viewpoints). Viewpoint locations were determined based on the visibility analysis
27 and fieldwork to reflect "worst case" conditions when viewed from important or significant
28 scenic and aesthetic resources. In other words, the certificate holder represented that these
29 viewpoints include locations with relatively high use (based on ease of access and presence of
30 developed recreational facilities) and positions from which turbines would be most visible.
31 Because the viewpoints were selected based upon "worst case" conditions, it is the Council's
32 position that an evaluation of the likelihood of significant adverse impacts is appropriately
33 based upon simulations from those viewpoints.

34
35 Ms. Gilbert states that "[t]here are only 5 visual representations of the visual impacts of the
36 development on a project...[that] will be visible along [approximately] 30 miles of the river."
37 Information provided by the certificate holder during the original application phase, in ASC
38 Exhibit R, indicates that more than 5 viewpoints were originally considered based upon the
39 visibility analysis, but these viewpoints (i.e., campgrounds and developed recreation sites
40 associated with Heritage Landing and the Deschutes River State Recreation Area) were not
41 carried forward for future analysis based upon field investigation which verified that riparian

1 vegetation would substantially screen views of the facility from these locations. In addition to
2 vegetative screening, information provided by DEA indicates that views from these developed
3 recreation sites (campgrounds and developed recreation sites associated with Heritage Landing
4 and the Deschutes River State Recreation Area) would be limited due to distance (with those
5 areas generally located greater than 10 miles from the facility).

6
7 Viewpoints along the Deschutes River used for the simulations are near Game Commission
8 Camp, Bedsprings, Snake-in-the-Box, Box Elder Canyon, and Cedar Island. The simulations show
9 that portions of turbines will be visible from some locations along the Deschutes River. Ms.
10 Gilbert represents that the analysis fails to document the actual number of turbines or turbine
11 components that would be visible from viewpoints along the Lower Deschutes Canyon.
12 However, Figures 7 through 11 in RFA #2 Attachment 2 show that visible portions of turbines
13 may include turbine blades, nacelles, and in some cases, portions of the tower. Each simulation
14 shows the components that would be visible from that viewpoint for the existing turbine option
15 and new turbine option. While turbines would be visible from the river, they are not expected
16 to dominate views and would generally be subordinate to the surrounding landscape.

17
18 For the reasons described above, the Council finds that Ms. Gilbert's Issue 2 did not raise a
19 significant issue of fact or law that may affect the Council's determination that the facility, as
20 amended, meets an applicable standard.

21 22 **Irene Gilbert Contested Case Issue Three**

23
24 Ms. Gilbert states:

25
26 *"The proposed 230KV line connecting the project to the grid must be treated as part of*
27 *the site and all requirements of the application process must be met in order to issue an*
28 *amended site certificate for this development.*

29
30 *ORS 469.300 includes the statutory definitions for what must be included in a site. The*
31 *following definitions relate directly to the above hearing issue:*

32
33 *(2) Application means a request for approval of a particular site or sites for the*
34 *construction and operation of an energy facility-----"*

35 *(25) Site means any proposed location of an energy facility and relate or supporting*
36 *facilities."*

37 *(24) Related or supporting facilities means any structure, proposed by the applicant, to*
38 *construct or substantially modified in connection with the construction of an energy*
39 *facility, including associated transmission lines, reservoirs, ----"*

40 *(3) Associated transmission lines means new transmission lines constructed to connect*
41 *an energy facility to the first point of junction of such transmission line or lines with*

1 *either a power distribution system or an interconnected primary transmission system or*
2 *both or to the Northwest Power Grid.”*

3
4 *The site certificate cannot treat the 230kV transmission line connecting the development*
5 *to the grid as a separate energy facility as it does not meet the statutory definition of a*
6 *separate energy facility.*

7
8 *ORS 469.300 defines what determines when a transmission line can be treated as a*
9 *separate energy facility. Under ORS 469.300(11))(a)(C defining an energy facility, it*
10 *states “A high voltage transmission line of more than 10 miles in length with a capacity*
11 *of 230.000 volts or more to be constructed in more than one city or county in the*
12 *state....” The county cannot ignore the statutory definition, nor can the Department of*
13 *Energy and Energy Facility Siting Council ignore the statute.*

14
15 *The transmission line connecting the development to the grid is less than 10 miles long*
16 *and no other rule applies that I can find. County rules can be more restrictive than state*
17 *statutes, but not less restrictive. The statute must apply in the site certificate.”*

18
19 Ms. Gilbert’s third issue does not specifically raise an issue of compliance with an EFSC
20 standard, rule or statute. Ms. Gilbert’s third issue, however, contests the evaluation of the
21 proposed 230 kV line and asserts that because the grid-interconnection transmission line is less
22 than 10 miles long, the 230 kV line cannot be treated as a separate energy facility pursuant to
23 statutory definitions of application, site, energy facility, related and supporting facility, and
24 associated transmission line as established in ORS 469.300.

25
26 The issue raised does not appear to be relevant to the Summit Ridge Wind Farm; the Summit
27 Ridge Wind Farm includes, as a related and supporting facility, an approximately 8-mile 230 kV
28 transmission line that would connect the facility’s collector substation to the regional grid at a
29 substation operated by Bonneville Power Administration. The 230 kV transmission line, as
30 approved in the 2011 Final Order, was evaluated as a related and supporting facility to the
31 energy facility and was included in the site boundary; it was not identified as a separate energy
32 facility.

33
34 Therefore, the arguments raised by Ms. Gilbert in her Contested Case Issue 3 do not raise a
35 significant issue of law or fact and do not provide a justification for a contested case under OAR
36 345-027-0070(7). Therefore, the Council finds that Ms. Gilbert’s Issue 3 does not provide a
37 basis to change or modify the proposed order; and does not raise a significant issue of fact or
38 law that may affect the Council’s determination that the facility, as amended, meets an
39 applicable standard.

1 **Irene Gilbert Contested Case Issue Four**

2
3 Ms. Gilbert states:

4
5 *“Baseline surveys need to be completed in habitat suitable for spotted frogs to*
6 *determine if they are present at the site.*

7
8 *Basis*

9 *Oregon spotted frog was listed as threatened in Oregon on August 28, 2014. This frog is*
10 *known or believed to occur in Wasco County.*

11
12 *The file and the site certificate are silent regarding the potential for this species to exist*
13 *in limited areas of the proposed site. Given the fact that the USFWS has identified them*
14 *as potentially present, the file needs to contain documentation that they either are or*
15 *are not present at the site and what they base that determination on.”*

16
17 Ms. Gilbert’s fourth issue does not cite an EFSC standard, rule or statute. However, she
18 expresses that baseline surveys for Oregon spotted frog suitable habitat are necessary for the
19 following reasons: the frog was listed as threatened in Oregon in 2014; United States Fish and
20 Wildlife Service (USFWS) has identified the species as potentially present; and, the frog is
21 known or believed to occur in Wasco County. Ms. Gilbert also asserts that the file, or record,
22 does not contain sufficient information related to the potential presence of suitable habitat for
23 the Oregon spotted frog within the facility site boundary. Significantly, Ms. Gilbert does not
24 explain what agency or entity listed the species as threatened on August 28, 2014.

25
26 The Council’s Threatened and Endangered Species standard at OAR 345-022-0070 requires the
27 Council to find that taking into account mitigation, the design, construction and operation of
28 the facility are not likely to cause a significant reduction in the likelihood of survival or recovery
29 of a species that “the Oregon Fish and Wildlife Commission has listed as threatened or
30 endangered under ORS 496.172(2).” Therefore, under its express terms, the Threatened and
31 Endangered Species Standard does not require consideration of species not listed as threatened
32 or endangered by the Oregon Fish and Wildlife Commission. Based on the Department’s
33 independent review, the Oregon Fish and Wildlife Commission has not listed the Oregon
34 spotted frog as threatened or endangered. Therefore, the Council does not consider this
35 species under its standard. The Council lacks the jurisdiction to consider species listed as
36 threatened or endangered under the federal Endangered Species Act for purposes of
37 compliance with the Council Threatened and Endangered Species standard if the relevant species
38 are not also listed as threatened or endangered by the Oregon Fish and Wildlife Commission.
39 However, a site certificate holder must comply with all federal laws, including the federal
40 Endangered Species Act, independent of the site certificate.

1 Furthermore, the certificate holder did conduct updated wildlife surveys in 2016. Section
2 III.B.8., *Fish and Wildlife Habitat* of this final order refers to special status vertebrate wildlife
3 species surveys conducted by the certificate holder in 2016. The survey methodology included a
4 review of lists from ODFW, USFWS, and the Oregon Biodiversity Information Center, and a
5 habitat review of the area utilizing aerial photos. Survey results are included as Attachment H to
6 this final order. Special status vertebrate wildlife species surveys were conducted in 2016 for
7 special status species listed by the Oregon Fish and Wildlife Commission as threatened or
8 endangered and identified as having a potential to occur within the survey area. The 2016
9 special status surveys detected the presence of Grasshopper Sparrow and Loggerhead Shrike. It
10 is unclear if the Oregon spotted frog was identified by the certificate holder during their habitat
11 review. However, as provided above, the presence or absence of the Oregon spotted frog is not
12 relevant for purposes of compliance with the Council's Threatened and Endangered Species
13 standard because it has not been listed as Threatened or Endangered by the Oregon Fish and
14 Wildlife Commission.

15
16 The Council finds that Ms. Gilbert's fourth issue does not provide a basis to change or modify
17 the proposed order, and does not raise a significant issue of fact or law that may affect the
18 Council's determination that the facility, as amended, meets an applicable standard. Therefore,
19 the Council denies the request for contested case on Contested Case Issue 4.

20
21 **Irene Gilbert Contested Case Issue Five**

22
23 Ms. Gilbert states:

24
25 *"The site certificate needs to include the requirement for pre-construction biological*
26 *surveys for the proposed 230kV line that will serve as the interconnect for the project.*
27 *According to the Oregon Department of Fish and Wildlife, the potential effects on*
28 *habitats and species due to construction and operation of the facility cannot be fully*
29 *addressed without looking at the total project."*

30
31 Ms. Gilbert's fifth issue does not cite an EFSC standard, rule or statute. However, she requests
32 inclusion of a condition in the site certificate that requires "pre-construction biological surveys
33 for the proposed 230 kV line that will serve as the interconnect for the project" and seems to
34 base her request on an interpretation that the 230 kV grid-interconnection transmission line
35 was not included as part of the "total project."

36
37 As explained above in response to Ms. Gilbert's contested case Issue 3, the 230 kV grid-
38 interconnection transmission line was approved as a related and supporting facility to the
39 energy facility during the Council's review and approval of the final order and original site
40 certificate in 2011. Therefore, the transmission line is included in the site boundary and is
41 subject to all survey requirements. Biological surveys were conducted to evaluate habitat

1 categories and potential temporary and permanent habitat impacts in 2009 as part of the
2 original application. The habitat impact assessment and HMP were updated in 2011 in response
3 to ODFW's comments on RFA#1, and changed all previously determined Categories 3, 4 and 5
4 habitat to Category 2 habitat based on ODFW's 2013 habitat mapping updates for big game
5 winter range. Therefore, potential habitat impacts during facility construction and operation
6 would occur only on Category 2 and 6 habitat. Site Certificate Condition 10.1 and 10.7 require
7 the certificate holder to, prior to construction, submit a final habitat impact assessment and
8 HMP for review and approval by the Department, in consultation with ODFW. Condition 10.7
9 requires pre-construction surveys for plants and wildlife within areas that would be disturbed
10 during construction that lie outside of the previously surveyed areas.

11
12 Because Ms. Gilbert does not explain why the surveys previously conducted to evaluate habitat
13 and habitat impacts is not sufficient to satisfy an applicable standard and because she seems to
14 base her comment on an incorrect assumption that the 230 kV transmission line was not
15 included as a related and supporting facility for this energy facility, the Council finds that Ms.
16 Gilbert's Issue 5 does not provide a basis to change or modify the proposed order and does not
17 raise a significant issue of fact or law that may affect the Council's determination that the
18 facility, as amended, meets an applicable standard. Therefore, the Council denies the request
19 for contested case on Contested Case Issue 5.

20
21 **Irene Gilbert Contested Case Issue Six**

22
23 Ms. Gilbert states:

24
25 *"The applicant should not be granted a reduced setback from roads as this will create an*
26 *increased and unacceptable risk of death or injury to the public and employees of the*
27 *developer.*

28
29 *Related Rules I am aware of: The Department of Energy and Energy Facility Siting council*
30 *are required to provide for the protection of public health and safety. ORS 469.501(l)(g)*
31 *and OAR 345-24-0010(2) Requiring the site certificate to show that the developer "Can*
32 *design, construct and operate the facility to preclude structural failure of the tower or*
33 *blades that could endanger the public safety"*

34
35 *The fact that turbines do fail is well documented. When failure occurs, there is the*
36 *potential for flying objects to project further than the current setbacks. Any reduction in*
37 *the distances allowed from roads and public right of ways will increase the potential for*
38 *injury or death for the public as well as workers. There is no file documentation to*
39 *support the idea that this reduction in the distances from public will not increase the*
40 *probability of injury or death to the public. Blade failure is by far the most common*
41 *accident with wind turbines. Pieces of blade have been documented to fly up to one mile*

1 *according to the Summary of Wind Turbine Accidents to 30 June 2016, Cathines*
2 *Windfarm Information Forum www.cathineswindfarms.co.uk data. The developers of*
3 *this data base believe that they are only receiving information on approximately 9% of*
4 *the actual accidents."*

5
6 Ms. Gilbert's sixth issue asserts that a reduced setback for turbines from roads should not be
7 granted and would not comply with public health and safety requirements pursuant to ORS
8 469.501(1)(g) and OAR 345-024-0010(2). She raises concern that the reduced setback would
9 increase the probability of injury or death from turbine blade failure and cites electronic data
10 obtained on June 30, 2016 from Caithness Windfarm Information Forum.

11
12 OAR 345-024-0010(2) requires the Council to find that the certificate holder can design,
13 construct and operate the facility to preclude structure failure of the tower or blades that could
14 endanger public safety. In other words, the Council must evaluate if the certificate holder has
15 demonstrated that it has the ability to preclude a structural failure in the first place through
16 design, construction and operation of the turbines. OAR 345-024-0010(2) does not establish a
17 setback distance as Ms. Gilbert suggests. Conditions 7.1, 7.2, 7.3, 7.4, 7.5 and 7.6 of the site
18 certificate were imposed to ensure compliance with OAR 345-024-0010(2) and include
19 requirements for installation and operation of sufficient safety devices and implementation of
20 procedures designed to warn of impending failure and to minimize the consequence of such
21 failures.

22
23 Ms. Gilbert also references ORS 469.501(1)(g). ORS 469.501(1) states that the Council must
24 adopt standards for the siting, construction, operation and retirement of facilities. The statute
25 then provides a list of subjects that the Council may address through the standards that it
26 adopts. Subsection (g) of the list states that the Council has the authority to adopt a standard
27 related to the "[p]rotection of public health and safety, including necessary safety devices and
28 procedures." The Council has not adopted a general public health and safety standard. The
29 Council has, however, adopted Public Health and Safety Standards for Wind Energy Facilities at
30 OAR 345-024-0010. The required findings under that rule are discussed above. ORS
31 469.501(1)(g) does not require the adoption of any specific standard or require an absolute
32 protection of public health and safety. Therefore, the reference to the statute does not raise a
33 significant issue of fact or law that could alter the Council's decision on this specific facility.

34
35 The evaluation of the reduced setback, or administrative adjustment to Wasco County's setback
36 requirement, is included in Section III.B.5., *Land Use* of this final order. The administrative
37 adjustment would allow for a minimum setback of 1.1 (550 ft), versus 1.5 (750 ft), times the
38 blade-tip height of the turbines from the right-of-way of dedicated roads within the site
39 boundary, and would only apply to 17 turbines. As noted in this final order, the Director of
40 Wasco County Public Works Department commented on the record that the adjustment would
41 not unduly impair safety on county roads and that the public roads are lightly traveled.

1 Furthermore, the County Planning Department submitted a letter to the Department stating
2 that the setback adjustment request was complete and satisfied the Wasco County Land Use
3 and Development Ordinance criteria.

4
5 OAR 345-024-0010(2) does not establish a minimum setback requirement nor require that a
6 certificate holder demonstrate an elimination of all public health and safety risk from
7 unanticipated catastrophic failure. Instead, it requires that the certificate holder design,
8 construct and operate the facility to avoid such a failure and have adequate mechanisms in
9 place to warn of an impending failure. For this reason and the reasons set forth above, the
10 Council finds that Ms. Gilbert's Issue 6 does not provide a basis to change or modify the
11 proposed order; and does not raise a significant issue of fact or law that may affect the
12 Council's determination that the facility, as amended, meets an applicable standard. Therefore,
13 the Council denies the request for contested case on Contested Case Issue 6.

14
15 **Irene Gilbert Contested Case Issue Seven**

16
17 Ms. Gilbert states:

18
19 *"Given the close proximity to the Wild and Scenic Deschutes River, there needs to be a*
20 *requirement that the developer develop a program for monitoring ecological effects and*
21 *pay for monitoring of noise impacts following construction of the wind development.*
22 *Relying upon complaints from the public who will have no way of knowing who to*
23 *complain to or even that there is a complaint process does not meet the need of assuring*
24 *the standards are met.*

25
26 *The statutes require the developer to pay for monitoring to assure the standards are*
27 *met, the standards require a limited amount of noise, and the site certificate is required*
28 *to assure ongoing compliance with the standards during construction and operation of*
29 *the development.*

30
31 *ORS 469.507(1) and (2) Monitoring environmental and ecological effects of construction*
32 *[sic] and operation of energy facilities requires the establishment of programs for*
33 *monitoring these impacts to assure continued compliance with the terms and conditions*
34 *of the certificate and require the certificate holder or the operator of the plant to*
35 *perform the necessary sampling and testing necessary to assure continued compliance*
36 *[sic] with the site certificate.*

37
38 *This issue is particularly relevant given the fact that the developer may be installing a yet*
39 *as undetermined generator and the new generator may have increased noise impacts*
40 *due to the fact that the noise is being generated closer to the ground than is typical. The*

1 *site certificate needs to include a monitoring program and testing to occur during the*
2 *construction and operation of the development."*
3

4 Ms. Gilbert's seventh issue does not cite an EFSC standard or rule. However, she states that
5 conditions are needed within the site certificate which: (1) require a monitoring and testing
6 program for ecological effects and (2) require ongoing noise monitoring. She contends that the
7 conditions are required per ORS 469.507(1) and (2) to ensure standards are met for facility
8 construction and operation impacts to the Wild and Scenic Deschutes River (referred to below
9 as "Deschutes Federal Wild and Scenic River").
10

11 ORS 469.507 requires the establishment of programs for monitoring the environmental and
12 ecological effects of the construction and operation of an energy facility. The statute, however,
13 does not identify or require specific monitoring programs. The Council has implemented the
14 statutory requirements of ORS 469.507 in part through OAR Chapter 345 Division 26 rules. OAR
15 Chapter 345 Division 26 rules establish requirements for a certificate holder to develop and
16 implement a plan for complying with each site certificate condition; and, establish reporting
17 and incident notification requirements for certificate holders. Conditions 13.1, 13.2, and 13.3 of
18 the site certificate were imposed to ensure compliance with OAR Chapter 345 Division 26 rules.
19 Ms. Gilbert did not address Conditions 13.1, 13.2, or 13.3 nor did she explain how a condition
20 requiring additional ecological monitoring and testing is required to meet an applicable
21 standard.
22

23 Ms. Gilbert requests inclusion of a condition in the site certificate requiring noise monitoring by
24 the facility and expresses that, "[t]he standards require a limited amount of noise..."; she also
25 asserts that members of the public would not be aware of a noise complaint response system
26 operated by the facility and, therefore, the certificate holder should be required to monitor
27 noise to ensure that the "standards are met." While Ms. Gilbert generally refers to standards,
28 she does not specify which standard requires noise monitoring or how the results of the noise
29 monitoring would be used to ensure compliance with an applicable standard. Moreover, Ms.
30 Gilbert does not explain how the predicted noise levels of the facility, as amended, at the
31 Deschutes Federal Wild and Scenic River would result in significant adverse impact to the area,
32 the applicable standard under the Council's Protected Area Standard, or how the predicted
33 noise levels, as presented in the proposed order, would not meet any other applicable Council
34 standard.
35

36 The Deschutes Federal Wild and Scenic River is designated as a protected area and evaluated
37 under the Council's Protected Area standard, which requires an evaluation of noise impacts
38 from facility construction and operation. In order to satisfy the Council's Protected Areas
39 standard, the Council must find that the facility, as amended, would not result in significant
40 adverse impacts at any protected areas within the applicable analysis area. To ensure that
41 potential noise impacts from facility operation would be minimized at the Deschutes Federal

1 Wild and Scenic River, the Council imposes Condition 5.14 requiring that prior to construction,
2 the certificate holder provide a turbine manufacturer guarantee demonstrating that noise
3 levels would not exceed 109 dBA for turbines located within one mile of the river boundaries.
4 Based on compliance with Condition 5.14, the Council finds the facility, as amended, would
5 comply with the Protected Areas standard and that no additional monitoring is required to
6 ensure compliance.

7
8 Because Ms. Gilbert does not explain why noise monitoring would be required to satisfy a
9 standard nor address how the predicted noise levels of the facility, as amended, would result in
10 a significant adverse impact at the Deschutes Federal Wild and Scenic River, the Council finds
11 that Ms. Gilbert's Issue 7 does not provide a basis to change or modify the proposed order and
12 does not raise a significant issue of fact or law that may affect the Council's determination that
13 the facility, as amended, meets an applicable standard. Therefore, the Council denies the
14 request for contested case on Contested Case Issue 7.

15
16 **Irene Gilbert Contested Case Issue Eight**

17
18 Ms. Gilbert states:

19
20 *"Condition 10.2(b) and (c) need to be amended to read:*

21
22 *b. No facility components may be constructed, no temporary disturbance or indirect*
23 *impacts shall be allowed to impact Category 1 habitat during construction or operation*
24 *of the development. (within areas of Category 1 habitat and temporary disturbance of*
25 *Category 1 habitat shall be avoided.)*

26 *c. The design of the facility and areas of temporary and permanent disturbance shall*
27 *avoid impacts to (any Category 1 habitat, to) any State-listed threatened or endangered*
28 *plant or wildlife species, and to any State Candidate plant species.*

29
30 *The Oregon Department of Fish and Wildlife mitigation rules require that there be NO*
31 *permanent or temporary impacts to Category 1 habitat. The term "shall be avoided"*
32 *allows for impacts to occur."*

33
34 Ms. Gilbert's eighth issue does not cite an EFSC standard, rule or statute. In her eighth issue,
35 she requests that Conditions 10.2(b) and (c) be amended to remove the term "shall be avoided"
36 in reference to impacts to Category 1 habitat and expresses a belief that the term would allow
37 impacts to occur to Category 1 habitat which would not meet ODFW's Fish and Wildlife Habitat
38 Mitigation Policy.

39
40 Condition 10.2 was included in the original site certificate, approved by Council in 2011, to
41 ensure compliance with the Council's Fish and Wildlife Habitat standard. Based on the habitat

1 assessment conducted as part of the original application , there is no Category 1 habitat located
2 within the site boundary or analysis area. Moreover, the condition language mirrors the
3 language of ODFW's Fish and Wildlife Habitat Mitigation Policy for Category 1 habitat, which
4 states that "...[t]he Department [ODFW] shall act to protect Category 1 habitats described in
5 this subsection by recommending or requiring...(A) Avoidance of impacts through alternatives
6 to the proposed development action..."

7
8 Because there is no Category 1 habitat within the site boundary or analysis area, the Council
9 does not believe there is any potential for the facility to impact Category 1 habitat within the
10 site boundary or analysis area. Additionally, the Council believes that Condition 10.2(b) and (c),
11 as currently phrased, clearly require the certificate holder to not impact Category 1 habitat. As
12 Ms. Gilbert correctly notes, ODFW's Fish and Wildlife Habitat Mitigation Policy, as well as the
13 Council's Fish and Wildlife Habitat standard, do not allow impacts to Category 1 habitat. Any
14 impact to Category 1 habitat would be a violation of the EFSC Fish and Wildlife Habitat
15 standard, and, if the Council believed the facility was likely to impact Category 1 habitat, the
16 facility would not satisfy the EFSC Fish and Wildlife Habitat standard. As noted, however, the
17 Council has no reason to believe the Summit Ridge facility, as amended, would impact Category
18 1 habitat. Furthermore, Ms. Gilbert does not question the habitat categorization, nor does she
19 provide evidence that there is or is likely to be Category 1 habitat that would be impacted by
20 the facility.

21
22 The Council finds that Ms. Gilbert's Issue 8 does not provide a basis to change or modify the
23 proposed order and does not raise a significant issue of fact or law that may affect the Council's
24 determination that the facility, as amended, meets an applicable standard. Therefore, the
25 Council denies the request for contested case on Contested Case Issue 8.

26 27 **Irene Gilbert Contested Case Issue Nine**

28
29 Ms. Gilbert states:

30
31 *"The developer must be required to provide mitigation for Category 2 Big Game Winter*
32 *Range at the 2:1 ratio required by the Oregon Department of Fish and Wildlife.*

33
34 *The Department of Energy for no apparent reason has started requiring mitigation for*
35 *Category Elk and Deer critical habitat for wintering at a 1:1 ratio rather than the 2:1*
36 *ratio being used and recommended by ODFW. There is no file documentation indicating*
37 *what basis they are using to fail to apply the standards utilized by the Oregon*
38 *Department of Fish and Wildlife who's rules OAR 345-022-0060 requiring the*
39 *development to be consistent with OAR 635-415-0025.*
40

1 *Example: On June 1, 2016, Steve Cherry, ODFW District Wildlife Biologist stated in his*
2 *comments regarding the Wheatridge Wind Development the following regarding the*
3 *mitigation for big game winter range:*

4
5 *“The Draft Habitat Mitigation Plan (HMP) that is attached to the DPO provides different*
6 *levels of mitigation requirements for Category 2 habitat and Category 2 Big Game*
7 *habitat. As per the ODFW Fish and Wildlife Habitat Mitigation Policy, the mitigation*
8 *goal for Habitat Category 2 is no net loss of either habitat quantity or quality and (to)*
9 *provide a net benefit of habitat quantity or quality (OAR 635-415-0025) regardless of*
10 *whether that Category 2 habitat is big game winter range or otherwise)” “ODFW*
11 *recommends that the Applicant mitigate for all Category 2 habitats with the mitigation*
12 *ratios in the draft plan for Category 2 habitat and not use the mitigation ratios for*
13 *Category 2 big game.” ODFW provided the same comments on this development which*
14 *will be provided at the contested case hearing. The ODFW rules require them to*
15 *recommend against a development that fails to meet their habitat mitigation*
16 *requirements for Category 2 habitat. Since the Department of Energy is supposed to*
17 *meet those same requirements, you need to deny this site application unless the*
18 *developer provides mitigation consistent with the rules of ODFW.”*

19
20 Ms. Gilbert’s ninth issue contests the compensatory mitigation proposed for Category 2 habitat
21 impacts and asserts that the mitigation does not satisfy the Council’s Fish and Wildlife Habitat
22 standard (OAR 345-022-0060) and would not be consistent with ODFW’s Fish and Wildlife
23 Habitat Mitigation Policy (OAR 635-415-0025). Ms. Gilbert claims that a 1:1 mitigation ratio, as
24 proposed by the certificate holder, would not meet the Council’s standard or ODFW’s rule as
25 ODFW requires mitigation for Category 2 Big Game Winter Range at a 2:1 ratio.

26
27 This final order includes as an attachment (Attachment G) the draft amended HMP, which was
28 reviewed and approved in concept by ODFW in October 2014 prior to the issuance of the Final
29 Order on RFA #1. The draft amended HMP presents, as a calculation methodology, ratios for
30 estimating the mitigation area required to offset temporary and permanent impacts to
31 Category 2 habitat. The Council’s Fish and Wildlife Habitat standard, which incorporates by
32 reference ODFW’s Fish and Wildlife Habitat Mitigation Policy, does not establish a requirement
33 for use of specific ratios in determining appropriate mitigation to satisfy the standard as Ms.
34 Gilbert contends.

35
36 The draft amended HMP presents a HMA of approximately 65 acres to mitigate for all impacts
37 to Category 2 habitat, including temporary and permanent impacts, of 61.75 acres. As
38 described in the draft amended HMP, the total mitigation area of approximately 65 acres
39 represents no net loss and a net benefit of Category 2 habitat quantity, as is required by the
40 Council’s Fish and Wildlife Habitat standard and the ODFW Fish and Wildlife Habitat Mitigation
41 Policy. While Ms. Gilbert raises issue with the Category 2 habitat mitigation ratio proposed by

1 the developer, she does not explain how the 65 acre mitigation area as presented in the draft
2 amended HMP would not meet the mitigation goals for Habitat Category 2 of no net loss of
3 either habitat quantity or quality and achievement of a net benefit of habitat quantity or
4 quality.

5
6 The draft amended HMP estimates the facility would permanently impact approximately 26.23
7 acres of Category 2 habitat, and would temporarily impact approximately 35.52 acres of
8 Category 2 habitat. The certificate holder is required to restore vegetation in all areas that are
9 temporarily impacted by facility construction (see Site Certificate Condition 9.6). In accordance
10 with the Council's Fish and Wildlife Habitat standard and the ODFW Fish and Wildlife Habitat
11 Mitigation Policy, a mitigation action needs to account for the nature, extent, and duration of
12 the impact to be mitigated in order to comply with the standard and policy. In the case of
13 temporary impacts, the ecological functions and values of those temporarily impacted areas
14 will return following successful revegetation and restoration. The Department and the Council
15 must consider the nature, extent, and duration of a facility's impacts when assessing if a
16 proposed mitigation package, including compensatory mitigation, will satisfy the standard. In
17 this case, considering the duration of temporary impacts to Category 2 habitat, and the overall
18 proposed habitat mitigation package, the Council finds that the facility, as amended, satisfies
19 the Fish and Wildlife Habitat standard.

20
21 Moreover, the draft amended HMP was reviewed and approved in concept by ODFW in
22 October 2014 prior to the issuance of the Final Order on RFA #1. While the Department
23 requested review and comment from ODFW of the current amendment request, there were no
24 changes requested by ODFW nor proposed by the certificate holder to the draft amended HMP
25 as a result of the current amendment request. The Council notes that ODFW commented on
26 RFA #1 and stated that the proposed mitigation for direct habitat impacts to Category 2 habitat
27 met or exceeded the goals under ODFW's Fish and Wildlife Habitat Mitigation Policy.
28 Comments received from ODFW on July 6, 2016 during the comment period for the current
29 amendment request indicated that the draft amended HMP adequately addressed all previous
30 comments on the record.

31
32 In her ninth issue, Ms. Gilbert references an agency comment letter received from ODFW on
33 June 1, 2016 on the draft proposed order for the proposed Wheatridge Wind Energy Facility
34 application for site certificate which stated, "ODFW recommends that the Applicant mitigate
35 for all Category 2 habitat with the mitigation ratios in the draft plan for Category 2 habitat and
36 not use the mitigation ratios for Category 2 big game." Ms. Gilbert states that, "ODFW provided
37 the same comments on this development." Based on review of the record for this facility, the
38 Council disagrees that these comments were provided by ODFW for this facility or to the extent
39 they were only provided during the comment period for another facility, that the comments
40 should apply to the Summit Ridge Wind Farm.

1 Because the draft amended HMP meets or exceeds the mitigation goals for Category 2 habitat
2 of no net loss of either habitat quantity or quality and achievement of a net benefit of habitat
3 quantity or quality, the Councils find that Ms. Gilbert's Issue 9 does not provide a basis to
4 change or modify the proposed order; and does not raise a significant issue of fact or law that
5 may affect the Council's determination that the facility, as amended, meets an applicable
6 standard. Therefore, the Council denies the request for contested case on Contested Case Issue
7 9.

8
9 **Irene Gilbert Contested Case Issue Ten**

10
11 Ms. Gilbert states:

12
13 *"The file contains no documentation that there will not be significant impacts to Golden*
14 *Eagles in the absence of implementing recommendations from the US Department of*
15 *Fish and Wildlife. Surveys need to be completed to determine the presence of golden*
16 *eagles within 6 miles of the development.*

17
18 *On September 20, 2010, the United States Department of the Interior submitted a nine*
19 *page comment indicating multiple concerns and recommendations regarding the*
20 *potential impacts to Golden Eagles due to this proposed development. I can find little*
21 *indication that these recommendations were seriously considered in the site certificate.*
22 *One recommendation that definitely should be applied is the fact that survey's should*
23 *occur within 6 miles of the development. The US Fish and Wildlife Service now*
24 *recommends 10 mile survey areas, however, the developer only surveyed areas within*
25 *500 feet of the development. The Oregon Department of Energy has stated that they do*
26 *not adhere to the USFWS recommendations. This does not excuse them from a failure to*
27 *provide protection for the public interest in wildlife in the state. Choosing to limit the*
28 *survey area to a small fraction of the area which would actually provide information to*
29 *predict impacts is unethical. Given the FACT that eagles utilize the corridor of the*
30 *Deschutes River as a flyway, and the FACT that any lay person can observe eagles*
31 *utilizing this area, and the FACT that turbines will be located within 1 mile of this river*
32 *makes allowing this limited area of survey an abuse of power invested in the Department*
33 *of Energy and it's management. The file contains no justification for believing that a*
34 *survey within 500 feet of this development will provide information necessary to*
35 *determine how significant the impacts to golden eagles and other raptors will be as a*
36 *result of this development. Prior action such as the response to the Shepherd Flat raptor*
37 *deaths exceeding the predicted amount make it clear that allowing developments to be*
38 *built which have extreme risk of multiple raptor deaths will not result in meaningful*
39 *consequences when the development exceeds thresholds."*

1 Ms. Gilbert's tenth issue does not cite an EFSC standard, rule or statute. Ms. Gilbert's tenth
2 issue, however, contests that there is not sufficient evidence on the record to conclude that the
3 facility would not significantly impact golden eagles and that therefore surveys, with a 6-mile
4 buffer from the "development", need to be conducted for golden eagles. Ms. Gilbert further
5 asserts that surveys conducted by the certificate holder, with a 500-ft buffer, are not sufficient
6 and not consistent with recommendations from the United States Department of the Interior.
7 Ms. Gilbert expresses a belief that additional surveys are needed due to the approximately 1
8 mile distance from the facility to the Deschutes River and because golden eagles utilize the
9 corridor of the Deschutes River as a flyway and have been observed utilizing the area.

10
11 Ms. Gilbert does not identify which EFSC standard applies to golden eagles nor explain how an
12 additional survey for golden eagles is required to demonstrate compliance with an applicable
13 standard, rule or statute. The certificate holder evaluated potential impacts to golden eagles
14 during the original application phase, in ASC Exhibit P. As presented in ASC Exhibit P, golden
15 eagles are not a State-listed or federally-listed threatened or endangered species; nor is it a
16 State Sensitive Species. However, as explained in the 2011 Final Order, the certificate holder
17 developed in consultation with USFWS an Avian and Bat Protection Plan for the facility to
18 demonstrate compliance with federal statutes. In addition, ASC Exhibit P presents a binding
19 representation by the certificate holder that during construction activities, a 0.25-mile buffer
20 would be imposed between any ground-disturbing activities to any identified active nests,
21 including golden eagle nests. Moreover, the WMMP, imposed through Site Certificate Condition
22 10.5, as amended, requires that the certificate holder conduct a two-year post-construction
23 fatality monitoring study for bird and bat species, which includes golden eagles. The WMMP
24 requires the certificate holder to compare results of the fatality monitoring study to a threshold
25 that if exceeded may warrant additional mitigation to benefit the affected species. Ms. Gilbert
26 did not address how the analysis of potential impacts to golden eagles, as presented in the
27 2011 Final Order, or the conditions and measures for monitoring and mitigating impacts to bird
28 species were insufficient.

29
30 Because Ms. Gilbert did not explain why a golden eagle survey, with a 6-mile buffer from the
31 site boundary, was required to satisfy an applicable standard, nor did she address the existing
32 measures and conditions designed to mitigate potential impacts to habitat and species, the
33 Council finds that Ms. Gilbert's Issue 10 does not provide a basis to change or modify the
34 proposed order and does not raise a significant issue of fact or law that may affect the Council's
35 determination that the facility, as amended, meets an applicable standard. Therefore, the
36 Council denies the request for contested case on Contested Case Issue 10.

37 38 II.E.4. Council Decision on Requests for Contested Case Proceeding

39
40 Based on the above analysis, and in reliance on the reasoning in the Department's October 21,
41 2016 Staff Report to the Council regrading "Summit Ridge Wind Farm Proposed Order on

1 Amendment #2 and Request for Transfer of Site Certificate, Comments and Request for
2 Contested Case,” which is incorporated in relevant part by reference, the Council finds that
3 none of the issues identified by Ms. Gilbert in her request for a contested case raise a
4 significant of issue of fact or law that may affect the Council’s determination that the facility,
5 with the changes proposed by the amendment, meets an applicable standard. Therefore, the
6 Council denies the request for a contested case proceeding as to all of the issues raised in the
7 request.

8 **III. REVIEW OF THE REQUESTED AMENDMENTS AND TRANSFER**

9
10 A site certificate amendment is necessary under OAR 345-027-0050 because the certificate
11 holder is requesting to extend the deadlines for beginning and completing construction of the
12 facility. The site certificate amendment is also necessary under OAR 345-027-0050 because the
13 certificate holder proposes to operate the facility in a manner different from the description in
14 the site certificate, and the change could result in a significant adverse impact that the Council
15 had not addressed in an earlier order and could require new conditions or modification to
16 existing conditions in the site certificate. OAR 345-027-0070(10) establishes the Council’s scope
17 of review in making its decision on this RFA. The Council must consider the factors for extension
18 of construction deadlines at OAR 345-027-0070(10)(b) and must consider whether the
19 requested amendment related to turbine setbacks and design affects any finding made by the
20 Council in an earlier order pursuant to OAR 345-027-0070(10)(c). The transfer request requires
21 an amendment to the site certificate pursuant to OAR 345-027-0100. In order to approve the
22 transfer request, the Council must make the findings required by OAR 345-027-0100(8).

23 **III.A. Applicable Division 27 Rule Requirements**

24
25 Under ORS 469.405, “a site certificate may be amended with the approval of the Energy Facility
26 Siting Council.” The Council has adopted rules for determining when a site certificate
27 amendment is necessary (OAR 345-027-0030 and -0050) and setting out the procedure for
28 amending or transferring a site certificate (OAR 345-027-0060, -0070, and -0100). Consistent
29 with OAR 345-027-0100(12), the Council may act concurrently on a request to transfer a site
30 certificate and any other RFA. However, the Council must follow the procedures described in
31 OAR 345-027-0100 for the transfer request and the procedures described in OAR 345-027-0030
32 and 345-027-0070 for the extension of the construction deadline.

33 34 **III.A.1. Review of Request to Extend Construction Deadlines (OAR 345-027-0030 and 345-** 35 **027-0070)**

36
37 OAR 345-027-0030 addresses “Amendments to Extend Construction Beginning and Completion
38 Deadlines.” Under OAR 345-027-0030, a site certificate holder may request an amendment to
39 extend the deadlines for beginning or completing the construction of a facility. The certificate

1 holder must submit the request “no later than six months before the date of the applicable
2 deadline, or, if the certificate holder demonstrates good cause for the delay in submitting the
3 request, no later than the applicable deadline.” If the Council grants such a request, the Council
4 must specify new deadlines for beginning or completing construction that are not more than
5 two years from the current deadlines.
6

7 In this instance, the certificate holder submitted the request to extend the construction
8 deadline on February 11, 2016—more than six months before the August 19, 2016 deadline for
9 starting construction—and therefore the demonstration of good cause for the delay in
10 submitting the request is not required.
11

12 OAR 345-027-0070(10)(b)(A) requires the Council to consider whether the Council has
13 previously granted an extension of the construction commencement and completion deadlines.
14

15 As discussed above, the Council has previously approved one extension of construction
16 deadlines.⁸ However, the certificate holder explains that if new turbine option is selected
17 during final facility design, due to the length of time required to legally transfer the site
18 certificate, compliance with pre-construction conditions would not be feasible by the existing
19 construction commencement deadline of August 19, 2016. The certificate holder further
20 explains that rather than invoking a “good cause” argument, it opted to be proactive in
21 requesting a deadline extension to ensure adequate time for submittal of required pre-
22 construction condition compliance documentation. The Council concurs that the requested
23 extension is necessary to give Summit Ridge Wind Holdings, LLC, the certificate holder’s new
24 parent company, time to prepare for construction and ensure compliance with pre-construction
25 conditions.
26

27 OAR 345-027-0070(10)(b)(B) requires that for an amendment extending the construction
28 commencement and completion deadlines, the Council consider “whether there has been any
29 change of circumstances that affects a previous Council finding that was required for issuance
30 of a site certificate or amended site certificate.” The Council interprets OAR 345-027-
31 0070(10)(b)(B) as applying generally to any changes in facility design as well as changes in the
32 existing environment (e.g., changes within the applicable analysis areas related to land uses,
33 habitat categorization, noise receptors, recreation areas, etc.).
34

35 The certificate holder asserts a belief that the only significant change included in the RFA is the
36 lowering of the turbine blade tip ground clearance from 23 to 18 meters. The certificate holder
37 describes that while the new turbine option would lower the blade tip ground clearance, this
38 change in circumstance would not affect a previous Council finding.

⁸ *Amended Final Order on Amendment #1*

1
2 For RFA #2, the Council considers the site certificate transfer, administrative adjustment to the
3 county's setback requirement, and new turbine option (i.e., increased hub height and lower
4 blade tip group clearance) as changes in circumstance which could affect the Council's previous
5 findings. Consistent with OAR 345-027-0070(1)(b)(C), the evaluation of these changes in
6 circumstance and whether the facility, as amended, satisfies all Council standards is presented
7 in Section III.B, *Evaluation of Council Standards* below.

8
9 OAR 345-027-0070(1)(b)(C) requires that for an amendment requesting extension of the
10 construction commencement and completion deadlines the Council consider whether the
11 facility, as amended, complies with all Council standards. Compliance with the applicable
12 Council standards is discussed in Section III.B, *Evaluation of Council Standards* below.

13
14 III.A.2. Transfer of a Site Certificate (OAR 345-027-0100)

15
16 OAR 345-027-0100 describes the procedures and process for transferring a site certificate.
17 Under OAR 345-027-0100(1)(a) a transfer of ownership requires a transfer of the site certificate
18 when the person who will have the legal right to possession and control of the site or the
19 facility does not have authority under the site certificate to construct, operate, or retire the
20 facility.

21
22 To request a transfer, a transferee must submit a written request to the Department that
23 includes the information described in OAR 345-021-0010(1)(a), (d), (f) and (m); a certification
24 that the transferee agrees to abide by all terms and conditions of the site certificate currently in
25 effect and; if known, the date of the transfer of ownership. Additionally, the Council must hold
26 a public informational hearing during a Council meeting before acting on the transfer request.
27 To approve the transfer, the Council must find that the transferee complies with the standards
28 described in OAR 345-022-0010 (Organizational Expertise standard) and OAR 345-022-0050
29 (Retirement and Financial Assurance standard), and that the transferee is or will be lawfully
30 entitled to possession or control of the site or the facility described in the site certificate (OAR
31 345-027-0100(8)). As described in more detail in Section III.B.2, *Organizational Expertise* and
32 Section III.B.7, *Retirement and Financial Assurance* of this final order, Summit Ridge Wind, LLC,
33 as the transferee, joined in filing RFA #2 and provided the necessary information to
34 demonstrate Summit Ridge Wind, LLC's compliance with the applicable Council standards.

35
36 Based on the evidence on the record and analysis provided in this order, the Council finds that
37 the transfer request satisfies the requirements under OAR 345-027-0100, including compliance
38 with the standards described in OAR 345-022-0010 and OAR 345-022-0050, and issues an
39 amended site certificate that acknowledges Summit Ridge Wind Holdings, LLC, as the new
40 parent company, and Summit Ridge Wind, LLC as the new certificate holder.

1 **III.B. Evaluation of Council Standards**

2
3 OAR 345-027-0070(1)(b)(C) requires that the Council consider whether the facility, as amended,
4 complies with all Council standards.

5
6 **III.B.1. General Standard of Review: OAR 345-022-0000**

7
8 *(1) To issue a site certificate for a proposed facility or to amend a site certificate, the*
9 *Council shall determine that the preponderance of evidence on the record supports the*
10 *following conclusions:*

11
12 *(a) The facility complies with the requirements of the Oregon Energy Facility Siting*
13 *statutes, ORS 469.300 to ORS 469.570 and 469.590 to 469.619, and the standards*
14 *adopted by the Council pursuant to ORS 469.501 or the overall public benefits of the*
15 *facility outweigh the damage to the resources protected by the standards the facility*
16 *does not meet as described in section (2);*

17
18 *(b) Except as provided in OAR 345-022-0030 for land use compliance and except for*
19 *those statutes and rules for which the decision on compliance has been delegated by*
20 *the federal government to a state agency other than the Council, the facility*
21 *complies with all other Oregon statutes and administrative rules identified in the*
22 *project order, as amended, as applicable to the issuance of a site certificate for the*
23 *proposed facility. If the Council finds that applicable Oregon statutes and rules, other*
24 *than those involving federally delegated programs, would impose conflicting*
25 *requirements, the Council shall resolve the conflict consistent with the public interest.*
26 *In resolving the conflict, the Council cannot waive any applicable state statute.*

27 * * *

28
29 As discussed above in Section II.A, the certificate holder requests to extend the construction
30 start date to August 19, 2018, and the construction completion date to August 19, 2021. Based
31 on the reasons described in Section III.A.1, and in compliance with OAR 345-027-0000 and OAR
32 345-027-0020(4), the Council grants the construction deadline extensions and modifies the
33 following previously approved site certificate conditions accordingly:

34
35 **Site Certificate Condition 4.1, as amended:** The certificate holder shall begin construction
36 of the facility by August 19 ~~2016~~ 2018. The Council may grant an extension of the deadline
37 to begin construction in accordance with OAR 345-027-0030 or any successor rule in effect
38 at the time the request for extension is submitted.

39
40 **Site Certificate Condition 4.2, as amended:** The certificate holder shall complete
41 construction of the facility by August 19, ~~2019~~ 2021. Construction is complete when (1) the
42 facility is substantially complete as defined by the certificate holder's construction contract

documents; (2) acceptance testing has been satisfactorily completed; and (3) the energy facility is ready to begin continuous operation consistent with the site certificate. The certificate holder shall promptly notify the Department of the date of completion of construction. The Council may grant an extension of the deadline for completing construction in accordance with OAR 345-027-0030 or any successor rule in effect at the time the request for extension is submitted.

The certificate holder requested to amend existing site certificate conditions 2.9 and 5.5 to reflect the reduced minimum blade tip clearance associated with the new turbine model option. The Council imposes these amendments to the previously approved site certificate conditions accordingly:

Site Certificate Condition 2.9, as amended: The certificate holder shall request an amendment of the site certificate to increase the combined peak generating capacity of the facility beyond 194.4 megawatts, to increase the number of wind turbines to more than 72 wind turbines or to install wind turbines with a hub height greater than 91 meters, a blade tip height greater than 152 meters or a blade tip clearance less than ~~23~~18 meters above ground.

Site Certificate Condition 5.5, as amended: Before beginning construction, the certificate holder shall provide to the Department a description of the turbine types selected for the facility demonstrating compliance with this condition. The certificate holder may select turbines of any type, subject to the following restrictions and compliance with all other site certificate conditions:

- a. The total number of turbines at the facility must not exceed 72 turbines.
- b. The combined peak generating capacity of the facility must not exceed 194.4 megawatts.
- c. The turbine hub height must not exceed 91 meters and the maximum blade tip height must not exceed 152 meters above grade.
- d. The minimum blade tip clearance must be ~~23~~18 meters above ground.

Based on the following analysis, the Council amends several existing conditions and imposes new conditions in the site certificate, as presented in Attachment A (Amended Site Certificate) of this final order. Based upon compliance with the existing, amended, and new site certificate conditions, the Council finds that the facility, as amended, satisfies the requirements of OAR 345-022-0000.

III.B.2. Organizational Expertise: OAR 345-022-0010

(1) To issue a site certificate, the Council must find that the applicant has the organizational expertise to construct, operate and retire the proposed facility in

1 compliance with Council standards and conditions of the site certificate. To conclude that
2 the applicant has this expertise, the Council must find that the applicant has
3 demonstrated the ability to design, construct and operate the proposed facility in
4 compliance with site certificate conditions and in a manner that protects public health
5 and safety and has demonstrated the ability to restore the site to a useful, non-
6 hazardous condition. The Council may consider the applicant's experience, the
7 applicant's access to technical expertise and the applicant's past performance in
8 constructing, operating and retiring other facilities, including, but not limited to, the
9 number and severity of regulatory citations issued to the applicant.

10
11 (2) The Council may base its findings under section (1) on a rebuttable presumption that
12 an applicant has organizational, managerial and technical expertise, if the applicant has
13 an ISO 9000 or ISO 14000 certified program and proposes to design, construct and
14 operate the facility according to that program.

15
16 (3) If the applicant does not itself obtain a state or local government permit or approval
17 for which the Council would ordinarily determine compliance but instead relies on a
18 permit or approval issued to a third party, the Council, to issue a site certificate, must
19 find that the third party has, or has a reasonable likelihood of obtaining, the necessary
20 permit or approval, and that the applicant has, or has a reasonable likelihood of entering
21 into, a contractual or other arrangement with the third party for access to the resource
22 or service secured by that permit or approval.

23
24 (4) If the applicant relies on a permit or approval issued to a third party and the third
25 party does not have the necessary permit or approval at the time the Council issues the
26 site certificate, the Council may issue the site certificate subject to the condition that the
27 certificate holder shall not commence construction or operation as appropriate until the
28 third party has obtained the necessary permit or approval and the applicant has a
29 contract or other arrangement for access to the resource or service secured by that
30 permit or approval.

31 32 **Findings of Fact**

33
34 As applicable to this RFA and transfer request, subsection (1) of the Council's Organizational
35 Expertise standard requires that the certificate holder and transferee demonstrate the ability to
36 design, construct, and operate a facility in a manner that protects public health and safety and
37 in compliance with Council standards and all site certificate conditions, as well as to restore the
38 site to a useful, non-hazardous condition. Subsections (2) through (4) address certified
39 programs and third-party permits.

40 41 ***Request for Transfer of Site Certificate***

1
2 To evaluate whether the transferee satisfies the Council's Organizational Expertise standard,
3 the Council may consider the transferee's experience and past performance in constructing,
4 operating, and retiring other facilities. The transferee does not propose to design, construct, or
5 operate the facility in accordance with an International Organization for Standardization (ISO)
6 9000 or ISO 14000 certified program. Further, the transferee has not proposed to rely on any
7 third-party permit approvals for state, local, or federal permits required for construction or
8 operation of the facility. Therefore, the Council finds that the requirements of OAR 345-022-
9 0010 (2) through (4) would not be applicable to the transfer request or the facility.

10
11 As the transfer request explains, Steve Ostrowski, formerly the president of LotusWorks, is the
12 sole owner and manager of Summit Ridge Wind Holdings, LLC (new parent company) and
13 Summit Ridge Wind, LLC (transferee). Summit Ridge Wind, LLC is a project-specific LLC and
14 therefore the organizational expertise rests with the parent company. Because the parent
15 company is new, the transferee has no prior direct experience in constructing wind projects nor
16 has it received any regulatory citations in constructing or operating similar facilities.⁹ However,
17 the transferee asserts that the Summit Ridge Wind Holdings, LLC management team has a
18 combined experience in the development and construction of more than 10,000 MW of wind
19 facility projects.

20
21 As the transferee explains, as the president of LotusWorks, Mr. Ostrowski gained relevant
22 experience in pre-construction management, construction management, accounting, and site
23 inspection within Oregon, Washington, and Pennsylvania. As explained in the transfer request,
24 his project experience in Oregon includes acquiring a 200-MW wind farm in Wasco County and
25 managing construction contractors for the 100-MW Elkhorn Wind Project in La Grande. His
26 experience in Washington includes project and budget management, and pre-construction and
27 construction management for wind facilities ranging from 100 to 205 MW (Harvest Wind
28 Project, White Creek Wind Project, and Wild Horse Wind Project).

29
30 The transferee provided qualifications of personnel who would be responsible for construction
31 and operation of the facility including Mr. Scott Nelson, Mr. Josh Corbin, and Mr. Bob Young.
32 The transferee explains that Mr. Nelson has approximately twenty-three years of development,
33 utility negotiations, construction, financing, and operations experience and that he has been a
34 part of over 5,000 MWs of successfully constructed wind and solar projects throughout the
35 world. Mr. Corbin has over 20 years of experience managing large industrial and commercial

⁹ SRWAMD2Doc1 Request for Amendment #2, p. 65.

1 projects and has overseen or been involved in the installation and operations of over 1,500
2 MWs of large commercial and utility photovoltaic and wind systems in various capacities from
3 project development, construction, and commissioning to operation of the facilities. Mr. Young
4 is a power engineer with experience in plant management and construction management. The
5 transferee explains that Mr. Young currently provides asset management oversight to the
6 White Creek and Harvest Wind Farm facilities, reporting directly to the project owners.¹⁰
7

8 This history supports the transferee's assertion that Summit Ridge Wind Holdings, LLC has the
9 requisite project management experience associated with generation projects to satisfy the
10 Council's Organizational Expertise standard. Additionally, existing Condition 5.1 of the site
11 certificate requires that prior to construction, the certificate holder must identify all
12 construction contractors and requires them to have demonstrated experience in the design,
13 engineering, and construction of similar facilities. This condition would continue to apply to the
14 amended facility.
15

16 To ensure that the transferee, and new certificate holder, notifies the Department of any
17 changes in the corporate structure of the new parent company, Summit Ridge Wind Holdings,
18 LLC, the Council imposes the following condition:
19

20 **Site Certificate Condition 6.31:** During facility construction and operation, the certificate
21 holder shall report to the Department, within 7 days, any change in the corporate
22 structure of the parent company, Summit Ridge Wind Holdings, LLC. The certificate
23 holder shall report promptly to the Department any change in its access to the
24 resources, expertise, and personnel of Summit Ridge Wind Holdings, LLC.
25

26 As described in Section III.B.8, *Fish and Wildlife Habitat* of this final order, the transferee would
27 be required to obtain and secure a habitat mitigation area (HMA) to satisfy the Council's Fish
28 and Wildlife Habitat standard, as well as conduct associated habitat uplift and mitigation
29 actions at the HMA. In the transfer request, the transferee explains that Summit Ridge Wind,
30 LLC, as an entity, does not have previous experience to demonstrate the expertise needed to
31 successfully complete such mitigation. However, for the RFA, the transferee hired specialist
32 consultants to support in preparation of the fish and wildlife habitat assessment and associated
33 documentation. These specialists include professionals from Northwest Wildlife Consultants,
34 Inc. (NWC). Moreover, the Council previously found in the *Final Order on the Application* and
35 *Amended Final Order on Amendment #1* that LotusWorks satisfied the Council's Organizational
36 Expertise standard. As explained above, the management structure of LotusWorks at the time
37 the Council issued the site certificate and approved RFA #1 for the facility included the same

¹⁰ *Id.* p. 63-64.

1 person currently managing Summit Ridge Wind Holdings, LLC and Summit Ridge Wind, LLC (Mr.
2 Steve Ostrowski).

3
4 To ensure successful implementation of the HMA and final Habitat Mitigation Plan, in Section
5 III.B.8, *Fish and Wildlife Habitat* of this final order the Council adopts amendments to existing
6 Condition 10.4 of the site certificate specifying that prior to construction the certificate holder
7 (transferee) shall provide to the Department the qualifications of the specialists identified to
8 implement and manage the HMA.

9
10 The transferee's ability to retire the facility to a useful, non-hazardous condition is evaluated in
11 Section III.B.7, *Retirement and Financial Assurance* of this order, in which the Council finds the
12 transferee would comply with the Retirement and Financial Assurance standard. In addition,
13 the Council previously found that compliance with Conditions 5.4, 5.8, 6.8, 6.10, 6.11, 6.13,
14 6.14, 7.1 through 7.7, and 8.1 through 8.9 of the site certificate would ensure that the facility is
15 designed, constructed, and operated in a manner that protects public health and safety.
16 Because the transferee would be subject to the same conditions and has certified that it would
17 abide by all requirements of the site certificate, the Council finds that, subject to the existing
18 site certificate conditions referenced above, the transferee has the ability to design, construct,
19 and operate the facility in a manner that protects public health and safety.

20 21 *Review of Amendment Request*

22
23 The Council addressed the Organizational Expertise standard in Section IV.B.1 of the *Final Order*
24 *on the Application*. The Council concluded that, subject to conditions, the certificate holder had
25 the organizational expertise to design, construct, and operate the facility in a manner that
26 protected public health and safety.¹¹ RFA #1 extended the construction deadlines, reduced the
27 total facility generation capacity, and approved a new turbine model option (referred to
28 throughout this order as the existing turbine option). These approved amendments did not
29 impact findings regarding the Organizational Expertise standard. As a result the *Amended Final*
30 *Order on Amendment #1* referred to the analysis in the *Final Order on the Application*.

31
32 As discussed above, the current amendment request includes a site certificate transfer,
33 construction commencement and completion deadline extension, adjustment to a setback
34 requirement, and the addition of a new turbine option. The analysis of the requested transfer
35 includes a demonstration of Summit Ridge Wind, LLC's compliance with the Organizational
36 Expertise standard. Further, the transferee has certified in RFA #2 that it agrees to abide by all
37 the terms and conditions of the *First Amended Site Certificate* currently in effect and all terms

¹¹ As presented in Attachment A to this order, existing Conditions 2.10, 2.11, 2.12, 4.6, 5.1, 5.2, 5.10, and 6.1 of the site certificate were imposed to ensure compliance with the Council's Organizational Expertise standard.

1 and conditions imposed by the Council as part of this amendment. As a result, the transferee
2 would be subject to the same conditions that the Council used to ensure that the certificate
3 holder had the ability to design, construct, and operate a facility in compliance with Council
4 standards and all site certificate conditions, as well as to restore the site to a useful, non-
5 hazardous condition.

6 **Conclusions of Law**

7
8
9 Based on the evidence presented in the RFA and transfer of the site certificate, the Council
10 finds that with existing and amended site certificate conditions, the certificate holder and
11 transferee have the ability to design, construct, and operate the facility in compliance with all
12 Council standards and conditions, as required by the Organizational Expertise standard.

13 14 **III.B.3. Structural Standard: OAR 345-022-0020**

15
16 *(1) Except for facilities described in sections (2) and (3), to issue a site certificate, the*
17 *Council must find that:*

18
19 *(a) The applicant, through appropriate site-specific study, has adequately*
20 *characterized the site as to the Maximum Considered Earthquake Ground Motion as*
21 *shown for the site in the 2009 International Building Code and maximum probable*
22 *ground motion, taking into account ground failure and amplification for the site*
23 *specific soil profile under the maximum credible and maximum probable seismic*
24 *events; and*

25
26 *(b) The applicant can design, engineer, and construct the facility to avoid dangers to*
27 *human safety presented by seismic hazards affecting the site that are expected to*
28 *result from maximum probable ground motion events. As used in this rule “seismic*
29 *hazard” includes ground shaking, ground failure, landslide, liquefaction, lateral*
30 *spreading, tsunami inundation, fault displacement, and subsidence;*

31
32 *(c) The applicant, through appropriate site-specific study, has adequately*
33 *characterized the potential geological and soils hazards of the site and its vicinity*
34 *that could, in the absence of a seismic event, adversely affect, or be aggravated by,*
35 *the construction and operation of the proposed facility; and*

36
37 *(d) The applicant can design, engineer and construct the facility to avoid dangers to*
38 *human safety presented by the hazards identified in subsection (c).*

39
40 *(2) The Council may issue a site certificate for a facility that would produce power from*
41 *wind, solar or geothermal energy without making the findings described in section (1).*

1 However, the Council may apply the requirements of section (1) to impose conditions on
2 a site certificate issued for such a facility.

3
4 (3) The Council may issue a site certificate for a special criteria facility under OAR 345-
5 015-0310 without making findings described in section (1). However, the Council may
6 apply the requirements of section (1) to impose conditions on a site certificate issued for
7 such a facility.

8 9 **Findings of Fact**

10
11 Section (1) of the Structural Standard generally requires the Council to evaluate whether the
12 certificate holder has adequately characterized the potential seismic, geological, and soil
13 hazards of the site and can design, engineer and construct the facility to avoid dangers to
14 human safety from these hazards.¹² Pursuant to OAR 345-022-0020(2), the Council may issue a
15 site certificate for a wind energy facility without making findings regarding the Structural
16 Standard; however, the Council may apply the requirements of the standard to impose site
17 certificate conditions. OAR 345-022-0020(3) does not apply to this proposed facility because
18 the facility is a not a special criteria facility under OAR 345-015-0310.

19
20 The Council addressed the Structural Standard in Section V.A of the *Final Order on the*
21 *Application*. The Council imposed six conditions to ensure that all potential seismic and non-
22 seismic geologic hazards were addressed.

23
24 As previously found in the *Amended Final Order on Amendment #1*, the requested amendments
25 do not affect the certificate holder's characterization of the site or seismic hazards, or its ability
26 to design, engineer, and construct the facility to avoid dangers to human safety presented by
27 seismic, geologic, or soils hazards. Therefore no changes or additions to the conditions imposed
28 in the amended site certificate are required to ensure continued compliance with this standard.

29 30 **Conclusions of Law**

31
32 Based on the foregoing analysis, and in accordance with OAR 345-022-0020(2), the Council
33 relies on the existing site certificate conditions to address the Structural Standard.

34 35 III.B.4. Soil Protection: OAR 345-022-0022

36

¹² The Council's jurisdictional authority does not preempt the jurisdiction of any state or local government over matters related to building code compliance.

1 *To issue a site certificate, the Council must find that the design, construction and*
2 *operation of the facility, taking into account mitigation, are not likely to result in a*
3 *significant adverse impact to soils including, but not limited to, erosion and chemical*
4 *factors such as salt deposition from cooling towers, land application of liquid effluent,*
5 *and chemical spills.*

6
7 **Findings of Fact**
8

9 The Soil Protection standard requires the Council to find that the design, construction, and
10 operation of the facility are not likely to result in significant adverse impacts to soil.

11
12 The Council addressed the Soil Protection standard in Section IV.C of the *Final Order on the*
13 *Application*. The Council found that the design, construction, and operation of the facility, when
14 taking into account mitigation, would not result in a significant adverse impact to soils. In the
15 original site certificate the Council adopted eight conditions to control and mitigate potential
16 adverse impact to soils and to mitigate the risk of soil contamination during construction and
17 operation.¹³

18
19 As previously found in the *Amended Final Order on Amendment #1*, the requested amendments
20 would not result in any soil impacts that have not been addressed by the Council or otherwise
21 affect the certificate holder's ability to design, construct, and operate the facility without
22 significant adverse impact to soils. The certificate holder will remain subject to the conditions
23 included in the amended site certificate. The changes to facility and turbine design through this
24 requested amendment would not alter the soil impacts. Therefore, the Council does not
25 consider any additional conditions necessary for compliance with the Soil Protection standard.

26
27 **Conclusions of Law**
28

29 Based on the reasoning discussed above, and subject to continued compliance with the related
30 conditions in the amended site certificate, the Council finds that the facility, as amended, would
31 comply with the Council's Soil Protection standard.

32
33 **III.B.5. Land Use: OAR 345-022-0030**
34

35 *(1) To issue a site certificate, the Council must find that the proposed facility complies*
36 *with the statewide planning goals adopted by the Land Conservation and Development*
37 *Commission.*
38

¹³ Summit Ridge Wind Farm Site Certificate Conditions 9.1-9.8

1 (2) *The Council shall find that a proposed facility complies with section (1) if:*

2
3 (a) *The applicant elects to obtain local land use approvals under ORS 469.504(1)(a)*
4 *and the Council finds that the facility has received local land use approval under the*
5 *acknowledged comprehensive plan and land use regulations of the affected local*
6 *government; or*

7
8 (b) *The applicant elects to obtain a Council determination under ORS 469.504(1)(b)*
9 *and the Council determines that:*

10
11 (A) *The proposed facility complies with applicable substantive criteria as*
12 *described in section (3) and the facility complies with any Land Conservation and*
13 *Development Commission administrative rules and goals and any land use*
14 *statutes directly applicable to the facility under ORS 197.646(3);*

15
16 (B) *For a proposed facility that does not comply with one or more of the*
17 *applicable substantive criteria as described in section (3), the facility otherwise*
18 *complies with the statewide planning goals or an exception to any applicable*
19 *statewide planning goal is justified under section (4); or*

20
21 (C) *For a proposed facility that the Council decides, under sections (3) or (6), to*
22 *evaluate against the statewide planning goals, the proposed facility complies*
23 *with the applicable statewide planning goals or that an exception to any*
24 *applicable statewide planning goal is justified under section (4).*

25 *****

26
27 For this site certificate, the certificate holder has requested a Council determination under ORS
28 469.504(1)(b),¹⁴ which requires:

¹⁴ The Council must apply the Land Use standard in conformance with the requirements of ORS 469.504. In *Save Our Rural Oregon*, the Oregon Supreme Court held that, “under ORS 469.504(1)(b) and (5), the Council may choose to determine compliance with statewide planning goals by evaluating a facility under paragraph (A) or (B) or (C), but...it may not combine elements or methods from more than one subparagraph, except to the extent that the chosen subparagraph itself permits.”

The Council may find compliance with statewide planning goals under ORS 469.504(1)(b)(A) if the Council finds that the proposed 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.” Under ORS 469.504(1)(b)(B) the Council must determine whether the proposed facility “otherwise [complies] with the applicable statewide planning goals.” In *Save Our Rural Oregon*, the Oregon Supreme Court held that “paragraph (B) necessarily requires an evaluation of the same applicable substantive criteria as paragraph (A) and, to the extent those criteria are not met, directs the council to consider statewide planning goals.” However, as noted above, the Council may not evaluate a proposed facility under both subparagraph (A) and subparagraph (B).

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

8
9 (B) For an energy facility or a related or supporting facility that must be evaluated
10 against the applicable substantive criteria pursuant to subsection (5) of this section, that
11 the proposed facility does not comply with one or more of the applicable substantive
12 criteria but does otherwise comply with the applicable statewide planning goals, or that
13 an exception to any applicable statewide planning goal is justified under subsection (2)
14 of this section.

15
16 (C) For a facility that the council elects to evaluate against the statewide planning goals
17 pursuant to subsection (5) of this section, that the proposed facility complies with the
18 applicable statewide planning goals or that an exception to any applicable statewide
19 planning goal is justified under subsection (2) of this section.¹⁵
20

21 ORS 469.504(5) provides, in relevant part that:

22
23 Upon request by the State Department of Energy, the special advisory group established
24 under ORS 469.480 shall recommend to the council, within the time stated in the
25 request, the applicable substantive criteria under subsection (1)(B)(A) of this section. If
26 the special advisory group does not recommend applicable substantive criteria within
27 the time established in the Department's request, the council may either determine and
28 apply the applicable substantive criteria under subsection (1)(b) of this section or
29 determine compliance with the statewide planning goals under subsection (1)(b)(B) or
30 (C) of this section.

31
32 **Findings of Fact**
33

¹⁵ ORS 469.504(b)(2) provides the exceptions process for a facility that does not otherwise comply with one or more of the statewide planning goals. No party has identified the need for any exception in this amendment request.

1 The Land Use standard requires the Council to find that a proposed facility complies with the
2 statewide planning goals adopted by the Land Conservation and Development Commission. As
3 described above, the Council may find compliance with the statewide planning goals by
4 applying the applicable substantive criteria from the local governing body under ORS
5 469.504(1)(b)(A) or ORS 469.504(1)(b)(B). In the original application for site certificate (ASC),
6 LotusWorks requested that the Council make a determination of compliance under ORS
7 469.504(1)(b)(B).¹⁶ The Council appointed Wasco County as the special advisory group (SAG) on
8 July 31, 2009.¹⁷ The SAG did not directly recommend applicable substantive criteria for the
9 original ASC, but did respond to the preliminary ASC (pASC) and provided its interpretation of
10 its local land use regulations.¹⁸ The Council applied the applicable substantive criteria identified
11 by the Wasco County Planning Director, as amended prior to submittal of the pASC, and found
12 that the proposed facility complied with each of the applicable substantive criteria identified by
13 Wasco County, except for WCLUDO Sections 3.210(F)(1) and 19.030(C)(3) and (F)(1) with regard
14 to turbine setbacks. The Council found that the facility otherwise complied with the applicable
15 statewide planning in accordance with ORS 469.504(1)(b)(B).¹⁹

16
17 The SAG did not provide the substantive criteria in effect on the date of the amendment
18 request for either RFA #1 or RFA #2.²⁰ Accordingly, for its review of RFA #1 and consistent with
19 OAR 345-027-0070(10), the Council applied the applicable substantive criteria in effect on the
20 date the certificate holder submitted the RFA. In addition to those applicable substantive
21 criteria against which the original ASC was evaluated, the applicable substantive criteria
22 included Chapter 19 (Standards for Non Commercial Energy Facilities, Commercial Energy
23 Facilities and Related Uses) of the WCLUDO, which came into effect after the original ASC was
24 submitted but prior to submittal of RFA #1. WCLUDO Chapter 19 continues to be in effect and is
25 therefore considered applicable substantive criteria for the purposes of RFA #2 along with the
26 other criteria against which the original ASC and the RFA #1 were evaluated. Therefore, the
27 substantive criteria applied to the RFA #1 remain the same for RFA #2 and include:

28 29 **Wasco County Land Use and Development Ordinance**

30 31 **Chapter 1 – Introductory Provisions**

¹⁶ *Final Order on the Application* at 24.

¹⁷ The Council appointed the Wasco County Court as the SAG on July 31, 2009. On October 21, 2009 the Wasco County Court made an administrative change that abolished the Office of Wasco County Judge and created the Wasco County Board of County Commissioners. This is the same final decision-making body and did not require reappointment as a SAG by the Council.

¹⁸ *Final Order on the Application* at 24.

¹⁹ *Id.* at 26.

²⁰ In comments related to the applicable substantive criteria dated September 15, 2014 and March 14, 2016 the Wasco County Planning Department stated that “The following comments represent those of the Wasco County Planning Department. The Wasco County Board of Commissioners (Board) is providing no comments at this time.”

1 Section 1.030 (Severability/Legal Parcel Determination)
2 Section 1.090 (Definitions of Parcel and Structure)
3
4 Chapter 3 – Basic Provisions
5 Section 3.210 (Exclusive Farm Use Zone)
6 Section 3.210(B) (Uses Permitted without Review)
7 Section 3.210(D) (Uses Permitted Subject to Standards/Type II Review)
8 Section 3.210(E) (Conditional Uses)
9 Section 3.210(F) (Property Development Standards)
10 Section 3.210(H) (Agricultural Protection)
11 Section 3.210(J) (Additional Standards)
12
13 Chapter 4 – Supplemental Provisions
14 Section 4.070 (General Exceptions to Building Height)
15
16 Chapter 5 – Conditional Use Review
17 Section 5.020 (Authorization to Grant or Deny Conditional Uses, and Standards and Criteria
18 Used)
19
20 Chapter 10 – Fire Safety Standards
21
22 Chapter 19 – Standards for Energy Facilities and Commercial Energy Facilities
23 Section 19.010 (Purposes)
24 Section 19.030 (Standards for Approval)
25

26 **Wasco County Comprehensive Plan**
27

28 Goal 1 (Citizen Involvement)
29 Goal 2 (Land Use Planning)
30 Goal 3 (Agricultural Lands)
31 Goal 5 (Open Space, Scenic and Historic Areas and Natural Resources)
32 Goal 6 (Air, Water and Land Resources Quality)
33 Goal 8 (Recreational Needs)
34 Goal 9 (Economy of the State)
35 Goal 11 (Public Facilities and Services)
36 Goal 12 (Transportation)
37 Goal 13 (Energy Conservation)
38

39 Consistent with its review of the original application and RFA #1, the Council evaluated the
40 identified applicable substantive criteria under ORS 469.504(1)(b)(B). As provided below, the
41 Council finds that, with conditions, the facility complies with each of the applicable substantive

criteria identified above, except for the setback provisions of WCLUDO Section 3.210(F)(1). With regard to those setback provisions, and as described in greater detail in the findings of compliance with WCLUDO Section 3.210(F)(1), the Council finds that the facility otherwise complies with the applicable statewide planning goals in accordance with ORS 469.504(1)(b)(B).

WCLUDO Chapter 1 (Introductory Provisions)

WCLUDO Section 1.030 (Severability) and Section 1.090 (Definitions)

WCLUDO Section 1.030 Severability

The provisions of this Ordinance are severable. If any section, sentence, clause, or phrase of this Ordinance is adjudged to be invalid by a court of competent jurisdiction, that decision shall not affect the validity of the remaining portion of this Ordinance. The Director, the Director's designee or other Approving Authority shall not approve a development or use of land that has been previously divided or otherwise developed in violation of this Ordinance, regardless of whether the applicant created the violation, unless the violation can be rectified as part of the development proposal.

WCLUDO Sections 1.030 and 1.090 provide severability provisions and definitions for implementation of the WCLUDO, which generally do not establish any substantive applicable criteria under the Council's jurisdiction. However, WCLUDO Section 1.030 specifically prohibits approval of any development of a parcel that has been partitioned or otherwise developed in violation of the WCLUDO, unless "the violation can be rectified as part of the development proposal." Under WCLUDO Section 1.090, a legal parcel is one that was created in a lot in an existing, duly recorded subdivision, or in a parcel in an existing, duly recorded major or minor land partition, or by deed or land sales contract prior to September 4, 1975.

The Council addressed WCLUDO Section 1.030 in Section IV.D.1.a of the *Final Order on the Application* and found that, to the extent Section 1.030 provides specific land use requirements, the facility satisfies the criterion. The requested amendment would not affect the Council's previous findings, as evidence was provided in the original ASC that all parcels on which the facility would be located were legally created parcels, and the amendment request does not include any new parcels not previously considered in the original ASC. Therefore, the Council finds that this criterion has been met.

WCLUDO Chapter 3 (Basic Provisions)

WCLUDO Chapter 3, Section 3.210 (Exclusive Farm Use [A-1] Zone)

WCLUDO Chapter 3, Section 3.210(B) Uses Permitted Without Review

1 *The following uses may be allowed on lands designated Exclusive Farm Use without*
2 *review:*

3 * * * * *

4
5 **TRANSPORTATION FACILITIES**

6 * * * * *

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

11 * * * * *

12
13 In the *Final Order on the Application* and *Amended Final Order on Amendment #1*, the Council
14 found that the proposed road improvements were uses permitted without review under this
15 section.²¹ The requested amendments do not affect this finding. Therefore, the Council finds
16 that the proposed road improvements continue to be uses permitted without review under
17 WCLUDO Section 3.210(B).

18
19 **WCLUDO Chapter 3, Section 3.210(D) Uses Permitted Subject to Standards/Type II Review**

20
21 *The following uses may be permitted on a legal parcel on lands designated "A-1"*
22 *Exclusive Farm Use subject to the Subsection F – Property Development Standards,*
23 *Subsection H – Agricultural Protection, Chapter 10 – Fire Safety Standard, Chapter 20 –*
24 *Site Plan Review, only if the request includes off-street parking, off-street loading or*
25 *bicycle parking, as well as any other listed, referenced or applicable standards.*

26 * * * * *

27
28 **UTILITY/ENERGY FACILITIES**

29 *Pursuant to Chapter 4 – Supplemental Provisions – Section 4.070, these uses do not*
30 *require a variance if they exceed 35 feet in height.*

31
32 12. *Utility facilities "necessary" for public service, including wetland waste treatment*
33 *systems, and Electrical Transmission Facilities under 200 feet in height, but not including*
34 *commercial utility facilities for the purpose of generating electrical power for public use*
35 *by sale, or transmission towers over 200 feet in height, subject to Section J(8), Additional*
36 *Standards below.*

37 * * * * *

21 *Final Order on the Application* at 27

1 In the *Final Order on the Application* and again in *Amended Final Order on Amendment #1*, the
2 Council found that the transmission line for the facility was subject to WCLUDO Section
3 3.210(J)(8) and that the remainder of the facility is a commercial utility facility for the purpose
4 of generating electrical power for public use, a use permitted subject to conditional use
5 requirements.²² The requested amendments do not affect that finding. Therefore, the Council
6 continues to find that the transmission line is a use permitted subject to WCLUDO Section
7 3.210(J)(8) and that the remainder of the facility is a commercial utility facility for the purpose
8 of generating electrical power for public use, which is permitted subject to conditional use
9 requirements addressed below.

10
11 **WCLUDO Section 3.210(E) Conditional Uses²³**

12
13 *The following uses and activities may be allowed subject to a Type II or Type III Review*
14 *on a legal parcel designated Exclusive Farm Use subject to Subsection F – Property*
15 *Development Standards, H – Agricultural Protection, Chapter 5 – Conditional Use*
16 *Review, Chapter 10 – Fire Safety Standards as well as any other listed, referenced, or*
17 *applicable standards.*

18 * * * * *

19
20 ***ENERGY/UTILITY/SOLID WASTE DISPOSAL FACILITIES***

21 * * * * *

22
23 *14. Commercial Power Generating facility (Utility facility for the Purpose of Generating*
24 *Power) subject to Section 19.030.*

25
26 *A wind power generation facility shall also be subject to Section J(17), Additional*
27 *Standards below.*

28
29 *Except for wind facilities, transmission lines or pipelines, unless otherwise allowed by*
30 *state regulations, the energy facility shall not preclude more than 12 acres from use as a*
31 *commercial agricultural enterprise unless an exception is taken pursuant to OAR Chapter*
32 *660, Division 4, or 20 acres from use as a commercial agricultural enterprise unless an*
33 *exception is taken pursuant to OAR Chapter 660, Division 4 and ORS 197.732.*

34 * * * * *

²² *Final Order on the Application* at 27. The *Final Order on the Application* incorrectly referred to Section 4.070(13), which does not exist. The correct reference is Section 3.210(D)(13).

²³ Section 3.210(E) has been amended since the ASC was submitted. As a result, the requirements of subsection (8) were incorporated into subsection (14). The analysis in the *Final Order on the Application* on subsection (8) is still relevant for compliance with subsection (14) but compliance with the new subsection (8) is no longer required.

WCLUDO Section 3.210(E)(14) was added on April 10, 2012 and therefore applied to the RFA #1 and also applies to this amendment request.

With the exception of the 230-kV transmission line and improvements to existing public roads, which are addressed and allowed under WCLUDO Sections 3.210(B) and 3.210(D), all components of the wind energy facility and its related or supporting facilities qualify as a “wind power generation facility,” which is a type of “commercial power generating facility” allowed as a conditional use under WCLUDO Section 3.210(E). These components of the wind energy facility include the wind turbines, the electrical collection system, the collector substations, the met towers, and new and improved private access roads. All of these components are subject to the general conditional use criteria, the Commercial Power Generating Facilities standards, and the specific wind power generation criteria. As a wind energy facility, the facility is expressly exempt from the 12-acre and 20-acre limitations identified in WCLUDO Section 3.210(E)(14).

The Council continues to find that the wind energy facility is a wind power generation facility, which is a commercial power generating facility and a use permitted as a conditional use pursuant to WCLUDO Section 3.210(D). Compliance with the conditional use criteria is addressed below under the discussion for WCLUDO Section 5.020 (General Conditional Use Criteria); WCLUDO Section 19.030 (Applicable Standards for Commercial Power Generating Facilities); and WCLUDO Section 3.210(J)(17) (Wind Power Generation Facility Criteria).

WCLUDO Section 3.210(F) 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.

The development standards in WCLUDO Section 3.210(F) apply to all components of the wind energy facility and the 230-kV transmission line.

WCLUDO Section 3.210(F)(1) Setbacks

a. Property Line

1 (1) All dwellings (farm and non farm) and accessory structures not in conjunction
2 with farm use, shall comply with the following property line setback requirements:

3
4 (a) If adjacent land is being used for perennial or annual crops, the setback shall
5 be a minimum of 200 feet from the property line.

6 (b) If adjacent land is being used for grazing, is zoned Exclusive Farm Use and has
7 never been cultivated or is zoned F-1 or F-2, the setback shall be a minimum of
8 100 feet from the property line.

9 (c) If the adjacent land is not in agricultural production and not designated
10 Exclusive Farm Use, F-1 or F-2, the setback shall be a minimum 25 Feet from the
11 property line.

12 (d) If any of the setbacks listed above conflict with the Sensitive Wildlife Habitat
13 Overlay the following shall apply and no variance shall be required:

14
15 i. The structure shall be set back a minimum of 25 feet from the road right of
16 way or easement;

17 ii. The structure shall be located within 300 feet of the road right of way or
18 easement pursuant Section 3.920(F)(2), Siting Standards; and

19 iii. As part of the application the applicant shall document how they are siting
20 the structure(s) to minimize impacts to adjacent agricultural uses to the
21 greatest extent practicable.

22 * * * * *

23
24 In the *Final Order on the Application*, the Council determined that all of the land adjacent to the
25 analysis area is currently being used for grazing and winter wheat production and that,
26 therefore, the facility is subject to the 200-foot setback described in subsection (1)(a). The
27 Council found that, with the exception of the transmission lines and poles that cannot be
28 located at least 200 feet from the property line, the facility satisfied this standard.²⁴ To the
29 extent the transmission lines and poles did not satisfy the 200-foot setback requirement, the
30 facility was reviewed for compliance with the applicable statewide planning goals as permitted
31 under ORS 469.504(1)(b)(B). The Council also found that subsection (d) did not apply to the
32 facility.²⁵

33
34 The certificate holder confirmed that, under RFA #2, the facility components, with the
35 exception of the transmission line and poles, would be located a minimum of 200 feet from the
36 property line of adjacent land used for perennial or annual crops.²⁶ Furthermore, as the Council

²⁴ *Final Order on the Application* at 29.

²⁵ *Id.*

²⁶ SRWAMD2Doc22 Certificate Holder Response to Additional Information Request 2016-07-20.

1 concluded in the *Final Order on the Application*, the 200-foot setback is not required for the
2 facility to be compliant with the statewide planning goals. Therefore, to the extent that this
3 criterion is applicable to the turbines and related or supporting facilities, the Council continues
4 to find that, with the exception of the transmission line and poles, the facility satisfies the
5 requirements of this section and that subsection (d) does not apply. The Council further finds
6 that the facility otherwise continues to comply with the applicable statewide planning goals in
7 accordance with ORS 469.504(1)(b)(B) because the 200-foot setback required under this
8 criterion is not required for compliance with the statewide planning goals.

9
10 The Council previously found that no part of the facility site is located within the Sensitive
11 Wildlife Habitat Overlay.²⁷ The requested amendment does not seek to modify the site
12 boundary. Therefore, the Council finds that the requirements of subsection (d) do not apply.

13 14 **WCLUDO Section 3.210(F)(1) Setbacks**

15 16 ***b. Waterways***

17 *(1) Resource Buffers: All bottoms of foundations of permanent structures, or similar*
18 *permanent fixtures shall be setback from the high water line or mark, along all*
19 *streams, lakes, rivers, or wetlands.*

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

23 *(b) A minimum distance of fifty (50) feet when measured horizontally at a right*
24 *angle for all waterbodies designated as non fish bearing by any federal, state or*
25 *local inventory.*

26 *(c) A minimum distance of twenty five (25) feet when measured horizontally at a*
27 *right angle for all waterbodies (seasonal or permanent) not identified on any*
28 *federal, state or local inventory.*

29 *(d) If the proposal does not meet these standards it shall be subject to Section*
30 *(a)(3), Additions or Modifications to Existing Structures, above.*

31 *(e) The following uses are not required to meet the waterway setbacks, however*
32 *they must be sited, designed and constructed to minimize intrusion into the*
33 *riparian area to the greatest extent possible:*

34 *(i) Fences;*

35 *(ii) Streets, roads, and paths;*

36 *(iii) Drainage facilities, utilities, and irrigation pumps;*

37 *(iv) Water-related and water-dependent uses such as docks and bridges;*

38 *(v) Forest practices regulated by the Oregon Forest Practices Act;*

²⁷ *Final Order on the Application* at 29.

1 (vi) *Agricultural activities and farming practices, not including the construction of*
2 *buildings, structures or impervious surfaces; and*
3 (vii) *Replacement of existing structures with structures in the same location that*
4 *do not disturb additional riparian surface area.*

5 In the *Final Order on the Application*, the Council found that no foundations or permanent
6 structures are proposed to be located within 100 feet of any waterways and that the 230-kV
7 transmission line is not subject to the waterways setback because it is considered a utility
8 pursuant to subsection (iii), and that, therefore, the facility satisfies this waterways setback
9 requirement.²⁸ The certificate holder confirmed that, under the current RFA, the foundations of
10 the substation, O&M building, and turbines would be set back a minimum of 100 feet from
11 seasonal or permanent waterways.²⁹ The Council deems this representation to be a binding
12 commitment made by the certificate holder and therefore the Council imposes the following
13 condition:

14
15 **Site Certificate Condition 6.32:** During facility design and construction, the certificate
16 holder shall ensure that the foundations of the turbines, substation, and operations and
17 maintenance building are set back a minimum 100 feet from any waterbodies designated as
18 fish-bearing, 50 feet from any waterbodies designated as non-fish-bearing, and 25 feet from
19 all waterbodies (seasonal or permanent) not identified on any federal, state, or local
20 inventory.

21
22 Based on the analysis above, and subject to compliance with Site Certificate Condition 6.32, the
23 Council finds that the facility, as amended, complies with this criterion.

24
25 (2) *Floodplains: Any development including but not limited to buildings, structures or*
26 *excavation, proposed within a FEMA designated flood zone, or sited in an area where the*
27 *Planning Director cannot deem the development reasonably safe from flooding shall be*
28 *subject to Section 3.740, Flood Hazard Overlay.*

29
30 In the *Final Order on the Application*, the Council found that the facility satisfied this
31 requirement as no development is proposed within a Federal Emergency Management Agency
32 (FEMA)-designated flood zone and all areas are reasonably safe from flooding.³⁰ The requested

²⁸ *Id.* at 30

²⁹ SRWAMD2Doc22 Certificate Holder Response to Additional Information Request 2016-07-20.

³⁰ *Id.*

1 amendments do not affect this finding.³¹ As a result, the Council finds that the facility continues
2 to comply with this criterion.

3
4 **WCLUDO Section 3.210(F)(1) Setbacks**

5
6 ***c. Irrigation Ditches***

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

13
14 In the *Final Order on the Application* and the *Amended Final Order on Amendment #1*, the
15 Council found that because the facility does not require any development within 50 feet of the
16 centerline of an irrigation ditch that continues past the subject parcel to provide water to other
17 property owners, the facility satisfies this standard.³² The certificate holder confirmed that
18 there are no irrigation ditches or pipelines within the site boundary, and that therefore the
19 facility, as amended, would be located a minimum of 50 feet from the centerline of an irrigation
20 ditch or pipeline.³³

21
22 Based on the analysis above, the Council finds that the facility, as amended, complies with this
23 criterion.

24
25 **WCLUDO Section 3.210(F)(2) Height**

26
27 *Except for those uses allowed by Section 4.070, General Exception to Building Height*
28 *Requirements, no building or structure shall exceed a height of 35 feet. Height is*
29 *measured from average grade.*

30
31 In the *Final Order on the Application*, the Council determined that the O&M building is the only
32 facility structure that must comply with this standard and that it will not exceed 35 feet in
33 height. Therefore, the Council found that the facility would comply with this requirement.³⁴ The

³¹ In its response to the Department's July 6, 2016 AIR, the certificate holder confirmed that the facility components, as amended, would be located outside of the 100-year floodplain. SRWAMD2Doc22 Certificate Holder Response to Additional Information Request 2016-07-20.

³² *Id.* and *Amended Final Order on Amendment #1* at 28.

³³ SRWAMD2Doc22 Certificate Holder Response to Additional Information Request 2016-07-20.

³⁴ *Final Order on the Application* at 31.

requested amendments do not affect this finding. As a result, the Council finds that the facility continues to comply with this requirement.

WCLUDO Section 3.210(F)(4) Signs

- a. Permanent signs shall not project beyond the property line.*
- b. Signs shall not be illuminated or capable of movement.*
- c. Permanent signs shall describe only uses permitted and conducted on the property on which the sign is located.*
- d. Size and Height of Permanent Signs:*
 - (1) Freestanding signs shall be limited to twelve square feet in area and 8 feet in height measured from natural grade.*
 - (2) 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.*
- e. Number of permanent signs:*
 - (1) 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.*
 - (2) Signs on buildings shall be limited to one per building and only allowed on buildings conducting the use being advertised.*

In the *Final Order on the Application* the Council found that the facility would be in compliance with all signage requirements because the only signs that would be posted are required safety signs.³⁵ The requested amendments do not affect this finding. As a result, the Council finds that the facility, as amended, continues to comply with this criterion.

WCLUDO Section 3.210(F)(5) 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 nonreflective, opaque materials.

³⁵ *Id.*

1 In the *Final Order on the Application*, the Council found that, subject to the requirement of
2 Condition 6.23 of the site certificate to shield and hood all exterior lighting, the facility would
3 meet this requirement.³⁶ The requested amendments do not affect this finding. As a result, the
4 Council continues to find that, as conditioned and amended, the facility continues to meet this
5 criterion.

6
7 **WCLUDO Section 3.210(F)(6) Parking**
8

9 *Off street parking shall be provided in accordance with Chapter 20.*
10

11 Pursuant to WCLUDO Section 3.210(E), wind power generation facilities are a category of
12 commercial power generating facility uses permitted subject to conditional use review. Since
13 the original site certificate was issued, Wasco County has amended the introductory language
14 in WCLUDO Section 3.210(E) to state that uses permitted conditionally under the section are
15 subject to Chapter 20 – Site Plan Review “only if the request includes off-street parking, off-
16 street loading or bicycle parking.” This language was considered in the *Amended Final Order on*
17 *Amendment #1* and applies to the current request as well. Exhibit K of the original ASC states
18 that a graveled parking area for employees, visitors, and equipment would be located in the
19 vicinity of the O&M building. Therefore, as determined by the Council in the *Amended Final*
20 *Order on Amendment #1*, the off-street parking standards of Chapter 20 are generally
21 applicable to this request.³⁷ However, the county has not adopted off-street parking standards
22 in WCLUDO Section 20.050 for wind facilities or other utility uses. Therefore, there are no
23 standards for the Council to consider regarding the Chapter 20 off-street parking requirements.
24

25 **WCLUDO Section 3.210(F)(7) New Driveways**
26

27 *All new driveways and increases or changes of use for existing driveways which access a*
28 *public road shall obtain a Road Approach Permit from the appropriate jurisdiction, either*
29 *the Wasco County Public Works Department or the Oregon Dept. of Transportation.*
30

31 The requested amendments do not request changes to the access roads proposed in the
32 original ASC. As shown therein, in order to access the facility, the certificate holder would
33 construct new access roads that would intersect with existing public roads.³⁸ The county
34 defines “driveway” as “a private access providing ingress and egress to and from within a single
35 property, or portion of a single property to a public road, private road or private easement
36 road” (WCLUDO Section 1.090). Because the proposed access roads would provide private

³⁶ *Id.* at 32

³⁷ *Amended Final Order on Amendment #1* at 30.

³⁸ ASC Exhibit B at 4 and Exhibit C mapset.

1 ingress and egress to and from public (county) roads, it appears that one or more Road
2 Approach Permits may be required by the county for the facility. Therefore, to ensure this
3 criterion is met, the Council adopts the following condition:

4
5 **Site Certificate Condition 5.12:** Prior to beginning construction of new access roads, the
6 certificate holder shall obtain any Road Approach Permit(s) that may be required by the
7 Wasco County Public Works Department.

8
9 Subject to compliance with Site Certificate Condition 5.12, the Council finds that the facility, as
10 amended, complies with this criterion.

11
12 **WCLUDO Section 3.210(H) Agricultural Protection**

13
14 *The uses listed in Section D, Uses Allowed Subject to Standards and E, Conditional Uses*
15 *must meet the following standards:*

16
17 *1. Farm-Forest Management Easement: The landowner is required to sign and record*
18 *in the deed records for the county a document binding the landowner, and the*
19 *landowner's successors in interest, prohibiting them from pursuing a claim for relief*
20 *or cause of action alleging injury from farming or forest practices for which no action*
21 *or claim is allowed under ORS 30.936 or 30.937.*

22 *2. Protection for Generally Accepted Farming and Forestry Practices – Complaint and*
23 *Mediation Process: The landowner will receive a copy of this document.*

24
25 In the *Final Order on the Application*, the Council found that the facility satisfied this
26 requirement, subject to compliance with Condition 5.3 of the site certificate, which requires the
27 certificate holder to execute and record a Farm-Forest Management easement.³⁹ The
28 requested amendments do not affect this finding. As a result, the Council finds that the facility,
29 as conditioned and as amended, continues to satisfy this criterion.

30
31 **WCLUDO Section 3.210(J)(8) Additional Standards; Utility Facility**

32 *a. A utility facility is necessary for public service if the facility must be sited in an*
33 *exclusive farm use zone in order to provide the service. To demonstrate that a utility*
34 *facility is necessary, an applicant must show that reasonable alternatives have been*
35 *considered and that the facility must be sited in an exclusive farm use zone due to one or*
36 *more of the following factors:*

37 *(1) Technical and engineering feasibility;*

³⁹ *Final Order on the Application* at 32.

1 (2) *The proposed facility is locationally dependent. A utility facility is locationally*
2 *dependent if it must cross land in one or more areas zoned for exclusive farm use in*
3 *order to achieve a reasonably direct route or to meet unique geographical needs that*
4 *cannot be satisfied on other lands;*
5 (3) *Lack of available urban and non-resource lands;*
6 (4) *Availability of existing rights of way;*
7 (5) *Public health and safety; and*
8 (6) *Other requirements of state and federal agencies.*
9 *b. Costs associated with any of the factors listed in a. may be considered, but cost alone*
10 *may not be the only consideration in determining that a utility facility is necessary for*
11 *public service. Land costs shall not be included when considering alternative locations for*
12 *substantially similar utility facilities and the siting of utility facilities that are not*
13 *substantially similar.*
14 *c. The owner of a utility facility approved under this section shall be responsible for*
15 *restoring, as nearly as possible, to its former condition any agricultural land and*
16 *associated improvements that are damaged or otherwise disturbed by the siting,*
17 *maintenance, repair or reconstruction of the facility. Nothing in this subsection shall*
18 *prevent the owner of the utility facility from requiring a bond or other security from a*
19 *contractor or otherwise imposing on a contractor the responsibility for restoration.*
20 *d. The governing body of the County or its designee shall impose clear and objective*
21 *conditions on an application for utility facility siting to mitigate and minimize the*
22 *impacts of the proposed facility, if any, on surrounding lands devoted to farm use in*
23 *order to prevent a significant change in accepted farm practices or a significant increase*
24 *in the cost of farm practices on surrounding farm lands.*

25
26 WCLUDO Section 3.210(J)(8) directly implements ORS 215.275, which establishes the statutory
27 requirements for determining whether a utility facility proposed to be located on EFU land is
28 “necessary for public service.” ORS 215.275(2) and WCLUDO Section 3.210(J)(8)(a) include six
29 criteria for determining whether a utility facility is necessary for public service; a utility facility
30 must meet at least one of these criteria in order to be considered necessary for public service in
31 an EFU zone. These criteria apply only to the 230-kV transmission line that is proposed to serve
32 the facility; the remainder of the facility is considered a wind power generation facility, which is
33 subject to the provisions in WCLUDO Section 3.210(J)(17).
34

35 In the *Final Order on the Application*, the Council found that because there is a lack of available
36 urban or non-resource land, the facility satisfied Criterion 3, which allows a utility facility to be

1 sited in an exclusive farm use (EFU) zone due to lack of available urban or nonresource lands.⁴⁰
2 The Council further found that the proposed transmission line satisfied Criterion 1 (technical
3 and engineering feasibility) and Criterion 2 (locational dependency) because the location of the
4 wind power generation facility on EFU land requires the transmission line to also be located on
5 EFU land.⁴¹ Finally, the Council found that Criterion 5 was satisfied because the proposed
6 transmission line was located away from populated areas.⁴² The Council concluded the
7 proposed transmission line would also satisfy the restoration and condition requirements of
8 ORS 215.275(4) and (5) and WCLUDO Sections 3.210(J)(8)(c) and (d), subject to restoration and
9 other conditions included in the site certificate.⁴³ The requested amendments do not affect
10 these findings. As a result, the Council finds that the proposed transmission line continues to
11 meet this criterion.
12

13 **WCLUDO Section 3.210(J)(17) Wind Power Generation Facility**

14 *For purposes of this section a wind power generation facility includes, but is not limited*
15 *to, the following system components: all wind turbine towers and concrete pads,*
16 *permanent meteorological towers and wind measurement devices, electrical cable*
17 *collection systems connecting wind turbine towers with the relevant power substation,*
18 *new or expanded private roads (whether temporary or permanent) constructed to serve*
19 *the wind power generation facility, office and operation and maintenance buildings,*
20 *temporary lay-down areas and all other necessary appurtenances.*
21

22 WCLUDO Section 3.210(J)(17) directly implements OAR 660-033-0130(37), adopted by Land
23 Conservation and Development Commission in 2009, to allow wind power generation facilities
24 to be located on agricultural lands without taking an exception to statewide planning goals. The
25 proposed wind energy facility and its related and supporting facilities, with the exception of the
26 230-kv transmission line, are analyzed below as a wind power generation facility for purposes
27 of WCLUDO Section 3.210(J)(17) and OAR 660-033-0130(37).
28

29 **WCLUDO Section 3.210(J)(17)(a)(1)**

30
31 *For high-value farmland soils described in ORS 195.300(10), it must be found that all of*
32 *the following are satisfied:*
33 *(1) Reasonable alternatives have been considered to show that siting the wind power*
34 *generation facility or component thereof on high-value farmland soils is necessary*
35 *for the facility or component to function properly or if a road system or turbine string*

⁴⁰ *Id.* at 34

⁴¹ *Id.*

⁴² *Id.*

⁴³ *Id.*

1 *must be placed on such soils to achieve a reasonably direct route considering the*
2 *following factors:*

3 *(a) Technical and engineering feasibility;*

4 *(b) Availability of existing rights of way; and*

5 *(c) The long term environmental, economic, social and energy consequences of*
6 *siting the facility or component on alternative sites, as determined under*
7 *paragraph (2) of this subsection.*
8

9 In both the *Final Order on the Application* and the *Amended Final Order on Amendment #1*, the
10 Council found that reasonable alternatives were not available to avoid high-value farmland, and
11 that the location of the proposed facility was determined based on technical and engineering
12 feasibility, in compliance with WCLUDO Section 3.210(J)(17)(1)(a).⁴⁴ The requested
13 amendments do not include a request to modify the site boundary approved in the *Amended*
14 *Final Order on Amendment #1*. In addition, the certificate holder represents that the facility
15 under the requested new turbine option would disturb an area similar to that approved in the
16 *Amended Final Order on Amendment #1*,⁴⁵ which was previously found by the Council to be in
17 compliance with this criterion. As a result, the Council finds that the facility, as amended,
18 satisfies this criterion.
19

20 **WCLUDO Section 3.210(J)(17)(a)(2)**
21

22 *(2) The long-term environmental, economic, social and energy consequences resulting*
23 *from the wind power generation facility or any components thereof at the proposed site*
24 *with measures designed to reduce adverse impacts are not significantly more adverse*
25 *than would typically result from the same proposal being located on other agricultural*
26 *lands that do not include high-value farmland soils.*
27

28 In the *Final Order on the Application*, the Council found that the impacts associated with
29 locating the facility on high-value farmland are not significantly greater than the impact of
30 locating the proposed facility on nearby non-high-value soils, in compliance with WCLUDO
31 Section 3.210(J)(17)(2).⁴⁶ In the *Amended Final Order on Amendment #1* the Council found that
32 the amendments requested under RFA #1 would result in a minor reduction in the amount of
33 high-value farmland that would be impacted, and the Council found that the facility, as
34 amended by RFA #1, satisfied this criterion. As part of RFA #2, the certificate holder stated: “We

⁴⁴ *Id.* at 36 and *Amended Final Order on Amendment #1* at 33.

⁴⁵ SRWAMD2Doc22 Certificate Holder Response to Additional Information Request 2016-07-20.

⁴⁶ *Final Order on the Application* at 37.

1 would expect the area of disturbance for the 3 MW turbines to be very similar to the area
2 previously identified for the approved 72 turbine layout.”⁴⁷ In addition, the current requested
3 amendments do not include a request to modify the site boundary. Therefore, based upon the
4 certificate holder’s representation that the requested new turbine option would disturb an area
5 similar to the facility approved in the *Amended Final Order on Amendment #1* and the Council’s
6 previous findings of compliance in the *Amended Final Order on Amendment #1* for the existing
7 turbine option, the Council finds that the facility, as amended, would comply with this criterion.

8
9 **WCLUDO Section 3.210(J)(17)(a)(3)**

10
11 *(3) Costs associated with any of the factors listed in paragraph (1) of this subsection may*
12 *be considered, but costs alone may not be the only consideration in determining that*
13 *siting any component of a wind power generation facility on high-value farmland soils is*
14 *necessary.*

15
16 In the *Final Order on the Application*, the Council found that cost was not the only consideration
17 in determining that siting any component of a wind power generation facility on high-value
18 farmland soils is necessary.⁴⁸ The requested amendments do not affect this finding. As a result,
19 the Council again finds that the facility, as amended, satisfies this criterion.

20
21 **WCLUDO Section 3.210(J)(17)(a)(4)**

22
23 *(4) The owner of a wind power generation facility approved under Section (a) above shall*
24 *be responsible for restoring, as nearly as possible, to its former condition any agricultural*
25 *land and associated improvements that are damaged or otherwise disturbed by the*
26 *siting, maintenance, repair or reconstruction of the facility. Nothing in this subsection*
27 *shall prevent the owner of the facility from requiring a bond or other security from a*
28 *contractor or otherwise imposing on a contractor the responsibility for restoration.*

29
30 In the *Final Order on the Application*, the Council found that, subject to conditions to ensure
31 compliance with the Retirement and Financial Assurance standard, the certificate holder could
32 satisfy this criterion. Those conditions ensure that the certificate holder will be responsible for
33 restoring the site, as nearly as possible, to its former condition.⁴⁹ The transferee’s ability to
34 restore the site to a useful, non-hazardous condition is evaluated in Section III.B.7, *Retirement*
35 *and Financial Assurance* of this order, in which the Council finds the transferee would comply
36 with the Retirement and Financial Assurance standard. Based upon the findings in that section,

⁴⁷ This representation was made in response to the first set of AIRs for RFA #2. SRWAMD2Doc22

⁴⁸ *Final Order on the Application* at 37.

⁴⁹ *Id.*

1 the Council again finds that, subject to the existing site certificate conditions, the facility
2 satisfies this criterion.

3
4 **WCLUDO Section 3.210(J)(17)(a)(5)**

5
6 *(5) The criteria in Section (b), below are satisfied.*

7
8 Continued compliance with the criteria for Section (b) are addressed as follows:

9
10 **WCLUDO Section 3.210(J)(17)(b)**

11
12 *(b) For arable lands, meaning lands that are cultivated or suitable for cultivation,*
13 *including high-value farmland soils described in ORS 195.300(10), it must be found that:*

14 *(1) The proposed wind power facility will not create unnecessary negative impacts on*
15 *agricultural operations conducted on the subject property. Negative impacts could*
16 *include, but are not limited to, the unnecessary construction of roads, dividing a field*
17 *or multiple fields in such a way that creates small or isolated pieces of property that*
18 *are more difficult to farm, and placing wind farm components such as*
19 *meteorological towers on lands in a manner that could disrupt common and*
20 *accepted farming practices; and*

21
22 In the *Final Order on the Application*, the Council found that, as conditioned, the facility would
23 be designed to reduce adverse impacts on farming practices and minimize the use of
24 agricultural land, in compliance with this requirement.⁵⁰ The requested amendments do not
25 affect this finding. As a result, the Council again finds that the facility satisfies this criterion.

26
27 *(2) The presence of a proposed wind power facility will not result in unnecessary soil*
28 *or erosion or loss that could limit agricultural productivity on the subject property.*
29 *This provision may be satisfied by the submittal and county approval of a soil and*
30 *erosion control plan prepared by an adequately qualified individual, showing how*
31 *unnecessary soil erosion will be avoided or remedied and how topsoil will be*
32 *stripped, stockpiled and clearly marked. The approved plan shall be attached to the*
33 *decision as a condition of approval; and*
34

⁵⁰ *Id.* at 38

1 In the *Final Order on the Application*, the Council found that, subject to compliance with
2 Condition 9.1 of the site certificate, the facility complied with this criterion. That condition
3 requires the certificate holder to conduct all construction work in compliance with an Erosion
4 and Sediment Control Plan (ESCP) and as required under the National Pollutant Discharge
5 Elimination System (NPDES) Storm Water Discharge General Permit #1200-C.⁵¹ The requested
6 amendments do not affect this finding. As a result, the Council again finds that, as conditioned,
7 the facility satisfies this criterion.

8
9 *(3) Construction or maintenance activities will not result in unnecessary soil*
10 *compaction that reduces the productivity of soil for crop production. This provision*
11 *may be satisfied by the submittal and county approval of a plan prepared by an*
12 *adequately qualified individual, showing how unnecessary soil compaction will be*
13 *avoided or remedied in a timely manner through deep soil decompaction or other*
14 *appropriate practices. The approval plan shall be attached to the decision as a*
15 *condition of approval; and*
16

17 In the *Final Order on the Application*, the Council found that the facility complied with this
18 criterion, subject to Conditions 9.1 (requiring an ESCP), 9.2 (limiting traffic to improved road
19 services to minimize soil compaction), 9.6 (requiring restoration of temporarily disturbed areas
20 immediately upon completion of construction), 14.3 (preventing conditions that would
21 preclude site restoration), and 6.24 (requiring restoration of agricultural land upon
22 retirement).⁵² The requested amendments do not affect this finding. As a result, the Council
23 again finds that the facility, as conditioned, satisfies this criterion.

24
25 *(4) Construction or maintenance activities will not result in the unabated introduction*
26 *or spread of noxious weeds and other undesirable weeds species. This provision may*
27 *be satisfied by the submittal and county approval of a weed control plan prepared by*
28 *an adequately qualified individual that includes a long-term maintenance*
29 *agreement. The approved plan shall be attached to the decision as a condition of*
30 *approval.*
31

32 In the *Final Order on the Application*, the Council found that the facility, subject to site
33 certificate conditions 5.6 (requiring Wasco County approval of the Revegetation and Weed
34 Control Plan prior to start of construction) and 9.6, 9.7, and 9.8 (requiring implementation of

⁵¹ *Id.*

⁵² *Id.* at 39

1 the activities described in the Revegetation and Weed Control Plan during construction,
2 operations, and retirement of the facility), would not result in the unabated introduction or
3 spread of noxious weeds species and therefore complied with this criterion.⁵³ The requested
4 amendments do not affect this finding. As a result, the Council again finds that, as conditioned,
5 the facility satisfies this criterion.

6
7 **WCLUDO Section 3.210(J)(17)(c)**
8

9 *For nonarable lands, meaning lands that are not suitable for cultivation, it must be found*
10 *that the requirements of Subsection (b)(4) above are satisfied.*
11

12 **WCLUDO Section 3.210(J)(17)(d)**
13

14 *In the event that a wind power generation facility is proposed on a combination of*
15 *arable and nonarable lands as described in Section (b) and (c) above, the approval*
16 *criteria of Section (b) shall apply to the entire project.*
17

18 In the *Final Order on the Application*, the Council found that because the facility site consists of
19 both arable and nonarable lands, the requirements of WCLUDO Section 3.210(J)(17)(b),
20 addressed above, apply to the entire facility.⁵⁴ The requested amendments do not affect this
21 finding. As a result, the evaluation of these criteria are unchanged. The analysis of WCLUDO
22 Section 3.210(J)(17)(b) above and in the *Final Order on the Application* applied the
23 requirements of subsection (b) to all lands arable and nonarable meeting the requirements of
24 subsections (c) and (d). Therefore, the Council finds that these criteria continue to be satisfied.
25

26 **WCLUDO Chapter 4 – Supplemental Provisions**

27 **WCLUDO Section 4.070: General Exceptions to Building Height Requirements**
28

29 *Necessary roof structures housing elevators, stairways, tanks, fans and ventilators and*
30 *towers, steeples, flagpoles, smokestacks, silos, grain elevators, energy facilities and*
31 *commercial energy facilities, water tanks and skylights and fire or parapet walls may be*
32 *erected above the height limits of the zone in which they are located provided no usable*
33 *floor space is provided in such structures above the required height limits. Transmission*
34 *towers over 200 feet in height require a Conditional Use Permit.*

⁵³ *Id.*

⁵⁴ *Id.*

1
2 The O&M building is the only facility structure proposed to be constructed with a usable floor.
3 In the *Final Order on the Application*, the Council found that because the O&M building will not
4 exceed 35 feet and the transmission towers will be less than 200 feet in height the facility
5 complies with this criterion.⁵⁵ The requested amendments do not affect this finding. As a result,
6 the Council again finds that the facility complies with this criterion.
7

8 **WCLUDO Chapter 5: Conditional Use Review**

9 **WCLUDO Section 5.020 Authorization to Grant or Deny Conditional Uses, and Standards and**
10 **Criteria Used**

11
12 *Conditional uses listed in this Ordinance shall be permitted, enlarged or otherwise*
13 *altered or denied upon authorization by Administrative Action in accordance with the*
14 *procedures set forth in Chapter 2 of this Ordinance. In judging whether or not a*
15 *conditional use proposal shall be approved or denied, the Administrative Authority shall*
16 *weigh the proposal's appropriateness and desirability or the public convenience or*
17 *necessity to be served against any adverse conditions that would result from authorizing*
18 *the particular development at the location proposed, and to approve such use, shall find*
19 *that the following criteria are either met, can be met by observance of conditions, or are*
20 *not applicable.*
21

22 With the exception of the 230 kV-transmission line (permitted subject to standards) and
23 improvements to existing public roads (permitted without review), all components of the
24 facility are subject to these conditional use criteria.
25

26 **WCLUDO Section 5.020(A)**

27
28 *The proposal is consistent with the goals and objectives of the Comprehensive Plan and*
29 *implementing Ordinances of the County.*
30

31 The applicable WCCP provisions are evaluated below. Consistency with the county's
32 implementing ordinances is evaluated throughout this section.
33

34 **WCLUDO Section 5.020(B)**
35

⁵⁵ *Id.* at 40

1 *Taking into account location, size, design and operational characteristics of the proposed*
2 *use, the proposal is compatible with the surrounding area and development of abutting*
3 *properties by outright permitted uses.*
4

5 In the *Final Order on the Application*, the Council found that, subject to compliance with
6 Conditions 12.1 and 12.2 of the site certificate, which require a final acoustical analysis and
7 evidence that noise easements have been obtained, the facility can satisfy this criterion.⁵⁶ As
8 discussed in the *Final Order on the Application*, the surrounding existing uses consist primarily
9 of dryland crop cultivation and grazing.⁵⁷ Given the nature of the surrounding area, the
10 proposed changes in turbine specifications (if the certificate holder selects the new turbine
11 option) would not alter the facility's compatibility with that area. As a result, the Council finds
12 that the facility continues to satisfy this criterion.

13
14 **WCLUDO Section 5.020(C)**
15

16 *The proposed use will not exceed or significantly burden public facilities and services*
17 *available to the area, including, but not limited to: roads, fire and police protection,*
18 *sewer and water facilities, telephone and electrical service, or solid waste disposal*
19 *facilities.*
20

21 In the *Final Order on the Application*, the Council found that, with the fire mitigation measures
22 identified in Sections IV.K and V.C, the facility would not exceed or significantly burden public
23 facilities and services available to the area, in compliance with this criterion.⁵⁸ In late summer
24 and early fall of 2014, as part of RFA #1, the certificate holder contacted each of the public
25 service providers listed in Exhibit U of the ASC and received confirmation that each provider
26 continues to be able to provide the services listed to serve the facility.⁵⁹ Therefore, the Council
27 finds that the facility, as amended, continues to satisfy this criterion.

28
29 **WCLUDO Section 5.020(D)**
30

31 *The proposed use will not unduly impair traffic flow or safety in the area.*
32

⁵⁶ *Id.* at 41

⁵⁷ *Id.* at 40

⁵⁸ *Id.* at 42

⁵⁹ SRWAMD1Doc55 Response to RAI 1 at Appendix E

1 In the *Final Order on the Application*, the Council found that while the facility may cause some
2 short-term delays on public roads, the overall delays and impact to traffic would be minimal, in
3 compliance with this criterion.⁶⁰ The requested amendments do not affect this finding. As a
4 result, the Council finds that the facility, as amended, continues to satisfy this criterion.

5
6 **WCLUDO Section 5.020(E)**

7
8 *The effects of noise, dust and odor will be minimized during all phases of development and*
9 *operation for the protection of adjoining properties.*

10
11 In the *Final Order on the Application*, the Council found that, subject to compliance with
12 Conditions 12.1, 12.2 (requiring noise minimization and mitigation) and 9.1 (requiring
13 construction work to comply with an approved ESCP and an approved NPDES #1200-C permit),
14 the facility complied with this criterion.⁶¹ The requested amendments do not affect this finding.
15 As a result, the Council again finds that the facility meets the requirements of this criterion.

16
17 **WCLUDO Section 5.020(F)**

18
19 *The proposed use will not significantly reduce or impair sensitive wildlife habitat,*
20 *riparian vegetation along streambanks and will not subject areas to excessive soil*
21 *erosion.*

22
23 In the *Final Order on the Application* and the *Amended Final Order on Amendment #1*, the
24 Council found that, subject to compliance with conditions imposed to ensure compliance with
25 the mitigation measures identified in Exhibits J, P, and Q and Condition 9.1 (requiring
26 construction work to comply with an approved ESCP and an approved NPDES #1200-C permit),
27 the facility would not significantly reduce or impair sensitive wildlife habitat and riparian
28 vegetation along stream banks and would not subject boundary areas to excessive soil erosion,
29 in compliance with this criterion.⁶² The requested amendments do not affect this finding. As a
30 result, the Council again finds that the facility, with conditions of compliance, satisfies this
31 criterion.

32
33 **WCLUDO Section 5.020(G)**

34
35 *The proposed use will not adversely affect the air, water, or land resource quality of the*
36 *area.*

⁶⁰ *Final Order on the Application* at 43

⁶¹ *Id.*

⁶² *Id.* at 44

1
2 In the *Final Order on the Application* and the *Amended Final Order on Amendment #1*, the
3 Council found that, subject to compliance with Condition 9.1 (requiring construction work to
4 comply with an approved ESCP and an approved NPDES #1200-C permit) and Condition 5.6
5 (which requires routine inspection of the facility, erosion and sediment control measures, and
6 noxious weeds control), the facility can be constructed in a manner that would not adversely
7 affect the air, water, or land resource quality of the area.⁶³ The requested amendments do not
8 affect this finding. As a result, the Council again finds that the facility satisfies this criterion.
9

10 **WCLUDO Section 5.020(H)**
11

12 *The location and design of the site and structures for the proposed use will not*
13 *significantly detract from the visual character of the area.*
14

15 In the *Final Order on the Application* and the *Amended Final Order on Amendment #1*, the
16 Council found that due to the placement and limited visibility of the turbines, the facility would
17 not significantly detract from the visual character of the area, in compliance with this criteria.⁶⁴
18

19 The visual character of the area is dominated by agricultural uses. Almost all of the area within
20 the site boundary is used for primarily dryland winter wheat production while the remaining
21 areas within the site boundary serve as pasture for cattle, with some rocky outcroppings.^{65,66}
22 There are six wetlands identified within the site boundary, ranging in size from 0.02 acres to
23 0.25 acres.⁶⁷ Within the site boundary and the 400 feet around the site boundary there are
24 areas with grasslands, shrub-steppes, and a small number of residences and other buildings
25 associated with farming/ranching in the area.⁶⁸
26

27 The criterion does not require a finding that the turbine structures themselves will not
28 significantly impact the visual character of the area. Rather, the criterion requires that location
29 and design of the site and of the structures would not significantly detract from the visual
30 character of the area. The location of the site and the location of the turbines within the site is
31 largely dictated by project purpose. In other words, in order to have a viable wind energy
32 facility, the turbines must be located where the wind resource is located, and at a height to
33 efficiently capture that resource. In the *Amended Final Order on Amendment #1*, the Council
34 found that, despite the incremental increase in overall turbine height under the existing turbine

⁶³ *Id.* at 45

⁶⁴ *Id.* at 46 and *Amended Final Order on Amendment #1* at 40.

⁶⁵ ASC Exhibit L at Attachment 2

⁶⁶ ASC Exhibit C at 1

⁶⁷ ASC Exhibit J at 1

⁶⁸ ASC Exhibit P at 7

1 option as compared to the originally approved 2.3-MW turbine model proposed in the original
2 ASC, the amended facility would not significantly detract from the visual character of the
3 surrounding area. The decrease in overall turbine height from 152 meters to 150 meters and
4 total number of turbines from 72 to 64 (if the certificate holder selects the new turbine option
5 currently requested) could slightly decrease the visual impact on the landscape compared to
6 the existing turbine option. In addition, several conditions in the original site certificate would
7 also mitigate or reduce the impact of the facility on the visual character of the area. Condition
8 6.15 relates to turbine design and requires the turbines to be of a uniform design color and
9 height. Additionally, each turbine must be uniformly finished in a neutral white or off-white
10 color with a low reflectivity finish unless otherwise required by the Federal Aviation
11 Administration (FAA). Conditions 6.23 and 6.26 further mitigate visual impacts by limiting
12 lighting on the related and supporting facilities and by limiting the lighting on the turbines
13 themselves to the minimum necessary to satisfy FAA safety requirements. The requested
14 amendments do not impact the ability of the certificate holder to comply with these conditions.

15
16 Therefore, based on the foregoing analysis, and subject to compliance with Conditions 6.15,
17 6.23, and 6.26, the Council finds that location and design of the site and structure, as amended,
18 would not significantly detract from the visual character of the area.

19
20 **WCLUDO Section 5.020(I)**

21
22 *The proposal will preserve areas of historic value, natural or cultural significance,*
23 *including archaeological sites, or assets of particular interest to the community.*
24

25 In the *Final Order on the Application* and the *Amended Final Order on Amendment #1*, the
26 Council found that, subject to Conditions 11.1 through 11.6 of the site certificate, related to
27 historic, cultural, or archaeological resources, the facility would preserve areas of historic value
28 and natural or cultural significance, in compliance with this criterion.⁶⁹ The Council finds that,
29 subject to Conditions 11.1 through 11.6, the facility, as amended, continues to satisfy this
30 criterion.

31
32 **WCLUDO Section 5.020(J)**

33
34 *The proposed use will not significantly increase the cost of accepted farm or forest*
35 *practices on surrounding lands devoted to or available for farm and forest use.*

⁶⁹ *Final Order on the Application* at 47

1
2 In the *Final Order on the Application*, the Council found that, subject to Conditions 6.12 and
3 6.25, which require ongoing consultation with affected landowners to avoid adverse impacts to
4 farm practices and design and construction measures to minimize disturbance to farming
5 activities, the facility complies with this criterion.⁷⁰ The requested amendments do not affect
6 this finding. As a result, the Council finds that, as amended, the facility continues to satisfy this
7 criterion.

8
9 **WCLUDO Section 5.020(K)**

10
11 *The proposed use will not force a significant change in accepted farm or forest practices*
12 *on surrounding lands devoted to or available for farm or forest use.*

13
14 In the *Final Order on the Application*, the Council found that, subject to compliance with
15 Conditions 6.12, 6.24 and 6.25, discussed above, the facility satisfied this criteria.⁷¹ The
16 requested amendments do not affect this finding. As a result, the Council finds that, as
17 amended, the facility continues to satisfy this criterion.

18
19 **WCLUDO Chapter 10: Fire Safety Standards**

20
21 In the *Final Order on the Application*, the Council found that, subject to compliance with the
22 conditions imposed to ensure compliance with the Public Health and Safety standards and the
23 Public Services standard, the facility satisfies the county's Fire Safety Standards.⁷² The
24 requested amendments do not affect this finding. As a result, the Council finds that, as
25 amended, the facility continues to satisfy this criterion.

26
27 **WCLUDO Chapter 19: Standards for Non-Commercial Energy Facilities, Commercial Energy**
28 **Facilities, and Related Uses**

29 WCLUDO Chapter 19 was amended in April 2012 and therefore was not applicable to the
30 original ASC; however, the requirements of Chapter 19 were applicable substantive criteria for
31 RFA #1 and remain applicable substantive criteria for this amendment request.

32
33 **WCLUDO Section 19.010 Purposes**

34
35 Chapter 19 requires the following:
36

⁷⁰ *Id.*

⁷¹ *Id.* at 48

⁷² *Id.*

1 *This chapter describes the requirements for establishing non-commercial energy*
2 *facilities, commercial energy facilities and related uses (as included) in Wasco County.*
3 *The goals of this chapter are to:*

- 4
- 5 • *Encourage renewable energy production;*
- 6 • *Utilize clear and objective standards;*
- 7 • *Establish a clear, consistent and accountable application process;*
- 8 • *Collaborate and coordinate with agencies and other stakeholders;*
- 9 • *Minimize conflict with other permitted uses through compatibility review;*
- 10 • *Protect resource identified in the Wasco County Comprehensive Plan; and*
- 11 • *Protect the public health, safety and general welfare of the citizens of Wasco County.*
- 12

13 *The uses described in this chapter are only allowed if listed in the zoning section in*
14 *Chapter 3 applicable to the subject (legally created) property(ies).*

15

16 The proposed wind energy facility is listed as a conditional use under WCLUDO Section 3.210(E)
17 and therefore is allowed, subject to the standards in this section. The 230-kV transmission line
18 is permitted as a utility facility necessary for public service pursuant to WCLUDO Section
19 3.210(C). The remainder of the facility, excluding improvements to existing public roads, is
20 permitted as a conditional use pursuant to WCLUDO Section 3.210(E).

21

22 **WCLUDO Section 19.030 Commercial Power Generating Facilities Review Process and**
23 **Approval Standards**

24

25 *WCLUDO Section 19.030(A) Review Processes - Commercial Power Generating Facilities*
26 *& Related Uses (energy facilities) shall be reviewed pursuant to the following. Where*
27 *standards are less restrictive than comparative standards in other sections, the more*
28 *restrictive shall govern.*

29

30 **1. Review Authority:**

31 * * * * *

32 **c. EFSC Review:**

33 *(1) EFSC has regulatory authority over all energy facilities designated by ORS*
34 *469.300. However, pursuant to ORS 469.480 EFSC shall designate the BOC as a*
35 *Special Advisory Group. As such and at their discretion the BOC may participate in*
36 *the siting process pursuant to the role established in ORS 469 and OAR 345, which*
37 *includes recommending substantive criteria applicable to the proposed energy*
38 *facility.*

39 *(2) Pursuant to ORS 469.320(8), notwithstanding the threshold limits in ORS 469.300,*
40 *an applicant can elect to have EFSC review an energy facility that may otherwise be*
41 *subject to Wasco County's jurisdiction.*

1 (3) If for any reason the BOC desires, they may defer regulatory authority of energy
2 facility to EFSC notwithstanding it is less than the threshold designated by ORS
3 469.300.

4
5 As discussed at the beginning of this section, the certificate holder has elected to seek a Council
6 determination of compliance with the local land use applicable substantive criteria under ORS
7 469.504(1)(b).⁷³

8
9 **WCLUDO Section 19.030(C) General Standards**

10
11 *The following standards apply to energy facilities as outlined in Section A above, in*
12 *addition to meeting the Conditional Use Standards listed in Chapter 5:*

13
14 **WCLUDO Section 19.030(C)(1)**

15
16 *Air Safety* - All structures that are more than 200 feet above grade or, exceed airport
17 imaginary surfaces as defined in OAR Chapter 738, Division 70, shall comply with the air
18 hazard rules of the Oregon Department of Aviation and/or Federal Aviation
19 Administration. The applicant shall notify the Oregon Department of Aviation and the
20 Federal Aviation Administration of the proposed facility and shall promptly notify the
21 Planning Department of the responses from the Oregon Department of Aviation and/or
22 Federal Aviation Administration.

23
24 *Aerial Sprayers and operators who have requested to be notified will receive all*
25 *notifications associated with the energy facility as required by Chapter 2, Development*
26 *Approval Procedures.*

27
28 Condition 5.4, as amended by the *Amended Final Order on Amendment #1*, requires that the
29 certificate holder file a Notice of Proposed Construction or Alteration with the FAA and Oregon
30 Department of Aviation and provide to the Department copies of a Determination of No Hazard
31 for all turbine towers and met towers or an equivalent determination to confirm that the
32 structures comply with applicable FAA and Oregon Department of Aviation air hazard rules.
33 Subject to compliance with Condition 5.4 as previously amended, the Council finds that, as
34 amended, the facility satisfies this criterion.⁷⁴

⁷³ SRWAMD1Doc55 Response to RAI 1 at 10

⁷⁴ The requirement under this criterion to notify aerial sprayers and operators is procedural and is not a substantive standard applicable to the siting of the proposed facility. However, to ensure that potentially interested persons receive notice, the Department contacted Wasco County to request their contact list of aerial sprayers and operators for the purposes of notification under WCLUDO Section 19.030(C)(1). The county provided this list on July 26, 2016 and the Department updated its mailing list for the facility accordingly.

1
2 **WCLUDO Section 19.030(C)(2) Interference with Communications**
3

4 *The energy facility shall be designed, constructed and operated so as to avoid any*
5 *material signal interference with communication systems such as, but not limited to,*
6 *radio, telephone, television, satellite, microwave or emergency communication systems.*
7 *Should any material interference occur, the permit holder must develop and implement a*
8 *mitigation plan in consultation with the Planning Department.*
9

10 The certificate holder discussed material signal interference in Exhibit AA of the ASC. In the
11 exhibit the certificate holder provided a study of the anticipated radio frequency interference
12 levels due to the corona effect. Additionally, the certificate holder stated that modern
13 hardware design and construction practices will be used.⁷⁵ Consistent with these
14 representations, the certificate holder represents that the facility “will be designed, constructed
15 and operated so as to avoid any material interference with Communication systems such as,
16 but not limited to radio, telephone, satellite, microwave or emergency communication systems.
17 Should any material interference occur, LWSR [LotusWorks] will develop and implement a
18 mitigation plan in consultation with all appropriate authorities.”⁷⁶ As part of its review of RFA
19 #1, the Council adopted Condition 6.27, which requires the certificate holder to design,
20 construct, and operate the facility in a manner that ensures that the facility avoids any material
21 signal interference with communication systems, and to develop and implement a mitigation
22 plan in consultation with the Department should any material interference occur. Subject to
23 compliance with the Condition 6.27, the Council finds that the facility, as amended, can
24 continue to satisfy WCLUDO Section 19.030(C)(2).
25

26 **WCLUDO Section 19.030(C)(3) Noise**
27

28 *The energy facility shall comply with the noise regulations in OAR Chapter 340, Division*
29 *35. The applicant may be required to submit a qualified expert’s analysis and written*
30 *report.*
31

32 As described in Section VI.A of the *Final Order on the Application*, the Council considered
33 compliance with the applicable provisions of OAR Chapter 340, Division 35 as an applicable
34 regulatory requirement under Council jurisdiction. The certificate holder provided information
35 in Exhibit X of the ASC about the potential noise impacts on noise sensitive receivers in the
36 analysis area and results of its modeling based on the preliminary facility design. Additionally
37 the Council adopted Condition 12.2 to ensure compliance with OAR Chapter 340, Division 35.

⁷⁵ ASC Exhibit AA at 6

⁷⁶ SRWAMD2Doc1 AMD 2 Request at 40

1 This condition requires that the certificate holder provide the Department with the maximum
2 sound power level and octave band for the final turbine type selected and the results of the
3 final noise analysis performed using the final turbine layout and the final selected turbine
4 model. The analysis must demonstrate that the facility would meet the ambient degradation
5 test at the appropriate measurement point for potentially affected noise sensitive properties,
6 or that the certificate holder has obtained a noise waiver for each noise-sensitive property
7 where the ambient degradation standard cannot be met. In the *Final Order on the Application*,
8 the Council found that the proposed facility, subject to Conditions 12.1 through 12.4, could
9 comply with OAR 340-035-0035.⁷⁷

10
11 In the *Amended Final Order on Amendment #1* the Council found that the amendments in RFA
12 #1 could affect the Council's previous findings to the extent the change in the blade tip height
13 could alter results of the noise modeling, but that Condition 12.2, which requires final noise
14 analysis based on the final selected turbine layout and model, would account for any changes
15 based on the change in blade tip height. Similarly, the current requested amendments could
16 affect the Council's previous findings to the extent that the change in the blade tip height or the
17 required turbine setbacks (see the discussion related to WCLUDO Section 19.030(D)(1)(c) in this
18 order) could alter results of the noise modeling (by altering the noise level generated by the
19 turbines and the distance of the turbines from noise sensitive receptors), but the final noise
20 analysis required by Condition 12.2 would similarly account for these changes. Therefore, the
21 Council finds that, subject to Conditions 12.1 through 12.4, the facility, as amended, satisfies
22 this criterion.

23 24 **Section 19.030(C)(4) Visual Impact**

25
26 *a. Scenic Resources – To issue a conditional use permit for an energy facility, the county*
27 *must find that the design, construction, and operation of the facility, taking into account*
28 *mitigation, are not likely to result in significant adverse impact to scenic resources or*
29 *values identified as significant or important in the Wasco County Comprehensive Plan.*
30

⁷⁷ Conditions 12.1 through 12.4 include confining the noisiest operation of heavy machinery to the daylight hours, establishing a complaint response system to address noise complaints, performing a noise analysis consistent with the requirements of OAR 340-035-0035(1)(b)(B)(iii)(IV) and (VI) prior to the beginning of construction but after the final layout and turbine models have been determined, providing the analysis that shows that the facility would meet the ambient degradation test at the appropriate measurement point for potentially affected noise sensitive properties, providing legally effective noise easements or real covenants for properties that do not meet the ambient degradation test, and providing a monitoring plan to be reviewed and approved by the Department for noise levels.

1 In its comments on RFA #2, the Planning Department stated that, in light of the provisions of
2 WCLUDO Section 19.030(C)(4) and the proximity of the facility to the Deschutes River Scenic
3 Waterway, the Planning Department staff would support additional visual analysis to determine
4 significant adverse impacts to scenic resources.⁷⁸ Email correspondence between the Planning
5 Department and the certificate holder clarified that the Planning Department did not anticipate
6 the need for additional visual studies, but continued to encourage the Department to evaluate
7 the visual elements of the facility as a whole.⁷⁹

8
9 The Council's Scenic Resources standard requires an evaluation of impacts to scenic resources
10 and values identified as significant or important in local land use plans, including those
11 identified as significant or important in the WCPP. Section III.B.10, *Scenic Resources* of this
12 order includes the analysis of the resources identified in the WCCP. The identified scenic
13 resources within the analysis area include the Columbia River Gorge National Scenic Area
14 (CRGNSA), resources in the Lower Deschutes River Canyon, the White River Canyon, the John
15 Day River Canyon, the Mt. Hood National Forest, the Oregon National Historic Trail, the Journey
16 Through Time Scenic Byway, Wasco County Resources, and Sherman County Resources. The
17 Council found in the *Amended Final Order on Amendment #1* that for each of the resources
18 other than the Lower Deschutes River Canyon, the impacts of the existing turbine option
19 compared to the original facility would be minimal and at a distance. The Council also found
20 that for the Lower Deschutes River Canyon the impacts would be greater but would not result
21 in a significant adverse impact. As discussed in Section III.B.10, *Scenic Resources* of this order,
22 the visibility of the new turbine option is predicted to remain about the same or slightly less
23 than the existing turbine option.

24
25 Based on the analysis and findings in Section III.B.10, *Scenic Resources* of this order, the Council
26 finds that the facility, as amended, meets this requirement.

27
28 *b. Protected Areas: Except as provided in Subsections (b) [sic] and (c) below, an energy*
29 *facility shall not be located in the areas listed below:*

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

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

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

⁷⁸ SRWAMD2Doc14 Agency Comment_Wasco County (A. Brewer)_2016-03-14

⁷⁹ SRWAMD2Doc22 Certificate Holder Response to Additional Information Request 2016-07-20.

1 (4) State wildlife areas and management areas identified in OAR chapter 635,
2 division 8.

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

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

6 (7) Wilderness areas established pursuant to The Wilderness Act, 16 U.S.C. 1131 et
7 seq. and areas recommended for designation as wilderness areas pursuant to 43
8 U.S.C. 1782; and [sic]⁸⁰

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

- 15 • An electrical transmission line;
- 16 • A natural gas pipeline; or
- 17 • An energy facility located outside a protected area that includes an
18 electrical transmission line or natural gas or water pipeline as a related or
19 supporting facility located within a protected area.

20
21 b. Transmission Line & Pipeline Exception - The provisions of subsection (b) above
22 do not apply to electrical transmission lines or natural gas pipelines routed within
23 500 feet of an existing utility right-of-way containing at least one transmission
24 line or one natural gas pipeline.

25
26 c. Additional Visual Mitigation Impacts for All Facilities - The design, construction
27 and operation of the energy facility, taking into account mitigation, are not likely
28 to result in significant adverse impact to scenic resources and values identified in
29 Subsection (b) above. Methods to mitigate adverse visual impacts could include
30 but are not limited to:

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

⁸⁰ The “and” at the end of the list exists in the online version of WCLUDO as well. The Department presumes this is a typographical error and there is nothing in the record to indicate the list is actually missing any protected areas that Wasco County intended to include.

- 1 (2) *Using materials and colors that blend with the background unless*
2 *otherwise required by the Federal Aviation Administration or the Oregon*
3 *Department of Aviation; and*
4 (3) *Retaining or planting vegetation to obscure views of the energy facility.*
5

6 In its comments on RFA #2, the Planning Department stated that “acceptable mitigation
7 strategies” are provided in WCLUDO Section 19.030(C)(4)(c).⁸¹ The Department notes that
8 Conditions 6.15, 6.16, and 6.26 would reduce the visual impact of the facility by requiring the
9 certificate holder to minimize signage; paint the turbines, substation structures, and O&M
10 building low-reflectivity, neutral colors; design and construct the O&M building to be generally
11 consistent with the character of similar buildings in the area; and minimizing nighttime lighting.
12

13 All but one of the protected areas identified in this criterion are addressed in the Council’s
14 Protected Areas standard, which is evaluated in Section III.B.6, *Protected Areas* of this order.
15 The certificate holder does not propose to locate any facility components in any of the
16 identified protected areas. As discussed in the findings regarding the Council’s Protected Areas
17 Standard, the Council finds that facility, as amended, would not have a significant adverse
18 impacts on any of the identified protected areas.

19 The one protected area that is not addressed by the Council’s Protected Areas standard is the
20 recently formed Cottonwood Canyon State Park, which is located approximately 18.5 miles
21 from the facility. As discussed in Section III.B.12, *Recreation* of this order, visual simulations
22 provided by the certificate holder indicate that neither the existing turbine option nor the new
23 turbine option would be visible from Cottonwood Canyon State Park. Accordingly, the Council
24 finds that the facility would not result in significant adverse impacts to scenic resources or
25 values identified for Cottonwood Canyon State Park.
26

27 Therefore, based on this reasoning and the analysis and findings set forth in Section III.B.6,
28 *Protected Areas* and Section III.B.12, *Recreation*, the Council finds that the facility, as amended,
29 satisfies WCLUDO Sections 19.030(C)(4)(b) and (c).
30

31 **WCLUDO Section 19.030(C)(5) Natural Resource/Wildlife Protection**

32

33 *Taking into account mitigation, siting, design, construction and operation the energy*
34 *facility will not cause significant adverse impact to important or significant natural*
35 *resources identified in the Wasco County Comprehensive Plan, Wasco County Land Use*
36 *and Development Ordinance or by any jurisdictional wildlife agency resource*
37 *management plan adopted and in effect on the date the application is submitted. As*
38 *appropriate, the permit holder agrees to implement monitoring and mitigation actions*

⁸¹ SRWAMD2Doc14 Agency Comment_Wasco County (A. Brewer)_2016-03-14

1 that Wasco County determines appropriate after consultation with the Oregon
2 Department of Fish and Wildlife, or other jurisdictional wildlife or natural resource
3 agency. Measures to reduce significant impact may include, but are not limited to the
4 following:

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

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

8 (2) Wildlife Habitat;

9 (3) Endangered Plants; and

10 (4) Wetlands & Other Water Resources.

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

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

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

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

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

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

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

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

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

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

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

3 (3) *Developing a plan for post-construction monitoring of the facility site using*
4 *appropriate survey protocols to measure the impact of the project on identified*
5 *natural resources in the area.*⁸²
6

7 The WCPP identifies five natural areas in Table 11B of the Natural Resource Section of Chapter
8 2, Physical Characteristics. WCLUDO does not identify any natural areas specifically, but instead
9 refers to those identified in the WCPP. The only natural area located near the facility site
10 boundary is Sharps Island, which is listed as a natural area in the WCPP because of the Great
11 Blue Heron Rookery and the riparian habitat of the area. As the facility is well outside the
12 Deschutes River Canyon where Sharps Island is located, the Council found in the *Amended Final*
13 *Order on Amendment #1* that there would not be any significant adverse impacts to the natural
14 areas identified by the WCLUDO and WCPP. The current requested amendments do not affect
15 the Council's analysis on which it based this finding.
16

17 The Oregon Department of Fish and Wildlife (ODFW) is the state wildlife agency, and its
18 requirements are addressed under the Council's Fish and Wildlife Habitat standard and the
19 Threatened and Endangered Species standard. In ASC Exhibits J, P, and Q; the certificate
20 holder's first and second RFAs; and in its survey reports, the certificate holder provided
21 information pertaining to the facility's potential impacts and the certificate holder's measures
22 to avoid impacts on wildlife, wildlife habitat, endangered plants, and wetlands and other water
23 resources. In Sections IV.G and IV.H of the *Final Order on the Application* and Sections III.B.3.h
24 and III.B.3.i of the *Amended Final Order on Amendment #1*, the Council found that the facility,
25 as originally proposed and as first amended, would comply with the Council's Fish and Wildlife
26 Habitat standard and Threatened and Endangered Species standard. As discussed in Section
27 III.B.8, *Fish and Wildlife Habitat* and Section III.B.9, *Threatened and Endangered Species* of this
28 order, the Council finds that the facility, as amended, continues to comply with the Council's
29 Fish and Wildlife Habitat standard and Threatened and Endangered Species standard.
30

31 The *First Amended Site Certificate* contains conditions that are similar to the measures listed in
32 this WCLUDO criterion. Similar to subsections (b) and (c) of this criterion, Conditions 10.13 and
33 10.14 require that the certificate holder conduct baseline biological surveys and, based on the
34 results of those surveys, implement appropriate measures. Condition 10.8 contains measures
35 that are similar to subsections (d) and (e) of this criterion that would reduce the risk of injuries
36 to avian species. Condition 7.2 is similar to subsection (f) of this criterion, and requires a tower
37 design that avoids creation of artificial habitat for raptor prey. Condition 9.8 requires the

⁸² This criterion is also listed as (3) in the online version of WCLUDO. The Department presumes this is a typographical error and that it is meant to be a separate criterion from (j).

1 certificate holder to control the introduction and spread of noxious weeds, which would help
2 achieve the objective of subsection (g) of this criterion. Conditions 6.32, 6.36, and 10.15 of this
3 order would help achieve the objectives of subsections (h) through (j) of this criterion by
4 reducing impacts to raptor nests and avoiding impacts to wetlands and waterways.

5
6 Therefore, based on the analysis above and findings set forth in Section III.B.8, *Fish and Wildlife*
7 *Habitat* and Section III.B.9, *Threatened and Endangered Species* of this order, and subject to
8 compliance with the specified existing and new site certificate conditions, the Council finds that
9 the proposed facility, as amended, satisfies WCLUDO Section 19.030(C)(5).

10 11 **WCLUDO Section 19.030(C)(6) Protection of Historical and Cultural Resources**

12
13 *The applicant shall complete a cultural resources survey of areas where there will be*
14 *temporary or permanent disturbance. During construction, cultural resources included in*
15 *the Wasco County Comprehensive Plan shall be flagged and avoided in areas of potential*
16 *temporary or permanent disturbance, and construction activities monitored to ensure all*
17 *cultural resources in such areas are avoided, unless appropriate permits are obtained*
18 *from the Oregon State Historic Preservation Office. Prior to construction an Inadvertent*
19 *Discovery Plan (IDP) shall be developed that must outline the procedures to be followed*
20 *in the case previously undiscovered archeological, historical or cultural artifacts are*
21 *encountered during construction or operation of the energy facility, in compliance with*
22 *ORS 358.905-358.955 and any other applicable local, state and federal law.*

23
24 As addressed in findings regarding compliance with WCLUDO Section 5.020(I), the Council finds
25 that the proposal would preserve areas of historic value, natural or cultural significance,
26 including archaeological sites, or assets of particular interest to the community. Protection of
27 historic and cultural resources is also addressed in detail under the Council's Historic, Cultural
28 and Archaeological Resources standard discussion in Section III.B.11, *Historic, Cultural, and*
29 *Archaeological Resources* of this order.

30
31 As described in Exhibit S of the ASC, the certificate holder completed a cultural resources survey
32 of areas where there could be temporary or permanent disturbance. Exhibit S identifies existing
33 cultural and historic resources in the analysis area and the potential impacts on those resources
34 associated with facility construction. The exhibit includes a survey of the entire transmission
35 corridor and all proposed turbine locations.⁸³ Nineteen prehistoric archaeological sites, one
36 historic archaeological site, and 30 isolated finds were identified during the survey. The layout
37 was redesigned to avoid impact to all of the sites. The previous survey work described in Exhibit
38 S of the ASC, along with Condition 11.3, which requires that the certificate holder hire qualified

⁸³ ASC Exhibit S at 4

1 personnel to perform field investigations of any areas to be disturbed during construction that
2 have not already been surveyed, provide results to SHPO, and if any additional sites are found
3 avoid those and implement appropriate mitigation measures, would ensure that the proposed
4 facility, as amended, would satisfy the survey element of this criterion.

5
6 Along with Condition 11.3, the following conditions address all of the requirements of this
7 criterion that require future actions. Condition 11.1 requires that a 100-foot avoidance buffer
8 be placed around the lithic scatter sites and 200-foot buffer around all rock features. The buffer
9 zones around each site would be flagged/barricaded to prevent disturbance during
10 construction. Condition 11.2 requires that the certificate holder provide a map showing the
11 final layout of all components of the facility, the areas that would be temporarily disturbed
12 during construction, and the areas that were previously surveyed. Condition 11.6 requires that
13 the certificate holder prepare and implement an Archaeological Monitoring Plan for
14 construction and maintenance activities in the event of discovery of previously unidentified
15 cultural resources.

16
17 Based on the discussion above and the findings on the Historic, Cultural and Archaeological
18 Resources standard in Section III.B.11, *Historic, Cultural, and Archaeological Resources* of this
19 order, and subject to compliance with the conditions summarized above, the Council finds that
20 the facility, as amended, satisfies the requirements of WCLUDO Section 19.030(C)(6).

21
22 **WCLUDO Section 19.030(C)(7) Fire Protection & Emergency Response**

23
24 *A fire protection and emergency response plan shall be developed and implemented in*
25 *consultation with the applicable fire district or department and/or land management*
26 *agency to minimize the risk of fire and respond appropriately to any fire or emergency*
27 *that occurs onsite for all phases of the life of the facility. In developing the plan the*
28 *applicant shall take into account, among other things, the terrain, dry nature of the*
29 *region, address risks on a seasonal basis, and identify the locations of fire extinguishers,*
30 *nearby hospitals, telephone numbers for emergency responders, and first aid techniques.*

31
32 Section V.C.1.d of the *Final Order on the Application* addresses fire protection and emergency
33 response at the facility under the Council's Public Services standard.⁸⁴ As discussed in the
34 Council's findings in the *Final Order on the Application*, the Council adopted numerous
35 conditions to ensure that fire protection services for the facility are adequate to ensure public
36 health and safety and that the proposed facility does not impact the ability of public service
37 providers to provide services, including fire protection services. Two conditions were adopted
38 (Conditions 8.3 and 8.4) that require the certificate holder to develop and implement a site

⁸⁴ *Final Order on the Application* at 141

1 health and safety plan and fire safety plans that address the fire protection and emergency
2 response plan required by this subsection. Compliance with Conditions 8.3 and 8.4 would also
3 ensure compliance with the county's fire protection and emergency response requirements.
4 Therefore, subject to compliance with these conditions, the Council finds that the facility, as
5 amended, satisfies this criterion.

6
7 **WCLUDO Section 19.030(C)(8) Public Safety**
8

9 *A public safety plan shall be developed and implemented to exclude members of the*
10 *public from hazardous areas within the Energy facility Project Area.*
11

12 The Council's Public Health and Safety standard for Wind Energy Facilities at OAR 345-024-
13 0010(1) includes a requirement that proposed wind energy facilities include plans that ensure
14 exclusion of members of the public from hazardous areas near the wind turbines and electrical
15 equipment. In Section IV.K of the *Final Order on the Application*, the Council found that the
16 facility could be designed safely and included plans to protect the public from hazards. To
17 ensure compliance with this Council standard, the Council adopted Conditions 7.1 through 7.3,
18 which would restrict unauthorized access to the turbine blades, interior of the turbine towers,
19 step-up transformers, substation, and other facility elements with potential electrical hazards.
20

21 In addition to the conditions adopted in Section IV.K related to ensuring public safety, two
22 other conditions from Section IV.M and VI.D of the *Final Order on the Application* are also
23 relevant to compliance with this criterion. These conditions require the certificate holder to
24 ensure that all fences, gates, cattle guards, trailers, or other objects or structures of a
25 permanent nature that could become inadvertently charged with electricity are grounded or
26 bonded through the life of the line and to take reasonable steps to reduce or manage human
27 exposure to electromagnetic fields.
28

29 In the *Amended Final Order on Amendment #1*, the Council determined that, collectively, these
30 conditions address the requirements of WCLUDO Section 19.030(C)(8) by requiring the
31 certificate holder to include and implement a plan to exclude the public from hazardous areas
32 within the facility. The requested amendments do not affect these findings. Therefore, subject
33 to the compliance with the conditions identified above, the Council again finds that the
34 proposed facility, as amended, can satisfy the requirements of WCLUDO Section 19.030(C)(8).
35

36 **WCLUDO Section 19.030(C)(9) Transportation Plan**
37

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

1 a. The size, number, and location of vehicle access points off of public roads;
2 b. Use of existing roads to the extent practical to minimize new access roads;
3 c. Restoring the natural grade and revegetating all temporary road cuts, used during
4 construction of the energy facility. The applicant shall specify the type and amount of
5 native seed or plants used to revegetate the disturbed areas and a timeline to
6 complete this work.
7 d. A Road Impact Assessment/Geotechnical Report for roads to be used by the
8 project. Said report should include an analysis of project-related traffic routes to be
9 used during phases of construction, project operation and decommissioning. The
10 report and any subsequent amendments shall be used as a discipline study and shall
11 be incorporated into the Road Use Agreement between the applicant and the
12 County.

13
14 The requested amendments do not change any of the factual information provided in the ASC
15 that relate to vehicle access. The certificate holder provided information on traffic safety in
16 Exhibit U of the ASC, and traffic safety was analyzed in the *Final Order on the Application* in
17 Section V.C.1.g. Maps showing all proposed new access roads and roads that are proposed to
18 be improved are included in Exhibit C of the ASC. These maps, combined with the analysis
19 provided in Exhibit U, show all of the proposed access points and their locations. Additionally,
20 Exhibit U includes a list of existing public roads that would be used and further explains that
21 existing unpaved roads within the site boundary would be used to the maximum extent
22 possible to avoid constructing new roads.⁸⁵ Therefore, the certificate holder provided the
23 information required by subsections (a) and (b) in the original ASC. The certificate holder would
24 be required to provide similar information to Wasco County through Site Certificate Condition
25 5.12, which would require that the certificate holder obtain any Road Approach Permit(s) that
26 may be required by the Wasco County Public Works Department.

27
28 Exhibit 1 to the site certificate includes the Revegetation and Weed Control Plan, which is
29 required to be implemented by Condition 9.6 of the site certificate. In addition, Condition 5.6 of
30 the site certificate requires that the certificate holder obtain approval of the plan from the
31 Wasco County Weed Department prior to the start of construction. This plan applies to all areas
32 impacted by the facility. Table 1 of the plan contains the proposed mix of seeds, which is based
33 on the type of vegetation on the land before disturbance.⁸⁶ The plan also contains a five-year
34 schedule to complete revegetation to the desired mix of plant species.⁸⁷ The temporal
35 requirement to complete the plan in five years satisfied the requirements of subsection (c).
36

⁸⁵ ASC Exhibit U at 20

⁸⁶ *Final Order on the Application* Exhibit 1 at 4

⁸⁷ *Id.* at 7

Exhibit U of the ASC summarizes the likely traffic impacts. To satisfy the requirements of subsection (d), in the *Amended Final Order on Amendment #1* the Council adopted Condition 5.11 of the site certificate, which requires that the certificate holder submit a formal road impact assessment/geotechnical report to the Department and Wasco County prior to construction. The Council found that, while the rural nature of the area and the proposed slight increase in traffic establish the feasibility of compliance with this local criterion, adoption of Condition 5.11 would ensure compliance. The requested amendments do not affect this finding.

Based on the analysis above, and subject to compliance with the existing site certificate conditions and Condition 5.12, the Council finds that the facility, as amended, satisfies this criterion.

WCLUDO Section 19.030(C)(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 revegetation).

- *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.*

The potential need for a utility permit for this facility was not addressed in the ASC, *Final Order on the Application*, or the *Amended Final Order on Amendment #1*. To ensure compliance with the portion of this criterion requiring that an applicant obtain a utility permit for all project utility installation, the Council adopts the following condition:

Site Certificate Condition 5.13: Prior to beginning construction, the certificate holder shall obtain any Utility Permit(s) that may be required by the Wasco County Public Works Department.

Condition 6.18 of the site certificate requires that the certificate holder cooperate with the Wasco County Public Works Department to ensure that any unusual damage or wear to county roads caused by the construction of the facility is repaired by the certificate holder and that all public roads are restored to pre-construction condition or better to the satisfaction of the

1 applicable county departments. This condition, in combination with Site Certificate Condition
2 5.13 above, the Revegetation and Weed Control Plan required through Condition 9.6, and Site
3 Certificate Condition 5.12, which would require that the certificate holder obtain any Road
4 Approach Permit(s) that may be required by the Wasco County Public Works Department, fully
5 addresses the requirements of this criterion.

6
7 Based on the analysis and findings in the *Final Order on the Application* regarding the Public
8 Service standard, the Council finds that, subject to Conditions 6.18 and 9.6, and new Site
9 Certificate Conditions 5.12 and 5.13, the facility, as amended, satisfies this criterion.

10
11 **WCLUDO Section 19.030(C)(11) Onsite Access Roads and Staging Areas**

12
13 *The impact of onsite access roads and staging areas within the Energy facility Project*
14 *Area shall be limited by:*

- 15
16 *a. Constructing and maintaining onsite access roads for all-weather use to assure*
17 *adequate, safe and efficient emergency vehicle and maintenance vehicle access to*
18 *the site;*
19 *b. Using existing onsite access roads to the extent practical and avoiding*
20 *construction of new on-site access roads as much as possible; and*
21 *c. Restoring the natural grade and revegetating all temporary access roads, road*
22 *cuts, equipment staging areas and field office sites used during construction of the*
23 *energy facility. The applicant shall specify the type and amount of native seed or*
24 *plants used to revegetate the disturbed areas and a timeline to complete this work.*
25

26 The criteria in (b) and (c) of this subsection are substantively similar to criteria in Sections (b)
27 and (c) of WCLUDO Section 19.030(C)(9), addressed above, except to the extent that WCLUDO
28 Section 19.030(C)(9)(c) applies only to temporary road cuts whereas 19.030(C)(11)(c) applies to
29 all temporary access roads, road cuts, equipment staging areas, and field office sites. However,
30 the evaluation of WCLUDO Section 19.030(C)(9) applies equally to the evaluation of this section
31 and is incorporated here.

32
33 As discussed in the findings regarding compliance with WCLUDO Section 19.030(C)(9), the
34 certificate holder discussed construction of roads in the facility in Exhibit U of the ASC and
35 roads are also discussed in Section V.C.1.g. of the *Final Order on the Application*. Those findings
36 generally address the requirements of WCLUDO Section 19.030(C)(11). However to the extent
37 WCLUDO Section 19.030(C)(11) includes measures related to future access for emergency and
38 maintenance vehicles, in order to ensure compliance with this criteria, the Council adopted
39 Condition 6.29, which requires that the certificate holder must maintain all access roads for all-
40 weather use to ensure adequate, safe, and efficient emergency and maintenance vehicle access
41 to the site.

1
2 Based on the analysis above and in findings regarding compliance with WCLUDO Section
3 19.030(C)(9), the Council finds that, as conditioned and amended, the facility meets this
4 criterion.

5
6 **WCLUDO Section 19.030(C)(12) Dust Control**

7
8 *All approved non-paved temporary or permanent roads and staging areas within the*
9 *Energy facility Project Area shall be constructed and maintained to minimize dust, which*
10 *may be addressed through the Road Use Agreement. If roads and staging areas are not*
11 *constructed with material that would prevent dust, the permit holder must regularly*
12 *water roads and staging areas as necessary or apply an approved dust suppression*
13 *agent such as Earthbind 100 to minimize dust and wind erosion.*

14
15 As discussed in the findings related to compliance with WCLUDO Section 5.020(E), the Council's
16 Soil Protection standard (addressed in Section IV.C of the *Final Order on the Application* and
17 Section III.B.4, *Soil Protection* of this order) addresses mitigation measures for dust emissions.
18 The Council adopted Condition 9.3, which requires the certificate holder to implement best
19 management practices to reduce and control dust emissions generated by construction
20 activities, such as applying water to roads and disturbed soil areas.⁸⁸ The combination of the
21 condition and the implementation of best management practices address all of the criteria for
22 this subsection.

23
24 Based on this analysis, the Council finds that, subject to Condition 9.3, the facility, as amended,
25 satisfies this criterion.

26
27 **WCLUDO Section 19.030(C)(13) Erosion and Sediment Control**

28
29 *All ground disturbing activities shall be conducted in compliance with a National*
30 *Pollutant Discharge Elimination System (NPDES) permit as may be required by Oregon*
31 *Department of Environmental Quality. Where applicable, an NPDES permit must be*
32 *obtained. The plan must include best management practices for erosion control during*
33 *construction and operation and permanent drainage and erosion control measures to*
34 *prevent damage to local roads or adjacent areas and to minimize sediment run-off into*
35 *waterways.*

36
37 As addressed above in the findings related to compliance with WCLUDO Section
38 3.210(J)(17)(b)(2), which requires that a wind facility submit a soil and erosion control plan, and

⁸⁸ *Final Order on the Application* at 21

as set forth in Section IV.C of the *Final Order on the Application* and Section III.B.4, *Soil Protection* of this order, the certificate holder must construct the facility in compliance with an NPDES #1200-C construction stormwater permit and associated ESCP. Condition 9.1 requires that the facility be operated in compliance with the ESCP, which includes the implementation of best management practices to prevent erosion and runoff.

Based on the analysis in WCLUDO Section 3.210(J)(17)(b)(2) and in findings regarding compliance with the Council's Soil Protection standard, the Council finds that, subject to compliance with Condition 9.1, the facility, as amended, satisfies this criterion.

WCLUDO Section 19.030(C)(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.

As addressed in the findings of compliance with WCLUDO Section 3.210(J)(17)(b)(4) and in the discussion directly relevant to this standard set forth in Section IV.C of the *Final Order on the Application* and in Section III.B.4, *Soil Protection* of this order, a Revegetation and Weed Control Plan was included as Exhibit 1 to the *Final Order on the Application*. Condition 5.6, as amended in this final order, requires that prior to construction, the certificate holder obtain approval of a final Revegetation and Weed Control Plan from the Department in consultation with the Wasco County Weed Department and that the certificate holder implement the final plan. The Council finds that, subject to compliance with the amended condition, the facility, as amended, satisfies this criterion.

WCLUDO Section 19.030(C)(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.*

In the *Final Order on the Application*, signage requirements were addressed both within Section IV.D and Section IV.I. To ensure compliance with those standards, the Council adopted two conditions related to signs. Condition 6.15 bans any advertising on any part of the facility and only permits signs required for facility safety, required by law, or otherwise required by the site

1 certificate, with the exception of a sign near the O&M building to identify the facility and the
2 painting of turbine numbers on each tower. Condition 6.22 allows for signs that conform to
3 certain requirements related to safety. These two conditions ensure the facility satisfies this
4 criterion. As a result, the Council finds that, subject to compliance with these conditions, the
5 facility, as amended, satisfies this criterion.

6
7 **WCLUDO Section 19.030(C)(16) Underground Systems**
8

9 *Where reasonably practicable, power collector and communication systems shall be*
10 *installed underground, at a minimum depth of 3 feet. Shallower depths may be*
11 *authorized where notification and safety measures are taken and wires are placed in*
12 *schedule 40 conduit. The cable collector system shall be installed to prevent adverse*
13 *impacts on agriculture operations and natural resources.*
14

15 The Council's Cumulative Effects standard for wind energy facilities has criteria directly relevant
16 to this local criterion. As set forth in the analysis and findings in Section IV.L of the *Final Order*
17 *on the Application* and in Section III.B.16, *Division 24 Standards* of this order, the Council finds
18 the facility, as amended, satisfies that Council standard. To ensure compliance, Condition 6.21
19 requires that the certificate holder install the 34.5-kV collector system underground to the
20 extent practicable and that the system be installed at a depth of at least three feet.
21 Communication lines are typically co-located with collector lines. Compliance with the Council's
22 Cumulative Effects standard also establishes compliance with this local criterion. For these
23 reasons, the Council finds that, as conditioned and amended, the facility complies with this
24 criterion.
25

26 **WCLUDO Section 19.030(C)(17) Operation & Maintenance Buildings**
27

28 *Permanent maintenance/operations buildings shall be located in the same zone as the*
29 *principal energy facility, except that such buildings may be constructed in a separate*
30 *zone if:*
31

- 32 *a. The building is designed and constructed generally consistent with the character of*
33 *similar buildings used in the surrounding area; and*
34 *b. The building will be removed or converted to another approved use upon*
35 *decommissioning of the energy facility consistent with the provisions of this*
36 *ordinance.*
37

1 As described in the ASC the facility (including the O&M building) would be located in an A-1 EFU
2 zone.⁸⁹ As both the O&M building and the remainder of the facility would be located in the
3 same zone, the Council finds that the facility, as amended, meets this criterion.
4

5 **WCLUDO Section 19.030(C)(18) Coordination and Documentation**
6

7 *Prior to commencement of any construction, all other necessary permits shall be*
8 *obtained, e.g. building permit, rural address, road approach, utility and other permits*
9 *from the Wasco County Public Works Department, and/or from ODOT as well as any*
10 *other applicable local, state or federal permits or approvals.*
11

12 Exhibit E of the ASC identifies local, state, and federal permits needed for construction and
13 operation of the proposed facility, including those required for compliance with this criterion.
14 Condition 4.6 specifically requires that all permits needed for construction, operation, and
15 retirement be obtained prior to beginning construction. Therefore, the Council finds that,
16 subject to this condition, the facility, as amended, satisfies this criterion.
17

18 **WCLUDO Section 19.030(C)(19) Termination and Decommissioning**
19

20 *For an energy facility sited through EFSC, compliance with EFSC's financial assurance and*
21 *decommissioning standards shall be deemed to be in compliance with these*
22 *requirements.*
23

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

⁸⁹ ASC Exhibit K at 64

- 1 d. *The following shall be required as conditions of the Wasco County approval:*
- 2 (1) *If operation of the energy facility ceases or begins construction of the project,*
- 3 *but does not complete it, the permit holder shall restore the site according to*
- 4 *a plan approved by Wasco County. A plan shall be submitted that ensures the*
- 5 *site will be restored to a useful, non-hazardous condition without significant*
- 6 *delay, including but not limited to the following:*
- 7 (i) *Removal of aboveground and underground equipment, structures and*
- 8 *foundations to a depth of at least three feet below grade (four feet if*
- 9 *cropland). Underground equipment, structures and foundations need not*
- 10 *be removed if they are at least three feet below grade and do not*
- 11 *constitute a hazard or interfere with agricultural use or other resource*
- 12 *uses of the land. Restoration of the surface grade and soil after removal*
- 13 *of aboveground structures and equipment.*
- 14 (ii) *Removal of graveled areas and access roads and restoration of surface*
- 15 *grade and soil.*
- 16 (iii) *Revegetation of restored soil areas with native seed mixes, plant*
- 17 *species suitable to the area, consistent with Wasco County's weed control*
- 18 *plan.*
- 19 (iv) *For any part of the energy facility on leased property, the plan may*
- 20 *incorporate agreements with the landowner regarding leaving access*
- 21 *roads, fences, gates or buildings in place or regarding restoration of*
- 22 *agricultural crops or forest resource land. Said landowner will be*
- 23 *responsible for maintaining said facilities for purposes permitted under*
- 24 *applicable zoning.*
- 25 (v) *The underground power collector and communication lines need not*
- 26 *be removed if at a depth of three feet or greater. These cables can be*
- 27 *abandoned in place if they are deemed not a hazard or interfering with*
- 28 *agricultural use or other consistent resource uses of the land.*
- 29 (vi) *The plan must provide for the protection of public health and safety*
- 30 *and for protection of the environment and natural resources during site*
- 31 *restoration.*
- 32 (vii) *The plan must include a schedule for completion of site restoration*
- 33 *work.*
- 34 (2) *Before beginning construction of the energy facility, the permit holder must*
- 35 *submit in a form and amount satisfactory to Wasco County, assuring the*
- 36 *availability of adequate irrevocably committed funds to restore the site to a*
- 37 *useful, non-hazardous condition naming Wasco County as beneficiary or*
- 38 *payee. The form may include posting a bond, issuing an irrevocable letter of*
- 39 *credit, purchasing a paid up insurance policy or by other means acceptable by*
- 40 *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.*

The proposed facility is subject to the Council's Retirement and Financial Assurance standard, pursuant to OAR 345-022-0050. The Council's evaluation of the certificate holder's compliance with that standard is set forth in Section IV.F of the *Final Order on the Application* and in Section III.B.7, *Retirement and Financial Assurance* of this order.

Based on the analysis and findings set forth in Section III.B.7, *Retirement and Financial Assurance* of this order, and subject to compliance with the conditions referenced in that section, the Council finds that the proposed facility, as amended, satisfies this standard.

WCLUDO Section 19.030(C)(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.

Condition 4.3 requires the certificate holder to submit a legal description of the site to the Department within 90 days after beginning operation of the facility. To fully address the criterion's requirements regarding geographic information system (GIS) information, in the *Amended Final Order on Amendment #1* the Council adopted Condition 6.30, which requires the certificate holder to submit a legal description of the site to the Wasco County GIS Department

1 upon beginning operation of the facility. The Council finds that, subject to compliance with
2 Conditions 4.3 and 6.30, the facility, as amended, satisfies this criterion.

3
4 **WCLUDO Section 19.030(C)(21) Power Production Reporting**

5
6 *The County may require a report of nonproprietary power production for any time frame*
7 *after the energy facility first begins production if permitted through the County. If*
8 *requested, the permit holder shall have 180 days to produce said report.*
9

10 In the site certificate, Condition 13.1 requires that the certificate holder include in its annual
11 report to the Department the plant availability and capacity factors for the reporting year.
12 Compliance with this condition also ensures compliance with the requirements of this criterion.
13 As a result, the Council finds, subject to this condition, that the facility, as amended, satisfies
14 this criterion.
15

16 **WCLUDO Section 19.030(D) Specific Standards**

17
18 *The following standards apply to specific types of energy facilities as described, in*
19 *addition to the General Standards in Section C above.*
20

21 **WCLUDO Section 19.030(D)(1)**

22 *Wind Energy Facilities:*

23 *a. Visual Impact - To the extent practical, the proposed wind energy facility has*
24 *been designed to minimize visual impact upon open space and natural landscape*
25 *by:*

26 *(1) Using underground communication and power collector lines*
27 *(transmission lines that connect each turbine to a substation);*

28 *(2) Using turbine towers of uniform design, color and height;*

29 *(3) Lighting - Lighting of towers shall be evaluated on a case-by-case basis*
30 *and is only allowed if required by the Oregon Department of Aviation or*
31 *Federal Aviation Administration. If lighting is required by Oregon Department*
32 *of Aviation or Federal Aviation Administration, the applicant shall minimize*
33 *the amount of lighting to the extent feasible under the law, which may*
34 *include consideration of radar triggered lighting.*

35 *(4) Using existing roads within the Energy facility Project Area to provide*
36 *access to the site, or if new roads within the Energy facility Project Area are*
37 *needed, minimizing the amount of land used for new roads and locating*
38 *roads to reduce visual impact;*

39 *(5) Using existing substations, or if new substations are needed, minimizing*
40 *the number of new substations; and*
41

1 As described in the *Final Order on the Application*, the *Amended Final Order on Amendment #1*,
2 and throughout this order, the facility has been designed and conditioned to minimize visual
3 impacts on open space and the natural landscape as required by this criterion. The existing site
4 certificate includes conditions to ensure compliance with subsections (1) through (5) of this
5 criterion, as follows.
6

7 The requirement established in WCLUDO Section 19.030(D)(1)(a)(1) is addressed in the findings
8 of compliance regarding WCLUDO Section 19.030(C)(16) (Underground Systems) and in the
9 analysis and findings of the Council's Cumulative Effects standard for wind energy facilities in
10 Section III.B.16., *Division 24 Standards* of this order and Section III.B.3.p of the *Amended Final*
11 *Order on Amendment #1*. In the *Final Order on the Application*, the Council adopted Condition
12 6.4, which requires that the certificate holder install the 34.5-kV collector lines underground to
13 the extent practical.
14

15 The requirements established in WCLUDO Section 19.030(D)(1)(a)(2) are addressed in the
16 findings in Section IV.I of the *Final Order on the Application*, Section III.B.3.j of the *Amended*
17 *Final Order on Amendment #1*, and Section III.B.10, *Scenic Resources* of this order. In its
18 evaluation of the certificate holder's compliance with the Council's standard, the Council
19 adopted Condition 6.15, which requires the certificate holder to mount nacelles on uniformly
20 painted towers. The Council notes that, because all turbines would be of the same model, the
21 turbine towers would be of uniform design and height, in compliance with the requirements of
22 subsection (2).
23

24 In its comments on RFA #2, the Planning Department commented on the requirements of
25 subsection (3). The Planning Department encouraged mitigating and minimizing light pollution,
26 noted that some existing wind energy facilities currently impact the visual resources of Wasco
27 County, and expressed support for the use of radar-based technologies such as Audio Visual
28 Warning Systems (AVWS) or an Obstruction Collision Avoidance System to avoid creating
29 "another red light district."⁹⁰ In an email response to the Planning Department, the certificate
30 holder stated that about one-third of the facility turbines would have lights and that the
31 certificate holder had concerns about the "liability associated with other forms of warning
32 systems."⁹¹ In addition, in its RFA #2, the certificate holder stated that, "In previous evaluations
33 of radar based lighting, currently available systems were not found to be economically feasible
34 or provide the level of safety deemed necessary for the application. We will reevaluate
35 currently available systems prior to finalizing our design and start of construction."⁹²
36

⁹⁰ SRWAMD2Doc14 Agency Comment_Wasco County (A. Brewer)_2016-03-14

⁹¹ SRWAMD2Doc16 Agency Comment_Wasco County (A. Brewer)_2016-04-21

⁹² SRWAMD2Doc1 RFA #2 at 51

1 The lighting requirements established in WCLUDO Section 19.030(D)(1)(a)(3) are addressed in
2 the analysis and findings in Section III.B.3.p (Cumulative Effects Standard for Wind Energy
3 Facilities) and in Section III.B.3.j (Scenic Resources Standard) of the *Amended Final Order on*
4 *Amendment #1* and this order. The Cumulative Effects standard requires the Council to find that
5 the proposed facility uses the minimum lighting necessary for safety and security purposes or
6 as otherwise required by the FAA and the Oregon Department of Aviation. As set forth in
7 Section IV.D of the *Final Order on the Application*, the Council adopted Condition 6.23, requiring
8 the certificate holder to limit the intensity of the turbine lights, except as required by the FAA.
9 In addition, Condition 6.23 requires the certificate holder to design and implement a lighting
10 plan that includes mitigation measures for the impacts of nighttime lighting, including the use
11 of downward-directed, shielded, and hooded lights on facility structures.

12
13 The requirements established in WCLUDO Section 19.030(D)(1)(a)(4) are addressed in the
14 analysis and findings on the Council's Cumulative Effects standard for wind energy facilities in
15 Section III.B.16, *Division 24 Standards* of this order. As discussed therein, the certificate holder
16 is required to use existing county roads to gain access to the site. In the *Final Order on the*
17 *Application* the Council adopted Condition 6.12, which requires the certificate holder to design
18 and construct the facility using the minimum land area necessary for safe construction and
19 operation and to locate access roads and temporary construction laydown and staging areas to
20 minimize disturbance of farming practices.

21
22 The ASC requested only one new substation, which is needed to connect the facility to the 230-
23 kV Big Eddy-Maupin transmission line. The requested amendments do not propose any
24 additional new substations. The Council finds that this single proposed new substation complies
25 with the requirements of subsection (5) to minimize the number of new substations.

26
27 Based on its analysis and findings set forth elsewhere in this order and identified above, and
28 subject to compliance with the identified existing conditions and amended condition, the
29 Council finds that the proposed facility satisfies WCLUDO Section 19.030(D)(1)(a)(1) through (5).

30 31 **WCLUDO Section 19.030(D)(1)(a)(6) Shadow Flicker**

32
33 *Upon the non-participating owner's request, the applicant shall demonstrate that the*
34 *wind turbines, taking into account mitigation measures, will have no significant adverse*
35 *impact of shadow flicker on an existing dwelling of a non-participating landowner within*
36 *¼ mile (1,320 feet) from a turbine, measured from the centerline of the turbine to the*
37 *centerline of the dwelling. Towers shall be allowed to create an adverse shadow flicker*
38 *impact to an existing dwelling on a non-participating landowner's property if written*
39 *permission from the property owner and an adjustment is granted under Section*

1 19.030(D)(1)(c). Said written permission shall be made part of the deed records of the
2 non-participating landowner's property.
3

4 There are no non-participating landowners within a quarter mile of a planned turbine
5 location.⁹³ Therefore, this criterion is not applicable.
6

7 **WCLUDO Section 19.030(D)(1)(b) Public Safety**
8

9 *The wind energy facility shall be designed, constructed, and operated to protect the*
10 *public by measures that may include, but are not limited to, the following:*
11

12 *(1) Installing the tower so at the closest point, the sweep of any exposed blade or*
13 *other exposed moving component is at least 20 feet above the tallest existing or*
14 *foreseeable obstruction to blade movement unless based on the proposed location*
15 *and site specific circumstances, the tower will not represent a safety hazard; and*
16

17 The amendments to the facility include a reduction in the minimum blade clearance to 18
18 meters (approximately 59 feet) above the ground, which would remain above the minimum
19 clearance requirement of 20 feet, in compliance with this subsection.
20

21 *(2) Designing, constructing and operating the energy facility to exclude members of*
22 *the public from close proximity to turbine blades and electrical equipment, including*
23 *installing locks on turbine tower access doors; and*
24

25 The requirements of this subsection are also addressed in the Council's Public Health and Safety
26 standard for wind energy facilities, which is addressed in Section IV.K of the *Final Order on the*
27 *Application* and Section III.B.16, *Division 24 Standards* of this order. The site certificate includes
28 several conditions regarding public safety. Condition 7.1 requires that the turbine towers be
29 constructed with no exterior ladders and the tower be locked at all times, except when
30 authorized personnel are present. Condition 7.22 requires that if the turbine has a pad-
31 mounted step-up transformer, it is to be installed in a locked cabinet designed to keep the
32 public safe and avoid the creation of artificial habitat for raptor prey. Condition 7.3 requires
33 that the facility substation be enclosed by fences with a locked gate. Compliance with these
34 conditions addresses and ensures compliance with this subsection.
35

36 *(3) Designing, constructing and operating the energy facility to protect against*
37 *structural failure of the turbine tower or blades that could endanger members of the*
38 *public's safety, including having adequate safety devices and testing procedures*

⁹³ *Id.* at 52

1 *designed to warn members of the public of impending failure and to minimize the*
2 *consequences of such failure.*

3
4 As with subsection (2), the requirements of this subsection are also addressed in the Council's
5 Public Health and Safety standard for wind energy facilities, which is addressed in Section IV.K
6 of the *Final Order* and Section III.B.16, *Division 24 Standards* of this order.⁹⁴ In the *Final Order*
7 *on the Application*, the Council adopted Conditions 7.4 through 7.6 to ensure the certificate
8 holder has measures in place to protect against structural failure. Compliance with these
9 conditions addresses and ensures compliance with this subsection.

10
11 As discussed above, and based on the conditions adopted in the *Final Order on the Application*
12 to ensure compliance with the Public Health and Safety standard for wind energy facilities, the
13 Council finds that the proposed facility, as amended, satisfies WCLUDO Section 19.030(D)(1)(b).

14
15 **WCLUDO Section 19.030(D)(1)(c) Setbacks:**

16
17 *(1) Project Boundaries - If the wind energy project encompasses more than one parcel*
18 *neither the wind turbine setback to non-project boundaries nor the property line*
19 *setbacks of the underlying zone in which the project is located are applicable to any*
20 *internal property lines within the project area.*

21 *(2) Non Project Boundaries - Wind turbines shall be set back from the property line of*
22 *any abutting property not part of the project (non-project boundaries), the right-of-way*
23 *of any dedicated road, and any above ground major utility facility line a minimum of 1.5*
24 *times the height of the wind turbine tower (i.e., fall height). Wind turbines shall be set*
25 *back from any above ground minor utility facility line a minimum of 1.1 times the height*
26 *of the wind turbine tower.*

- 27 • *An applicant may request an adjustment to non-project boundaries using the*
28 *process described in 19.030(D)(1)(c)(3)(C) below.*
29 • *Wind turbines shall meet the underlying zone setback requirement unless a*
30 *variance is granted pursuant to either Chapter 6 or 7.*

31
32 *(3) Resource Zone Dwellings*

33 *(a) Participating Landowners: Participating landowners are owners of legally placed*
34 *resource dwellings on lands committed to the energy facility project by written*
35 *contract. Participating landowners or applicant must provide evidence*

⁹⁴ Pursuant to OAR 345-024-0010(2), to issue a site certificate for a proposed wind energy facility, the Council must find that the applicant "Can design, construct and operate the facility to preclude structural failure of the tower or blades that could endanger the public safety and to have adequate safety devices and testing procedures designed to warn of impending failure and to minimize the consequences of such failure."

1 *demonstrating that setbacks from dwellings will meet the DEQ noise standard and,*
2 *prior to construction, provide evidence of any recorded noise easement obtained*
3 *under OAR 345-035-0035.*

4 *(b) Non-Participating Landowners: For owners of legally placed resource dwellings*
5 *who are not participating landowners in the energy facility project, wind turbine*
6 *setbacks shall be 3,520 feet, measured from the centerline of the turbine to the edge*
7 *of the dwelling, or the distance required to comply with the DEQ noise standard (OAR*
8 *345-035-0035), whichever is greater, unless a noise easement is obtained under OAR*
9 *340-035-0035.*

10 *(c) Adjustment Provision: Applicant may, as part of the wind energy permitting*
11 *process, obtain an administrative adjustment to authorize a lesser setback from*
12 *regulations addressing turbine setbacks from dwellings in resource zones. This may*
13 *be authorized as part of the CUP pursuant to the Administrative Action process of*
14 *Section 2.060(A) by the Director or designee and upon findings that demonstrate the*
15 *following criteria are met:*

16 *(1) The underlying landowner (or applicable road authority or utility as may be*
17 *appropriate for non-project boundary setbacks) has consented, in writing, to an*
18 *adjusted setback.*

19 *(2) The proposed adjustment complies with DEQ noise standard.*

20 *(3) The proposed adjustment will not force a significant change in accepted farm*
21 *or forest practices on surrounding lands devoted to or available for farm of [sic]*
22 *forest use.*

23 *(4) The proposed adjustment will not unduly burden existing infrastructure (e.g.,*
24 *underground utilities or leach fields).*

25 *(5) The proposed adjustment will not unduly impair safety in the area.*

26 *(6) The proposed adjustment will minimize impacts to environmental resources*
27 *(e.g., wetlands or identified EPDs).*

28 *(4) Non-Resource Boundaries - Wind turbines shall be setback a minimum of 1 mile*
29 *(5,280 feet) from all non-resource zoned property boundaries located outside of urban*
30 *growth boundaries or urban reserves (as measured from the centerline of the turbine to*
31 *the edge of the property boundary zoned for non-resource purposes, e.g. rural*
32 *residential). Adjustment provisions do not apply to these non-resource zone property*
33 *boundary setbacks.*

34 *(5) City Limits and Urban Areas – Wind turbines shall be setback ¾ mile (3,960 feet) from*
35 *the established city limit, urban growth boundary or urban reserve boundary of an*
36 *incorporated city (whichever is the more restrictive applies) unless a lesser setback is*
37 *granted through the adjustment process under this provision.*

38
39 *Adjustment Provision – Applicant may, as part of the wind energy permitting*
40 *process, obtain an administrative adjustment to authorize a lesser setback from*
41 *regulations addressing turbine setbacks from city limits, urban growth boundaries or*

1 urban reserves. This may be authorized as part of the CUP pursuant to the
2 Administrative Action process of Section 2.060(A) by the Director of designee and
3 upon findings that demonstrate the following criteria are met:
4

5 (a) The incorporated city that would be affected has consented, in writing, to an
6 adjusted setback.

7 (b) The proposed adjustment complies with DEQ noise standard.

8 (c) The proposed adjustment will not force a significant change in accepted farm
9 or forest practices on surrounding lands devoted to or available for farm of [sic]
10 forest use.

11 (d) The proposed adjustment will not unduly burden existing infrastructure (e.g.,
12 underground utilities or leach fields).

13 (e) The proposed adjustment will not unduly impair safety in the area.

14 (f) The proposed adjustment will minimize impacts to environmental resources
15 (e.g., wetlands or identified EPDs).

16 (6) Downwind Properties - The establishment of a commercial wind energy facility
17 consistent with the requirements of this ordinance shall not constitute wind access rights
18 that are protected by this ordinance beyond the following setback requirement.
19

20 If a wind turbine 200' in height or taller has been previously placed on a downwind
21 property that is not part of the project, the closest tower on the upwind property shall be
22 set back a minimum of fifteen rotor diameters from the downwind tower location or any
23 lesser distance agreed to by the downwind and upwind property owners or those
24 authorized to act on their behalf.
25

26 In the Amended Final Order on Amendment #1, the Council imposed the following condition in
27 the site certificate to ensure compliance with this criterion:
28

29 **Site Certificate Condition 6.28:** The certificate holder must comply with the following
30 turbine setback distances, as measured from the centerline of the turbine to the edge of the
31 dwelling, as set forth below.
32

33 a. Wind turbines shall be set back from the property line of any abutting property not
34 part of the project (non-project boundaries), the right-of-way of any dedicated road,
35 and any above ground major utility facility line a minimum of 1.5 times the blade tip
36 height of the wind turbine tower. Wind turbines shall be set back from any above
37 ground minor utility facility line a minimum of 1.1 times the blade tip height of the wind
38 turbine tower.

39 b. Wind turbines must be setback a minimum of 1 mile (5,280 feet) from all non-
40 resource zoned property boundaries located outside of urban growth boundaries or

1 urban reserves (as measured from the centerline of the turbine to the edge of the
2 property boundary zoned for non-resource purposes, e.g. rural residential).
3 *[Amended Final Order on Amendment #1 IV.D.2.10]*
4

5 In its March 14, 2016 comment letter, the Planning Department stated that, “the County roads
6 that traverse through project boundaries are considered non-project boundaries per the
7 definition in the [LUDO] Section 19.030(D)(1)(c)(2).” Therefore, the county interprets this
8 criterion to require that all turbines be set back 1.5 times the height of the wind turbine tower
9 from the right-of-way of county roads that intersect the site boundary. However, the county
10 noted that WCLUDO Section 19.030(D)(1)(c)(2) allows the certificate holder to request an
11 administrative adjustment to authorize a lesser setback and stated that the request must
12 demonstrate that a lesser setback would comply with the six criteria specified in WCLUDO
13 Section 19.030(D)(1)(c)(3)(C) (Adjustment Provision).⁹⁵
14

15 On March 22, 2016 the certificate holder submitted a request for an administrative adjustment
16 as a supplement to its RFA #2. Based on deficiencies in the request, as identified by Wasco
17 County in its April 18, 2016 letter, on April 22, 2016 the certificate holder resubmitted its
18 request with additional information (see Attachment C of this final order).⁹⁶ The request for an
19 administrative adjustment requests a setback exception for 17 turbines⁹⁷ that would allow a
20 setback of 1.1 times the height of the turbine towers from the right-of-way of county roads that
21 intersect the site boundary instead of the 1.5 times the height of the turbine towers setback
22 otherwise required by WCLUDO Section 19.030(D)(1)(c)(2). The certificate holder stated that,
23 without the administrative adjustment, the setback requirement under WCLUDO Section
24 19.030(D)(1)(c)(2) and associated condition would require the placement of 17 turbines outside
25 of the approved site boundary, which the Council notes would effectively eliminate those
26 turbines from the facility unless the certificate holder obtained Council approval to amend the
27 site boundary through an amendment request. The certificate holder further indicated that
28 setting the turbines farther off the ridge would negatively impact the amount of electricity each
29 wind turbine could produce, and therefore approval of a lesser setback for seventeen of the
30 turbines would minimize the impact on the performance of those turbines.
31

32 To demonstrate compliance with the six criteria specified in WCLUDO Section
33 19.030(D)(1)(c)(3)(C), the certificate holder provided the following evidence:
34

⁹⁵ SRWAMD2Doc14 Agency Comment_Wasco County (A. Brewer) 2016-03-14

⁹⁶ SRWAMD2Doc40 Revised Request for Adjustment 2016-04-22

⁹⁷ The certificate holder requests a setback of 1.1 times the height of the wind turbine tower for turbines 21, 22, 23, 24, 26, 27, 28, 29, 30, 54, 55, 56, 57, 58, 59, 60, and 61.

1 *(1) The underlying landowner (or applicable road authority or utility as may be*
2 *appropriate for non-project boundary setbacks) has consented, in writing, to an adjusted*
3 *setback.*

4
5 The certificate holder represents that the only properties that would be affected by the
6 administrative adjustment are located within the site boundary and are owned by participating
7 landowners. Therefore, the only entity from which the certificate holder must acquire consent
8 under subsection (1) is Wasco County, which has jurisdiction over the county roads that
9 intersect the site boundary. As part of its April 22, 2016 request, the certificate holder provided
10 a copy of an April 21, 2016 email from the Director of the Wasco County Public Works
11 Department, Mr. Arthur Smith, consenting to the requested adjusted setback. Therefore, given
12 that the applicable road authority for the county roads that intersect the site boundary has
13 consented, in writing, to an adjusted setback, the Council finds that the proposed facility, as
14 amended, satisfies this criterion.

15
16 *(2) The proposed adjustment complies with DEQ noise standard.*

17
18 As described in greater detail in the discussion of compliance with WCLUDO Section
19 19.030(C)(3) and in Section III.C.17.a, *Noise Control Regulations: OAR 340-035-0035* of this
20 order, the requested amendments, including the requested administrative adjustment, could
21 affect the Council's previous findings of compliance with the applicable provisions of OAR
22 Chapter 340, Division 35 to the extent the change in the blade tip height or the required turbine
23 setbacks could alter results of the noise modeling (by altering the noise level generated by the
24 turbines and the distance of the turbines from noise sensitive receptors). However, Condition
25 12.2, which requires final noise analysis based on the final selected turbine layout and model,
26 would account for any changes based on the change in blade tip height and turbine locations.
27 Therefore, the Council finds that, subject to Conditions 12.1 through 12.4 the facility, as
28 amended, satisfies this criterion.

29
30 *(3) The proposed adjustment will not force a significant change in accepted farm or*
31 *forest practices on surrounding lands devoted to or available for farm or [sic] forest use.*

32
33 This criterion is identical to WCLUDO Section 5.020(K). In the *Final Order on the Application*
34 under the findings of compliance relating to WCLUDO Section 5.020(K), the Council found that
35 construction and operation of the facility would be compatible with existing farming and
36 grazing operations and would not significantly alter accepted farming practices. The Council
37 found that some minor changes in sowing and harvesting patterns in the immediate vicinity of
38 the turbine strings would likely be necessary, but those affected farmers would be able to
39 maneuver around the turbine strings and transmission towers and across the gravel access
40 roads. In addition, gravel access roads would be available for the farmers to use to move
41 equipment, which they identified as a critical component in how they manage their land. Very

1 little land would be removed from production, and no irrigation patterns would be affected
2 since farming in the area is dryland farming. The proposed facility would not impact any forest
3 practices because there are no forest operations in the vicinity of the facility. The Council found
4 that, subject to compliance with Conditions 6.24 (requiring restoration of agricultural lands on
5 the site), 6.25 (requiring ongoing consultation with affected landowners to implement
6 measures to avoid adverse impacts to farm practices), and 6.12 (requiring the certificate holder
7 to design and construct the facility to minimize disturbance to farming activities), the facility
8 satisfied WCLUDO Section 5.020(K).⁹⁸ The *Amended Final Order on Amendment #1* had the
9 same findings.⁹⁹

10
11 Because the requested administrative adjustment, if granted by the Council, would retain the
12 17 turbines within the site boundary (which would otherwise be effectively eliminated from the
13 facility) as originally conceived in the ASC, the requested administrative adjustment would not
14 alter the findings of compliance from the *Final Order on the Application* described above.
15 Therefore, the Council finds that the facility, as amended, satisfies this criterion.

16
17 *(4) The proposed adjustment will not unduly burden existing infrastructure (e.g.,*
18 *underground utilities or leach fields).*

19
20 The certificate holder represents that the requested administrative adjustment would place no
21 additional burden on existing infrastructure. The April 21, 2016 email from the Director of the
22 Wasco County Public Works Department stated that the requested administrative adjustment
23 would not unduly burden any county infrastructure. Therefore, the Council finds that the
24 facility, as amended, satisfies this criterion.

25
26 *(5) The proposed adjustment will not unduly impair safety in the area.*

27
28 The certificate holder represents that, in the unlikely event of a turbine collapse, the turbine
29 would extend its full fall height without reaching the county roads under both the setback of
30 1.1 times the height of the turbine towers and the 1.5 times the height of the turbine towers
31 setback otherwise required by WCLUDO Section 19.030(D)(1)(c)(2). In addition, the certificate
32 holder provides evidence based on information obtained from the Wasco County Public Works
33 Department that shows that the county roads are lightly traveled.¹⁰⁰

34
35 The April 21, 2016 email from the Director of the Wasco County Public Works Department
36 stated that the requested administrative adjustment would not unduly impair safety on county

⁹⁸ *Final Order on the Application* at 47 and 48

⁹⁹ *Amended Final Order on Amendment #1* at 41

¹⁰⁰ SRWAMD2Doc40 Revised Request for Adjustment 2016-04-22

1 roads that intersect the site boundary. In light of the county's statement and considering that
2 under the requested reduced setback the turbines would still be located at a distance from the
3 roads greater than their full fall height, the Council finds that the facility, as amended, satisfies
4 this criterion.

5
6 (6) *The proposed adjustment will minimize impacts to environmental resources (e.g.,*
7 *wetlands or identified EPDs).*
8

9 As described in the *Final Order on the Application*, the Planning Department reviewed the
10 locations of the tower corridors and roads within the analysis area, as proposed in the ASC, and
11 found that the facility locations would not be impacted by any environmental protection
12 overlay districts (EPDs).¹⁰¹ As part of its review of RFA #2 the Department requested that the
13 county inform the Department if the site boundary intersects any EPDs. The county determined
14 that the site boundary intersects EPD-1 (Flood Hazard Overlay). The county stated that the data
15 for the section of EPD-1 that intersects the site boundary is derived from the FEMA Flood
16 Insurance Rate Map 410229B.¹⁰² The certificate holder's consultant, David Evans and
17 Associates, Inc. (DEA), evaluated the location of the facility components, as amended, in
18 relationship to the location of the 100-year floodplain (i.e., Type A Flood Zone) as shown in the
19 FEMA National Flood Hazard Layer obtained by DEA in July 2016. DEA determined that the
20 facility components, as amended, would avoid the 100-year floodplain.¹⁰³
21

22 The county also found that the site boundary includes the location of the Center Ridge
23 Schoolhouse, which is protected by EPD-4 (Cultural, Historic and Archaeological Overlay).¹⁰⁴ To
24 ensure that the facility, as amended, would not affect resources protected by EPD-4, the
25 Council adopts the following condition:
26

27 **Site Certificate Condition 6.33:** During facility design and construction, the certificate
28 holder shall ensure that facility components are not developed within the Environmental
29 Protection District 4 as designated by Wasco County.
30

31 In the *Final Order on the Application*, the Council found that the certificate holder proposed to
32 avoid all impacts to identified wetlands and waterways. In its response to the Department's July
33 6, 2016 AIR, the certificate holder confirmed that the facility components, as amended, would
34 be located to avoid impacts to wetlands and waterways.¹⁰⁵ Site Certificate Conditions 6.32 and

¹⁰¹ *Final Order on the Application* at 59.

¹⁰² SRWAMD2Doc18 Agency Comment_Wasco County (K. Howsley-Glover) 2016-07-07

¹⁰³ SRWAMD2Doc22 Certificate Holder Response to Additional Information Request 2016-07-20

¹⁰⁴ SRWAMD2Doc18 Agency Comment_Wasco County (K. Howsley-Glover) 2016-07-07

¹⁰⁵ SRWAMD2Doc22 Certificate Holder Response to Additional Information Request 2016-07-20.

6.34 of this order would require the certificate holder to locate the facility components, as amended, to avoid impacts to wetlands and waterways.

Based on the above analysis, and subject to compliance with the specified new conditions, the Council finds that the facility, as amended, would comply with this criterion.

On April 25, 2016, the Department received a letter from the Planning Department stating that it was the opinion of the Planning Department that the certificate holder's request for an adjustment to setbacks was complete and could satisfy the WCLUDO Section 19.030(D)(1)(c)(3)(C) criteria.¹⁰⁶ Based on the Planning Department's analysis and the evidence provided by the certificate holder, the Council imposes Condition 6.28, as amended, of the site certificate:

Site Certificate Condition 6.28, as amended: During facility design and construction, the certificate holder ~~must~~ shall comply with the following turbine setback distances, as measured from the centerline of the turbine to the edge of the dwelling, as set forth below.

- a. Except as provided in subsection (b) of this condition, ~~W~~ wind turbines shall be set back from the property line of any abutting property not part of the project (non-project boundaries), the right-of-way of any dedicated road, and any above ground major utility facility line a minimum of 1.5 times the blade tip height of the wind turbine tower. Wind turbines shall be set back from any above ground minor utility facility line a minimum of 1.1 times the blade tip height of the wind turbine tower.
- b. Wind turbine tower numbers 21, 22, 23, 24, 26, 27, 28, 29, 30, 54, 55, 56, 57, 58, 59, 60, and 61 shall be set back a minimum of 1.1 times the blade tip height of the wind turbine tower from the right-of-way of any dedicated road within the site boundary.
- c. Wind turbines must be setback a minimum of 1 mile (5,280 feet) from all non-resource zoned property boundaries located outside of urban growth boundaries or urban reserves (as measured from the centerline of the turbine to the edge of the property boundary zoned for non-resource purposes, e.g. rural residential).

The Council finds that the facility, as amended, complies with the six criteria specified in WCLUDO Section 19.030(D)(1)(C)(3)(C) (Adjustment Provision).

WCCP Section XV. Goals and Policies

WCCP Goal 1 – Citizen Involvement

¹⁰⁶ SRWAMD2Doc17 Agency Comment_Wasco County (K. Howsley-Glover) 2016-07-07

1 *To develop and maintain a citizen involvement program that insures the opportunity for*
2 *citizens to be involved in all phases of the planning process.*

3
4 In obtaining the site certificate, the certificate holder elected to have the Council make the land
5 use decision in accordance with ORS 469.504(1)(b), and therefore the Council's procedural
6 requirements applied to the review and evaluation of the proposed facility. The Council's site
7 certificate decision-making process is a public process. The ASC and the two separate RFAs, as
8 well as all documents issued by the Department, are public documents that were made
9 available to the public. The Department uses information meetings, direct mailing, newspaper
10 publication, and the Internet to inform the public about the proceedings regarding the
11 proposed facility. There are opportunities for public comment throughout the site certificate
12 and site certificate amendment review processes. Before the Council took final action on the
13 ASC, a contested case proceeding was available to address issues that were raised in the public
14 hearing process that preceded the *Proposed Order on the ASC*. Similarly, as part of its review of
15 RFA #1, the Council provided an opportunity for the public to comment on that proposed order
16 and request a contested case. The public was also provided an opportunity to comment on the
17 proposed order for RFA#2 and request a contested case. The Council's meetings are open to
18 the public.

19
20 The Council finds that the process used to review the proposed facility is consistent with the
21 WCCP, Section XV, Goal 1.

22 23 **WCCP Goal 2 – Land Use Planning**

24
25 *To establish a land use planning process and policy framework as a basis for all decisions*
26 *and actions related to use of land and to assure an adequate factual base for such*
27 *decisions and actions.*

28
29 This order reviews compliance with the applicable substantive Wasco County development
30 criteria and WCCP policies as well as relevant statewide land use planning goals, administrative
31 rules, and statutes.

32
33 The Council finds that the process used to review the proposed facility is consistent with the
34 WCCP, Section XV, Goal 2.

35 36 **WCCP Goal 3 – Agricultural Lands**

37
38 *To preserve and maintain agricultural lands.*

39 40 **WCCP Goal 3, Policy 1: Maintain Exclusive Farm Use Zoning**

1 *Implementation: (B)(3) Non-farm uses permitted within farm use zones adopted*
2 *pursuant to O.R.S. 215.213 should be minimized to allow for maximum agricultural*
3 *productivity.*

4
5 ORS 215.283 identifies land uses permitted in EFU zones.¹⁰⁷ As it relates to the proposed
6 facility, ORS 215.283(2)(g) permits, subject to approval, “Commercial utility facilities for the
7 purpose of generating power for public use by sale.” Effective January 2009, wind power
8 generation facilities are permitted on EFU-zoned lands under ORS 215.283(2)(g), pursuant to
9 OAR 660-033-0130(37), which Wasco County has implemented through WCLUDO Section
10 3.210(J)(17). As discussed above, the principal use of the facility, including the wind turbines,
11 power collection system, collector substation, met towers, control system, and O&M building
12 constitutes a use allowed under ORS 215.283(2)(g).

13
14 ORS 215.283(1)(c) allows “[u]tility facilities necessary for public service...but not including
15 commercial facilities for the purpose of generating electrical power for public use by sale or
16 transmission towers over 200 feet in height. A utility facility necessary for public service may be
17 established as provided in ORS 215.275.” As discussed above, the 230-kV transmission line is a
18 utility facility necessary for public service, as allowed under ORS 215.283(1)(d), subject to the
19 standards of ORS 215.275, which the county has implemented through WCLUDO Section
20 3.210(J)(8).

21
22 The findings of compliance with WCLUDO Section 3.210(J)(17), which also demonstrate
23 compliance with OAR 660-033-0130(37), establish that the proposed wind generation facility is
24 allowed under ORS 215.283(2)(g). The findings of compliance with WCLUDO Section 3.210(J)(8)
25 demonstrate that the proposed transmission line satisfies the requirements of ORS 215.275 and
26 is allowed under ORS 215.283(1)(d). Accordingly, the Council finds that the proposed facility, as
27 amended, satisfies WCCP, Section XV, Goal 3, Policy 1.

28
29 **WCCP Goal 5 – Open Space, Scenic, and Historic Areas and Natural Resources**

30
31 *To conserve open space and protect natural and scenic resources.*

32
33 **WCCP Goal 5, Policy 5: *The Deschutes and John Day River Scenic Waterways shall be***
34 ***maintained and protected as natural and open space areas with consideration for agriculture***
35 ***and recreation.***

36

107 The WCCP cites ORS 215.213 as the statutory authority for implementing its Agricultural Goal. ORS 215.213 applies to uses of land designated for EFU in Marginal Lands Counties. ORS 215.283 applies to uses of EFU-designated lands in non-marginal lands counties. Wasco County is a non-marginal lands county and, therefore, is subject to ORS 215.283.

1 Consistent with this policy, the proposed facility would not be located within the boundary of
2 the scenic waterways. The potential impacts of the proposed facility on the Deschutes and John
3 Day Scenic Waterways are addressed in detail in the analysis and findings set forth in this order
4 in Sections III.B.6, *Protected Areas*, III.B.10, *Scenic Resources*, and III.B.12, *Recreation*. Those
5 Council standards require analysis and findings that are generally consistent with this policy.
6 The analysis and findings provided in response to WCLUDO Section 19.030(C)(4) set forth above
7 further demonstrate that the proposed facility is consistent with this policy. In those sections
8 the Council finds that, subject to compliance with the conditions, the facility, as amended,
9 complies with Council standards that address potential adverse impacts on the Deschutes and
10 John Day Scenic Waterways.¹⁰⁸

11
12 Therefore, based on the analysis and findings set forth above at WCLUDO Section 19.030(C)(4)
13 and in Sections III.B.6, *Protected Areas*, III.B.10, *Scenic Resources*, and III.B.12, *Recreation* of this
14 order, and subject to compliance with the conditions in those sections, the Council finds that, as
15 amended, the facility is consistent with WCCP, Chapter 15, Goal 5, Policy 5.

16
17 ***WCCP Goal 5, Policy 7: Maintain the existing aesthetic quality of the Columbia River Gorge.***
18

19 The potential impacts of the facility on the scenic resources of the CRGNSA are addressed in
20 detail in the analysis and findings set forth in this order in Section III.B.10, *Scenic Resources*. As
21 discussed therein, the Council found in the *Final Order on the Application* that the facility as
22 originally designed would not result in a significant adverse impact to scenic resources and
23 values identified as important or significant in the CRGNSA Management Plan. In the *Amended*
24 *Final Order on Amendment #1* the Council found that the increased size of the existing turbine
25 option compared to the facility specifications in the ASC would slightly increase the visibility in
26 isolated areas with limited roads, primarily held in private ownership, thereby limiting public
27 access, and that an increase of 20 meters to the wind turbines at a distance of 11 miles away
28 would not result in a significant change that would affect the Council's previous findings for
29 visual impacts to the CRGNSA.¹⁰⁹ The certificate holder's visual analysis determined that turbine
30 option would have very similar visibility from the CRGNSA as the existing turbine option. In
31 addition, as discussed in Section III.B.10, *Scenic Resources*, the CRGNSA and its associated
32 management plan protect scenic resources within the CRGNSA, but do not preclude
33 development on private property outside the CRGNSA, and there are a number of existing
34 development features between the facility and the scenic resources within the CRGNSA that

¹⁰⁸ SRWAMD2Doc49 2016-09-29. In a public comment on the proposed order, Irene Gilbert expressed a belief that visual impacts at the Lower Deschutes River Canyon are protected under Goal 5 of the WCCP. Because the referenced goal does not specifically address visibility impacts to the Lower Deschutes River Canyon and the comment did not explain how facility visibility at the Lower Deschutes River Canyon would be inconsistent with WCCP Goal 5 (Policy 5), the comment is not further evaluated in this order.

¹⁰⁹ *Amended Final Order on Amendment #1* at 82 and 83

1 would detract from the visual character of the area. Based on the analysis and findings set forth
2 in Section III.B.10, *Scenic Resources* the Council finds that, as conditioned, the facility is
3 consistent with WCCP Goal 5, Policy 7.

4
5 **WCCP Goal 5, Policy 9: Fish and Wildlife**

- 6
7 - *Encourage land use and land management practices which contribute to the*
8 *preservation and enhancement of fish and wildlife resources, with consideration for*
9 *private agricultural practices.*
10 - *To conserve and protect existing fish and wildlife areas.*
11 - *To maintain wildlife diversity and habitat so that it will support optimum numbers of*
12 *game and nongame wildlife for recreation and aesthetic opportunities.*

13
14 In the *Final Order on the Application* and the *Amended Final Order on Amendment #1*, the
15 Council found that, subject to the site certificate conditions in Section III.B.8, *Fish and Wildlife*
16 *Habitat*, the facility is consistent with WCCP Goal 5, Policy 9.¹¹⁰ The requested amendments do
17 not alter the Council's analysis on which this finding is based. Therefore, the Council finds that,
18 subject to the conditions contained in Section 10.0 (Protection of Natural Resources) of the *First*
19 *Amended Site Certificate* and the new conditions in Section III.B.8, *Fish and Wildlife Habitat* of
20 this order, the facility, as amended, is consistent with WCCP Goal 5, Policy 9.

21
22 **WCCP Goal 5, Policy 10: Historic, Cultural and Archaeological Resources**

23
24 *Preserve the historic, cultural, and archeological resources of the County.*

25
26 In the *Final Order on the Application*, the Council found that the design of the facility would
27 avoid known cultural and historic sites with a minor relocation of wind turbines within the
28 identified corridor, and should therefore not present any impacts to identified sites.¹¹¹
29 Condition 11.3 requires that the certificate holder hire qualified personnel to perform field
30 investigations of any areas to be disturbed during construction that have not already been
31 surveyed, that the results be provided to SHPO, and if any additional sites are found that they
32 are avoided and the appropriate mitigation measures implemented. The Council finds that,
33 subject to Condition 11.3, the facility, as amended, is consistent with WCCP Goal 5, Policy 10.

34
35 **WCCP Goal 6 – Air, Water and Land Resources Quality**

36
37 *To maintain and improve the quality of the air, water and land resources of the County.*

¹¹⁰ *Final Order on the Application* at 67 and *Amended Final Order on Amendment #1* at 69

¹¹¹ *Final Order on the Application* at 67

1 **WCCP Goal 6, Policy 1: Encourage land uses and land management practices which preserve**
2 **both the quantity and quality of air, water and land resources.**

3
4 In the *Final Order on the Application*, the Council found that, subject to compliance with the
5 conditions presented in Section IV.C.2, including compliance with the Revegetation and Weed
6 Control Plan, the facility was consistent with this goal.¹¹² The requested amendments do not
7 affect the Council's analysis on which it based this finding. Therefore, the Council finds that,
8 subject to the referenced conditions, the facility, as amended, is consistent with WCCP Goal 6,
9 Policy 1.¹¹³

10
11 **WCCP Goal 6, Policy 4: Noise levels should be maintained in compliance with state and federal**
12 **standards.**

13
14 *A. Noise levels for all new industries must be kept within standards set by state and*
15 *federal agencies.*

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

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

20
21 In the *Final Order on the Application*, the Council found that, subject to compliance with the
22 conditions in Section VI.A of that order, the facility was consistent with this goal. As described
23 in greater detail in the discussion of compliance with WCLUDO Section 19.030(C)(3) and in
24 Section III.B.5, *Land Use* of this order, the requested amendments, including the requested
25 administrative adjustment, could affect the Council's previous findings of compliance with the
26 applicable provisions of OAR Chapter 340, Division 35 to the extent the change in the blade tip
27 height or the required turbine setbacks could alter results of the noise modeling. However,
28 Condition 12.2, which requires final noise analysis based on the final selected turbine layout
29 and model, would account for any changes based on the change in blade tip height and turbine
30 locations. Therefore, the Council finds that, subject to the conditions in Section VI.A in the *Final*
31 *Order on the Application* the facility, as amended, is consistent with WCCP Goal 6, Policy 4.

32 **WCCP Goal 8 – Recreational Needs**

33
34 *To satisfy the recreational needs of the citizens of Wasco County and visitors.*
35

¹¹² *Id.* at 68

¹¹³ SRWAMD2Doc49 2016-09-29. In a public comment on the proposed order, Irene Gilbert commented that visual impacts at the Lower Deschutes River Canyon are protected under Goal 6 of the WCCP. However, because her comments did not specify how facility visibility at the Lower Deschutes River Canyon would be inconsistent with Goal 6 (Policy 1), this comment is not further evaluated in this order.

1 **WCCP Goal 8, Policy 1: Manage the Deschutes and John Day Scenic Waterways to minimize**
2 **recreational over- use, accumulation of solid waste and conflicts with agricultural use, while**
3 **maximizing their scenic and recreational values.**

4 In the *Final Order on the Application*, the Council found that the facility is consistent with this
5 goal because the facility is not providing any recreational uses, would not alter the land uses in
6 the vicinities of the waterways, and the minimal solid waste generated would be disposed of at
7 a landfill. The requested amendments do not affect the analysis that the Council relied on in
8 making this finding. Therefore, the Council finds that the facility, as amended, is consistent with
9 WCCP Goal 8, Policy 1.

10
11 **WCCP Goal 8, Policy 2: Develop and maintain a variety of recreational sites and open spaces**
12 **adjacent to population concentrations to adequately meet the County's recreational needs.**

13
14 In the *Final Order on the Application* and the *Amended Final Order on Amendment #1*, the
15 Council found that, subject to the conditions pertaining to protected areas, scenic resources,
16 and recreation, the facility is consistent with this goal. Neither the certificate holder nor the
17 County identified newly proposed recreation sites either within the site boundary or the
18 analysis area in response to RFA #2. As stated in the analysis in Section III.B.12, *Recreation*, the
19 Council finds that neither the existing turbine option nor new turbine option would have a
20 significant adverse impact on any important recreational opportunities in the analysis area.
21 Therefore, the Council finds that, as conditioned and amended, the facility, is consistent with
22 WCCP Goal 8, Policy 2.

23 24 **WCCP Goal 9 – Economy of the State**

25
26 *To diversify and improve the economy of Wasco County.*

27
28 **WCCP Goal 9, Policy 1: Maintain agriculture and forestry as a basis of the County's rural**
29 **economy.**

30
31 In the *Final Order on the Application*, the Council found that facility was consistent with this
32 goal because it would provide a benefit to the local economy by providing stable revenue for
33 participating landowners, who would receive lease payments for the use of their land, and that
34 it would have minimal impact on farming in the area.¹¹⁴ The requested amendments do not
35 affect the analysis that the Council relied on in making this finding. Therefore, the Council finds
36 that the proposed facility, as amended, is consistent with WCCP Goal 9, Policy 1.

37

114 *Id.* at 69

1 **WCCP Goal 9, Policy 2: Commercial and industrial development compatible with the County's**
2 **agricultural and forestry based economy will be encouraged.**

3
4 In the *Final Order on the Application*, the Council found that the facility was consistent with this
5 goal because the facility is consistent with the purposes of EFU, A-1 zone, which allows for the
6 development of commercial energy facilities as a conditional use. The requested amendments
7 do not affect the analysis that the Council relied on in making this finding. Therefore, the
8 Council finds that the proposed facility, as amended, is consistent with WCCP Goal 9, Policy 2.
9

10 **WCCP Goal 9, Policy 3: Wasco County will support the expansion and increased productivity of**
11 **existing industries and firms as a means to strengthen local and regional economic**
12 **development.**

13
14 In the *Final Order on the Application*, the Council found that the facility was consistent with this
15 goal because the facility expands an existing regional industry (wind power generation) in
16 Wasco County.¹¹⁵ The requested amendments do not affect the analysis that the Council relied
17 on in making this finding. Therefore the Council finds that the proposed facility, as amended, is
18 consistent with WCCP Goal 9, Policy 3.
19

20 **WCCP Goal 11 – Public Facilities and Services**

21
22 *To plan and develop a timely, orderly and efficient arrangement of public facilities and*
23 *services to serve as a framework for urban and rural development.*
24

25 **WCCP Goal 11, Policy 1: Provide an appropriate level of fire protection, both structural and**
26 **wildfire, for rural areas.**

27 In the *Final Order on the Application*, the Council found that the facility was consistent with this
28 goal because of the conditions put into place to comply with WCLUDO Section 5.020(c),
29 WCLUDO Chapter 10, the Public Health and Safety standard, and the Public Services
30 standard.¹¹⁶ These conditions are discussed in this order in the sections relating to compliance
31 with WCLUDO Section 5.020(C), WCLUDO Chapter 10, and WCLUDO Section 19.030(C)(7)
32 above. Based on the analyses contained in these sections of this order, the Council finds that
33 this facility, as amended, is consistent with WCCP Goal 11, Policy 1.
34

35 **WCCP Goal 11, Policy 3: Minimize adverse impacts resulting from power line corridor and**
36 **utility development.**
37

¹¹⁵ *Id.*

¹¹⁶ *Id.* at 70

- 1 A. The Bonneville Power Administration should compensate for damage resulting from
2 powerline corridor development at levels based on the loss of agricultural and residential
3 values and productivity.
4 B. When economically and physically feasible, transmission lines should be laid
5 underground.
6 C. The Planning Commission and Citizen Advisory Groups should review all future
7 Bonneville Power Administration power line corridor developments which may be routed
8 through Wasco County, as well as all electrical substation and power plant development
9 proposals.
10 D. Public utility easements and transmission line corridors should be designed to provide
11 for multiple land use.
12 E. Maximum utilization of existing utility right-of-way should be encouraged to minimize
13 the need for additional rights-of-way.
14 F. Public utilities shall be responsible for appropriate maintenance including noxious
15 weed control on all existing and future rights-of-way.
16

17 In the *Final Order on the Application*, the Council found that each of the criteria either did not
18 apply or was met by the facility.¹¹⁷ Subsections (A), (C), (D), and (F) do not apply because the
19 facility would not require the Bonneville Power Administration to develop new power line
20 corridors and the transmission line would travel across only private property. The requested
21 amendment does not propose any change in the transmission line route. As addressed in the
22 *Final Order on the Application*, placing the transmission line underground is physically and
23 financially infeasible, and there is no existing public right-of-way in the area that the
24 transmission line could use. Therefore, the Council finds that the facility, as amended, is
25 consistent with WCCP Goal 11, Policy 3.

26
27 **WCCP Goal 12 – Transportation**

28
29 *To provide and encourage a safe, convenient and economic transportation system.*
30

31 **WCCP Goal 12, Policy 1: Develop and maintain an adequate County road system.**
32

33 In the *Final Order on the Application*, the Council found that the facility is consistent with this
34 goal because no new county roads would be developed and the conditions of the site certificate
35 require that the certificate holder repair the damage done to any road by the certificate
36 holder.¹¹⁸ The requested amendments do not affect the analysis that the Council relied on in

¹¹⁷ *Id.* at 71

¹¹⁸ *Id.*

1 making this finding. Therefore, the Council finds that the facility, as amended, is consistent with
2 WCCP Goal 12, Policy 1.

3
4 **WCCP Goal 13 – Energy Conservation**

5
6 *To conserve energy.*

7
8 ***WCCP Goal 13, Policy 1: The County will work with appropriate state and federal agencies to***
9 ***identify and protect, and if feasible, develop potential energy resources, especially renewable***
10 ***energy resources.***

11 In the *Final Order on the Application*, the Council found that to the extent this goal establishes
12 approval criteria, the facility is consistent with this goal because, as a wind power generation
13 facility, it would promote a renewable energy resource.¹¹⁹ The requested amendments do not
14 affect the analysis that the Council relied on in making this finding. Therefore, the Council finds
15 that the facility, as amended, is consistent with WCCP Goal 13, Policy 1.

16
17 ***WCCP Goal 13, Policy 5: Use of renewable energy shall be encouraged.***

18
19 *A. Wind generators will be permitted in the forestry, agricultural and rural zones.*

20
21 In the *Final Order on the Application*, the Council found that the wind generation facility
22 proposed to be located in an agricultural zone is consistent with this goal.¹²⁰ The requested
23 amendments do not affect the analysis that the Council relied on in making this finding.
24 Therefore, the Council finds that the facility, as amended, is consistent with WCCP Goal 13,
25 Policy 5.

26
27 **Conclusions of Law**

28
29 Based on reasons identified and discussed above, and subject to compliance with existing, new
30 and amended site certificate conditions, the Council finds that the facility, as amended, satisfies
31 the Council's Land Use standard.

32
33 **III.B.6. Protected Areas: OAR 345-022-0040**

34
35 *(1) Except as provided in sections (2) and (3), the Council shall not issue a site certificate*
36 *for a proposed facility located in the areas listed below. To issue a site certificate for a*
37 *proposed facility located outside the areas listed below, the Council must find that,*

¹¹⁹ *Id.*

¹²⁰ *Id.*

1 taking into account mitigation, the design, construction and operation of the facility are
2 not likely to result in significant adverse impact to the areas listed below. References in
3 this rule to protected areas designated under federal or state statutes or regulations are
4 to the designations in effect as of May 11, 2007:

5 (a) National parks, including but not limited to Crater Lake National Park and Fort
6 Clatsop National Memorial;

7
8 (b) National monuments, including but not limited to John Day Fossil Bed National
9 Monument, Newberry National Volcanic Monument and Oregon Caves National
10 Monument;

11
12 (c) Wilderness areas established pursuant to The Wilderness Act, 16 U.S.C. 1131 et
13 seq. and areas recommended for designation as wilderness areas pursuant to 43
14 U.S.C. 1782;

15
16 (d) National and state wildlife refuges, including but not limited to Ankeny, Bandon
17 Marsh, Baskett Slough, Bear Valley, Cape Meares, Cold Springs, Deer Flat, Hart
18 Mountain, Julia Butler Hansen, Klamath Forest, Lewis and Clark, Lower Klamath,
19 Malheur, McKay Creek, Oregon Islands, Sheldon, Three Arch Rocks, Umatilla, Upper
20 Klamath, and William L. Finley;

21
22 (e) National coordination areas, including but not limited to Government Island,
23 Ochoco and Summer Lake;

24
25 (f) National and state fish hatcheries, including but not limited to Eagle Creek and
26 Warm Springs;

27
28 (g) National recreation and scenic areas, including but not limited to Oregon Dunes
29 National Recreation Area, Hell's Canyon National Recreation Area, and the Oregon
30 Cascades Recreation Area, and Columbia River Gorge National Scenic Area;

31
32 (h) State parks and waysides as listed by the Oregon Department of Parks and
33 Recreation and the Willamette River Greenway;

34
35 (i) State natural heritage areas listed in the Oregon Register of Natural Heritage
36 Areas pursuant to ORS 273.581;

37
38 (j) State estuarine sanctuaries, including but not limited to South Slough Estuarine
39 Sanctuary, OAR Chapter 142;

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

4
5 (l) Experimental areas established by the Rangeland Resources Program, College of
6 Agriculture, Oregon State University: the Prineville site, the Burns (Squaw Butte) site,
7 the Starkey site and the Union site;

8 (m) Agricultural experimental stations established by the College of Agriculture,
9 Oregon State University, including but not limited to: Coastal Oregon Marine
10 Experiment Station, Astoria Mid-Columbia Agriculture Research and Extension
11 Center, Hood River Agriculture Research and Extension Center, Hermiston Columbia
12 Basin Agriculture Research Center, Pendleton Columbia Basin Agriculture Research
13 Center, Moro North Willamette Research and Extension Center, Aurora East Oregon
14 Agriculture Research Center, Union Malheur Experiment Station, Ontario Eastern
15 Oregon Agriculture Research Center, Burns Eastern Oregon Agriculture Research
16 Center, Squaw Butte Central Oregon Experiment Station, Madras Central Oregon
17 Experiment Station, Powell Butte Central Oregon Experiment Station, Redmond
18 Central Station, Corvallis Coastal Oregon Marine Experiment Station, Newport
19 Southern Oregon Experiment Station, Medford Klamath Experiment Station, Klamath
20 Falls;

21
22 (n) Research forests established by the College of Forestry, Oregon State University,
23 including but not limited to McDonald Forest, Paul M. Dunn Forest, the Blodgett
24 Tract in Columbia County, the Spaulding Tract in the Mary's Peak area and the
25 Marchel Tract;

26
27 (o) Bureau of Land Management areas of critical environmental concern,
28 outstanding natural areas and research natural areas;

29
30 (p) State wildlife areas and management areas identified in OAR chapter 635,
31 Division 8.

32 ***

33
34 **Findings of Fact**

35
36 The Protected Areas standard requires the Council to find that, taking into account mitigation,
37 the design, construction, and operation of a facility is not likely to result in significant adverse
38 impacts to any protected area as defined by OAR 345-022-0040. During the application phase,
39 the certificate holder identified twenty-four protected areas within the facility's analysis area,
40 or within 20 miles of the site boundary, with the nearest protected area (Deschutes Federal
41 Wild and Scenic River) located 0.6 miles from the site boundary. The certificate holder

1 evaluated impacts to the identified protected areas, pursuant to OAR 345-022-0040, within the
2 analysis area and completed an evaluation of the following potential impacts during facility
3 construction and operation: excessive noise, increased traffic, water use, wastewater disposal,
4 visual impacts of facility structures or plumes, and visual impacts from air emissions. As
5 presented in Section IV.E.1 of the *Final Order on the Application*, the Council previously found
6 that the facility complied with the Protected Areas standard, without any required
7 conditions.¹²¹

8
9 The impacts to protected areas from the existing turbine option approved as part of RFA #1
10 (which would continue to be an option under the current RFA) were evaluated in the *Amended*
11 *Final Order on Amendment #1*. As presented therein, the Council determined that while the
12 components included in RFA #1 (specifically a larger turbine model option) would result in
13 increased visual and noise impacts compared to the originally approved facility, the changes
14 would not result in significant adverse impacts to any protected areas within the analysis area.
15 The Council's findings were based on review of an updated visual impact assessment provided
16 by the certificate holder and existing conditions within the site certificate that required a noise
17 statistical analysis of the final facility design demonstrating compliance with the Department of
18 Environmental Quality's (DEQ's) applicable noise standards. Further, the Council found that RFA
19 #1 would not result in significant adverse impacts to protected areas resulting from facility
20 traffic, water use, or wastewater disposal.

21 22 *Evaluation of Potential Impacts to Protected Areas*

23 *Noise Impacts*

24
25 In the *Final Order on the Application* the Council found that construction noise from the original
26 facility was not likely to result in any significant adverse impacts because of the distance of the
27 facility from most protected areas. The requested change in the blade tip height and the
28 required turbine setbacks (see the discussion related to WCLUDO Section 19.030(D)(1)(c) in this
29 order) could result in differing operational noise levels compared to the facility approved under
30 the *Final Order on the Application* and the *Amended Final Order on Amendment #1* by altering
31 the noise level generated by the turbines and the distance of the turbines from protected
32 areas. As shown in Table L-1 of ASC Exhibit L, the closest protected areas to the facility are the
33 Deschutes Federal Wild and Scenic River and the Deschutes State Scenic Waterway, with the
34 boundary of the Deschutes Federal Wild and Scenic River located slightly closer to the facility
35 than the boundary of the Deschutes State Scenic Waterway. The certificate holder provided

¹²¹ *Final Order on the Application* at 81

1 information demonstrating that, under the existing turbine option, four turbines would be
2 located within one mile of the Deschutes Federal Wild and Scenic River boundary, with the
3 closest turbine located approximately 0.73 miles to the west. Under the new turbine option,
4 the same number of turbines (four) would be located within one mile of the Deschutes Federal
5 Wild and Scenic River boundary, with the closest turbine located at a distance of approximately
6 0.72 miles.¹²²

7
8 ASC Exhibit X provided the predicted noise levels from facility operations based upon turbines
9 with maximum warranted sound power levels of 107 dBA and 109 dBA. In Section IV.E of the
10 *Final Order on the Application* the Council found that noise generated during construction and
11 operation of the originally proposed facility would not result in a significant adverse impact to
12 any protected area. During the Department's review of RFA #2, the certificate holder
13 committed to using turbines with a manufacturer-guaranteed maximum sound power level of
14 109 dBA plus 2 dB uncertainty when measured according to IEC (International Electrotechnical
15 Commission) 61400-11:2002 ed. 2 for those turbines located within one mile of the boundaries
16 of the Deschutes Federal Wild and Scenic River and the Deschutes State Scenic Waterway.¹²³
17 The Council deems this representation to be a binding commitment made by the certificate
18 holder and therefore the Council imposes the following condition:

19
20 **Site Certificate Condition 5.14:** Before beginning construction, the certificate holder shall
21 provide to the Department evidence demonstrating that the certificate holder has obtained
22 a guarantee from the turbine manufacturer for those turbines located within one mile of
23 the boundaries of the Deschutes Federal Wild and Scenic River and the Deschutes State
24 Scenic Waterway that the maximum sound power of those turbines would not exceed 109
25 dBA plus 2 dB uncertainty when measured according to IEC (International Electrotechnical
26 Commission) 61400-11:2002 ed. 2. No turbine shall be located closer than 0.72 miles from
27 any protected area.

28
29 Subject to compliance with Condition 5.14, the Council finds that the requested amendments
30 would not result in significant adverse noise impacts at any protected area within the analysis
31 area.¹²⁴

¹²² SRWAMD2Doc36 Summit Ridge Distance Analysis Protected Areas 2016-08-25

¹²³ SRWAMD2Doc37 Turbine Noise Limitations 2016-08-26

¹²⁴ SRWAMD2Doc49 2016-09-29. In a public comment on the proposed order, Ms. Gilbert commented that conditions are needed within the site certificate which: (1) require a monitoring and testing program for ecological effects and (2) require ongoing noise monitoring. She contends that the conditions are required per ORS 469.507(1) and (2) to ensure standards are met for facility construction and operation impacts to the Deschutes Federal Wild

1 *Visual Impacts*

2
3 As explained in RFA #2, the certificate holder contracted with DEA to conduct modeling of the
4 new turbine option's potential visual impacts at protected areas within the analysis area. Based
5 on the modeling results, as presented in Figure 5 (see Attachment D of this final order), visibility
6 of the new turbine option would remain about the same or slightly less than the existing
7 turbine option evaluated in RFA #1. The certificate holder asserts that visual impacts at
8 protected areas within the analysis area from the new turbine option would be reduced due to
9 the reduction in ground-to-tip distance (152 to 150 meters) and reduction in total number of
10 turbines (72 to 64). However, the certificate holder proposes new locations for some of the
11 turbines within the site boundary, which could result in increased visibility at specific protected
12 areas.

13
14 The certificate holder asserts, and the t Council agrees, that due to viewing distance and the
15 presence of vegetation in certain areas, the new turbine option would not be visible from or
16 have any visual impacts at the following protected areas:

- 17
18 • Botanical/Scenic Areas within Columbia Gorge Area of Critical Environmental Concern
19 • Columbia Hills (Horsethief Lake) State Park
20 • Cottonwood Canyon State Park
21 • Doug's Beach State Park
22 • John Day Federal Wild and Scenic River
23 • John Day State Scenic Waterway
24 • JS Burres State Recreation Site (Bureau of Land Management)
25 • Lower Klickitat Federal Wild and Scenic River
26 • Maryhill State Park
27 • Mayer State Park
28 • Memaloose State Park
29 • Tom McCall Preserve Area of Critical Environmental Concern
30 • White River Falls State Park
31

and Scenic River. To ensure that potential noise impacts from facility operation would be minimized at the
Deschutes Federal Wild and Scenic River, the Council imposed Condition 5.14 requiring that prior to construction,
the certificate holder provide a turbine manufacturer guarantee demonstrating that noise levels would not exceed 109
dBA for turbines located within one mile of the river boundaries. Based on compliance with Condition 5.14, the
Council finds the facility, as amended, would comply with the Protected Areas standard and that no additional noise
monitoring or ecological testing is required to ensure compliance with the Protected Areas standard or any other
applicable Council standard. Therefore, this comment is not further addressed in this order.

1 As previously identified in the *Final Order on the Application* and *Amended Final Order on*
2 *Amendment #1*, portions of the facility would be visible from the following protected areas:

- 3
- 4 • Badger Creek Wilderness Area
- 5 • Deschutes River State Recreation Area
- 6 • Heritage Landing (Deschutes) State Park
- 7 • John Day Wildlife Refuge
- 8 • White River Federal Wild and Scenic River
- 9 • White River State Wildlife Area

10
11 In RFA #2, the certificate holder explains that the new turbine option would result in negligible,
12 if any, impact to these protected areas for the following reasons. The facility would be visible
13 from isolated, limited rims of White River Canyon and John Day River Canyon, but not from the
14 rivers themselves. The certificate holder further explains that vegetation between the facility
15 and Badger Creek Wilderness, located at least 18 miles from the site boundary, would screen
16 and limit views of the facility. Views of the facility from Deschutes River Recreation Area and
17 Heritage Landing, located at least 9 miles from the site boundary, would also be impaired by
18 vegetation and distance. Based on review of Figure 5 (see Attachment D of this final order), the
19 Council agrees with the certificate holder's conclusion that the new turbine option would result
20 in a slight change in the facility's visibility at the protected areas listed above, but that the
21 changes would not result in a significant adverse visual impact.

22
23 As presented in RFA #2, modeling results predict that the facility would also be visible from the
24 following protected areas:

- 25 • Columbia Basin Agricultural Research Center
- 26 • Columbia Hills Natural Area Preserve
- 27 • CRGNSA
- 28 • Lower Deschutes River Canyon

29
30 An assessment of the visual impacts at these protected areas is provided below.

31
32 Columbia Basin Agricultural Research Center

33
34 The Columbia Basin Agricultural Research Center is an agricultural experimental station
35 identified as a protected area under OAR 345-022-0040(1)(m) located approximately 6 miles
36 from the site boundary. The research center is not managed for its visual or scenic qualities.
37 The new turbine option would be slightly more visible from this protected area. However,
38 because of the distance between the center and the closest turbine and because the center is
39 not managed or protected for its scenic qualities, the Council finds that requested amendments
40 would not result in a significant adverse visual impact to this protected area.

1 Columbia Hills Natural Area Preserve

2
3 The Columbia Hills Natural Area Preserve is a state natural heritage area identified as a
4 protected area under OAR 345-022-0040(1)(i) and located at least 14 miles from the site
5 boundary. The preserve is managed for rare plant habitat rather than scenic quality. As
6 presented in Figure 5 (see Attachment D of this final order), visibility patterns within this
7 preserve remain almost identical to the previous analyses. While the new turbine option would
8 be slightly more visible at this protected area, because of the distance between the preserve
9 and the closest turbine and because the preserve is not managed or protected for its scenic
10 qualities, the Council finds that requested amendments would not result in a significant adverse
11 visual impact to this protected area.

12
13 Columbia River Gorge National Scenic Area

14
15 The CRGNSA is a national recreation and scenic area identified as a protected area under OAR
16 345-022-0040(1)(g) and located at least 14 miles from the site boundary. The certificate holder
17 asserts that visibility patterns for the new turbine option would be very similar to the previous
18 analysis for the existing turbine option when viewed from the CRGNSA. In RFA #2, the
19 certificate holder states that much of the land within CRGNSA from which the facility would be
20 visible is not accessible to the public, as there are limited roads and most land is privately
21 owned. The most likely locations from which the facility may be visible occur along State Route
22 14 in the vicinity of Wishram, Washington at distances of over 14 miles. Because the new
23 turbine option would result in similar visibility patterns and viewing distances extending 14
24 miles, the Council finds that the facility, as amended, would not result in a significant adverse
25 visual impact to this protected area.

26
27 Deschutes Federal Wild and Scenic River; Deschutes State Scenic Waterway; and Lower
28 Deschutes Wildlife Area (collectively "Lower Deschutes River Canyon")

29
30 The Lower Deschutes River Canyon is a scenic waterway identified as a protected area under
31 OAR 345-022-0040(1)(k) and located as close as 0.6 miles from the site boundary. Based on
32 visual modeling, the certificate holder explains that visibility from the river of the new turbine
33 option would be about the same or slightly less than the existing turbine option approved in
34 RFA #1. Based on modeling, the certificate holder explains that visibility of the facility would
35 increase slightly in isolated, generally inaccessible areas along the canyon walls and rim, as
36 evidenced by red shading in Figure 5 (see Attachment D of this order). Because these areas are
37 generally inaccessible, and given the predicted reduction in visibility from the river, the Council

1 finds that the facility, as amended, would not result in a significant adverse visual impact to this
2 protected area.^{125, 126}

3
4 *Traffic, Water Use, and Wastewater Disposal Impacts*

5
6 As noted above, in RFA #1, the Council found that the existing turbine option would not result
7 in a change in traffic impacts, water use, or wastewater disposal from the analysis included in
8 the ASC. Based on these findings, the Council determined that RFA #1 would not result in
9 significant adverse impacts related to traffic, water use, or wastewater disposal at any
10 protected area. The requested amendments do not affect the analysis the Council relied upon
11 for the previous findings. Therefore, the Council concludes that the requested amendments
12 would not result in significant adverse impacts related to traffic, water use, or wastewater
13 disposal to any protected areas within the analysis area.

14
15 **Conclusions of Law**

16
17 Based on the analysis above, the Council finds that the facility, as amended, complies with the
18 Protected Areas standard.

19
20 **III.B.7. Retirement and Financial Assurance: OAR 345-022-0050**

21
22 *To issue a site certificate, the Council must find that:*

23
24 *(1) The site, taking into account mitigation, can be restored adequately to a useful, non-*
25 *hazardous condition following permanent cessation of construction or operation of the*
26 *facility.*

¹²⁵ SRWAMD2Doc49 2016-09-29. In a public comment on the proposed order, Ms. Gilbert expresses a belief that visual impacts at the Lower Deschutes River Canyon are protected under the Council's Protected Areas standard. While Ms. Gilbert states that the "file does not contain a preponderance of evidence to support a finding that the development will not result in significant impacts to views," she does not explain how the visibility analysis presented in the proposed order is insufficient nor does she explain how visual impacts of the facility, as presented in the proposed order, would result in a significant adverse visual impact to the Lower Deschutes River Canyon. Therefore, these comments are not further evaluated in this order.

¹²⁶ SRWAMD2Doc49 2016-09-29. In a public comment on the proposed order, Ms. Gilbert expresses a belief that the visual representations of the facility, as amended, are insufficient "to make a determination regarding whether the development will have a significant impact on views from the Wild and Scenic Deschutes River." Although visual simulations may be provided as evidence to support a finding of compliance for standards which require an evaluation of visual impacts, such as the Protected Areas standard, the Council's Division 21 rules do not require visual simulations, nor are visual impacts required to be evaluated from every possible viewpoint. Therefore, these comments are not further evaluated in this order.

1 (2) *The applicant has a reasonable likelihood of obtaining a bond or letter of credit in a*
2 *form and amount satisfactory to the Council to restore the site to a useful, non-*
3 *hazardous condition.*

4
5 To satisfy this standard, the Council must find that the site can be restored to a useful, non-
6 hazardous condition following permanent cessation of the facility and that the certificate
7 holder (transferee) has a reasonable likelihood of obtaining a bond or comparable security,
8 satisfactory to the Council, in an amount adequate to restore the site.

9
10 **Findings of Fact**

11
12 *Request for Transfer of Site Certificate*

13
14 In the *Final Order on the Application*, the Council found that, pursuant to OAR 345-022-0050(1),
15 the current certificate holder could restore the site to a useful, non-hazardous condition.¹²⁷ To
16 ensure the certificate holder met its obligations, the Council adopted Conditions 14.3 through
17 14.5 in the site certificate. These conditions require the certificate holder to prevent the
18 development of any condition on-site that would preclude restoration of the site to a useful,
19 non-hazardous condition (Condition 14.3) and require the certificate holder to submit a final
20 retirement plan that describes the activities necessary to restore the site to a useful, non-
21 hazardous condition for Council approval (Condition 14.4). Condition 14.5 requires that the
22 certificate holder retire the facility according to the approved retirement plan.

23
24 In the *Final Order on the Application*, the Council also found that, pursuant to OAR 345-022-
25 0050(2), the current certificate holder had a reasonable likelihood of obtaining a bond or letter
26 of credit, in a form and amount satisfactory to the Council, to restore the site to a useful, non-
27 hazardous condition.¹²⁸ The Council previously found that the initial value of the financial
28 assurance bond or letter of credit for restoring the site was \$6.965 million (in third quarter
29 2010 dollars). To ensure the certificate holder met its obligations, the Council adopted
30 Conditions 14.1 and 14.2 in the site certificate. Condition 14.1 requires the certificate holder to
31 maintain a bond or letter of credit in the amount of \$6.965 million, to be adjusted for inflation
32 to the date of issuance, which ensures funds are available to the Council to restore the site if
33 the certificate holder does not retire the facility as required by Conditions 14.4 and 14.5.
34 Condition 14.2 requires that if the certificate holder elects to use a bond to meet the
35 requirements of Condition 14.1, the certificate holder would ensure that the bond complies
36 with all applicable rules and statutes.

¹²⁷ *Final Order on the Application* at 88

¹²⁸ *Id.*

¹²⁸ SRWAMD2Doc1 RFA #2, Attachment M2

1
2 In the transfer request, the transferee provided a letter from Heffernan Insurance Brokers,
3 which states that the company is confident that Summit Ridge Wind Holdings, LLC would be
4 able to obtain a bond to meet the financial security requirements for an amount up to \$9.0
5 million. The transfer request also included a letter from Ater Wynne LLP providing a legal
6 opinion affirming legal authority by the transferee to construct and operate the facility without
7 violating existing bond indenture provisions or similar agreement. Additionally, the transferee
8 would be subject to the same conditions that the Council used to ensure that the certificate
9 holder could restore the site to a useful, non-hazardous condition following permanent
10 cessation of the facility's operation. Summit Ridge Wind, LLC certified in RFA #2 that it agrees to
11 abide by all the terms and conditions of the *First Amended Site Certificate* currently in effect
12 and all terms and conditions that will result from RFA #2.¹²⁹ Therefore, based on the financial
13 assurance letter, legal opinion of Ater Wynne LLP, and compliance with existing site
14 certification conditions, the Council concludes that the transferee has demonstrated a
15 reasonable likelihood of obtaining a bond in the amount specified for restoration costs.

16 17 *Review of Amendment Request*

18
19 The Council addressed the Retirement and Financial Assurance standard in Section IV.F.2 of the
20 *Final Order on the Application*. The Council concluded that, subject to conditions, the certificate
21 holder had demonstrated a reasonable likelihood of obtaining a bond or letter of credit in an
22 amount sufficient to cover the estimated site restoration costs.¹³⁰ RFA #1 extended the
23 construction deadlines, reduced the total facility generation capacity, and approved a new
24 turbine model option (the existing turbine option). These approved amendments did not
25 impact findings regarding the Retirement and Financial Assurance standard. As a result the
26 *Amended Final Order on Amendment #1* referred to the analysis in the *Final Order on the*
27 *Application*.

28
29 As discussed above, RFA #2 includes a site certificate transfer, adjustment to a setback
30 requirement, construction commencement and completion deadline extension, and new
31 turbine option. The analysis of the requested transfer includes a demonstration of Summit
32 Ridge Wind, LLC's compliance with the Retirement and Financial Assurance standard. Further,
33 the transferee has certified in RFA #2 that it agrees to abide by all the terms and conditions of
34 the *First Amended Site Certificate* currently in effect and all terms and conditions that will result
35 from RFA #2. As a result, the transferee would be subject to the same conditions that the
36 Council used to ensure that the certificate holder had a reasonable likelihood of obtaining a
37 bond or letter of credit in an amount sufficient to cover the estimated site restoration costs.

¹²⁹ *Id* at 86.

¹³⁰ *Final Order on the Application* at 86

1
2 Subject to compliance with Conditions 14.1 through 14.6 of the site certificate, the Council finds
3 that the facility can be restored adequately to a useful, non-hazardous condition following
4 permanent cessation of construction or operation of the facility, and that the certificate holder
5 (transferee) has a reasonable likelihood of obtaining a bond or letter of credit in a form and
6 amount satisfactory to the Council to restore the site to a useful, non-hazardous condition.
7

8 **Conclusions of Law**

9

10 For the reasons describe above, and subject to the existing site certificate conditions, the
11 Council finds that the facility, as amended, would comply with the Council's Retirement and
12 Financial Assurance standard.
13

14 **III.B.8. Fish and Wildlife Habitat: OAR 345-022-0060**

15

16 *To issue a site certificate, the Council must find that the design, construction and*
17 *operation of the facility, taking into account mitigation, are consistent with the fish and*
18 *wildlife habitat mitigation goals and standards of OAR 635-415-0025 in effect as of*
19 *September 1, 2000.*
20

21 **Findings of Fact**

22

23 The Fish and Wildlife Habitat standard requires the Council to find that the design,
24 construction, and operation of a facility are consistent with fish and wildlife habitat mitigation
25 goals as set forth in OAR 635-415-0025.
26

27 The Council addressed the Fish and Wildlife Habitat standard in Section IV.G of the *Final Order*
28 *on the Application*. The Council made findings regarding the characteristics of the habitat types
29 within the site boundary and the state sensitive species observed within or near the lease
30 boundaries during avian point-counts and other wildlife surveys. Based on those findings, the
31 Council found that, subject to specified conditions, the design, construction, and operation of
32 the facility, taking mitigation into consideration, would be consistent with ODFW's habitat
33 mitigation goals and standards.¹³¹ The *First Amended Site Certificate* extended the construction
34 deadlines, reduced the total facility generation capacity, and approved a new turbine model
35 option (the existing turbine option). As a result of RFA #1 and to ensure compliance with the
36 Council's Fish and Wildlife Habitat standard, Conditions 10.14 and 10.15 of the site certificate
37 were imposed. Condition 10.14 established a requirement for the certificate holder to complete
38 two seasons of raptor nest surveys prior to beginning construction. The condition further

¹³¹ *Final Order on the Application* at 110

1 requires the certificate holder to report the results of the field surveys to the Department and
2 ODFW, and stated that if the surveys identified the presence of raptor nests within the survey
3 area, the certificate holder would implement appropriate measures, as approved by the
4 Department in consultation with ODFW. Condition 10.15 established a prohibition limiting
5 construction activities on land mapped as Big Game Winter Range by ODFW between
6 December 1 and April 15.¹³² The Council notes that because Condition 10.12 contained mirror
7 language and redundant construction restrictions as Condition 10.15, Condition 10.15, as
8 presented in the first amended site certificate (2015), was removed from the site certificate.
9

10 *Construction and Operational Impacts to Habitat*

11

12 RFA #2 includes the addition of a new turbine option that, if approved by the Council and
13 selected by the certificate holder, would, in part, increase the rotor diameter of the turbines
14 and would decrease the total number of turbines in the facility approved under the *Amended*
15 *Final Order on Amendment #1*. Attachment 3 of the amendment request includes an evaluation
16 by NWC on the potential impact of the new turbine option on wildlife. NWC concluded that,
17 despite the larger rotor diameter, the smaller total number of turbines under the new turbine
18 option is expected to result in a “net benefit to wildlife and their habitats” (compared to the
19 existing turbine option). Fewer turbines are expected to result in a reduced potential for birds
20 (including golden eagles) and bats colliding with turbines and would result in less temporary
21 and permanent habitat loss. In RFA #2, the certificate holder asserts that the requested
22 amendments would not warrant a change in the Council’s previous findings of compliance with
23 the Fish and Wildlife Habitat standard.
24

25 The Department relies significantly upon the knowledge, experience, and input of ODFW when
26 assessing a facility’s impact to fish and wildlife habitat under the Fish and Wildlife Habitat
27 standard, including ODFW’s knowledge of habitat types, species use of an area, and habitat
28 categorization. Based on the Department’s request for agency review of the amendment

¹³² Site Certificate Condition 10.15 states: “The certificate holder shall not conduct construction activities on land mapped as Big Game Winter Range by the Oregon Department of Fish and Wildlife between December 1 and April 15.”

request, ODFW provided several general recommendations.^{133,134} In its comment letter, ODFW recommended that the certificate holder pursue the use of a pre-emergent herbicide to target annual grasses within areas disturbed during construction. In its response to the Department's request for additional information, the certificate holder agreed to incorporate ODFW's recommendations into the Weed Control Strategies section of the Revegetation and Weed Control Plan, specifying that herbicide would be applied to control both cheatgrass and non-native annual grasses. Implementation of a final, approved Revegetation and Weed Control Plan is required per existing Condition 5.6 in the site certificate. To ensure that the requested revisions are incorporated into the final plan, the Council amends Condition 5.6 in the site certificate to specify that approval of the final plan by the Department, in consultation with the Wasco County Weed Department and ODFW, is required prior to implementation, as presented below:

Site Certificate Condition 5.6, as amended: Before beginning construction the certificate holder shall obtain approval of a final Revegetation and Weed Control Plan [~~Exhibit 1 to Final Order~~ based upon the draft plan included as Attachment E of the *Final Order on Amendment #2*] from the Department, in consultation with ~~by~~ the Wasco County Weed Department and ODFW, to control the introduction and spread of noxious weeds, and shall implement that approved plan during all phases of construction and operation of the facility.
[Final Order on Amendment #2 IV-D-2-8] [WCLUDO Section 3.210(J)(17)(5)]

In its comment letter, ODFW further recommended that following the initial year of post-construction fatality monitoring surveys, the Department allow the certificate holder to coordinate additional surveys to match the timing of adjacent facilities in order to create a better data set. The Department notes the same comment was received on RFA #1 from ODFW in 2014 but ODFW determined that more scientific and policy research was needed before recommending this change. While the Department recognizes the value in coordinating survey timing for data collection, the Department has historically required that fatality monitoring be conducted over two consecutive years. In addition, there are no wind generation facilities

¹³³ SRWAMD2Doc20 Agency Comment_ODFW 2016-04-25. In its comment letter, ODFW recommended that the Council require the certificate holder to reassess raptor nesting over a two-year period prior to initiation of construction activities, and recommended the use of "current raptor survey protocols." The Department notes that these comments were addressed during review of the certificate holder's RFA #1 through Condition 10.14 of the site certificate and the survey protocol set forth in the October 17 memorandum (Attachment B to the *Amended Final Order on Amendment #1*).

¹³⁴ SRWAMD2Doc20 Agency Comment_ODFW 2016-04-25. In its comment letter, ODFW recommended mitigation of impacts to all big game winter habitats mapped as Habitat Category 2 (outside of developed areas and current tilled agricultural fields) and construction timing restrictions within the portion of the site boundary mapped as Big Game Winter Range. The Department notes that these comments were addressed during review of the certificate holder's RFA #1.

1 currently sited adjacent to the facility; the Department considers the timing of post-
2 construction fatality monitoring survey for future wind facilities that may be located in close
3 proximity to the facility (such as the Golden Hills Wind Project) too speculative to rely upon.
4 Therefore, because ODFW did not provide scientific or policy research to support the request
5 for facility coordination of fatality monitoring surveys, the Council does not consider this
6 recommendation to be necessary or appropriate for inclusion in the draft Wildlife Monitoring
7 and Mitigation Plan (WMMP) (provided as Attachment F to this final order).

8
9 Condition 10.5 of the site certificate establishes a requirement for the certificate holder to
10 conduct wildlife monitoring as described in the WMMP included as Exhibit E to the *Final Order*
11 *on the Application*. Based on the amendments included in RFA #1 and because final turbine
12 locations will be determined based on site specific engineering evaluations within the
13 micrositng corridor after the issuance of the site certificate but prior to construction, the
14 WMMP was previously approved by Council in the *Final Order on the Application* and *Amended*
15 *Final Order on Amendment #1* in draft form. The Council imposes amendments to Condition
16 10.5 to clarify that the certificate holder shall submit and receive approval of a final WMMP
17 from the Department in consultation with ODFW prior to beginning construction. Moreover,
18 the Council amends Condition 10.5, consistent with ODFW's comment on survey timing, to
19 specify that the final WMMP would require long-term raptor nest surveys to be conducted in
20 the first raptor nesting season that is at least five years after the completion of construction
21 and is in a year that is divisible by five (i.e., 2020, 2025, 2030), and that the certificate holder
22 shall repeat the survey at five-year intervals thereafter. The Council imposes Condition 10.5, as
23 amended, in the site certificate:

24
25 **Site Certificate Condition 10.5, as amended:** Prior to construction, the certificate holder
26 shall finalize the Wildlife Monitoring and Mitigation Plan (WMMP), based on the draft
27 WMMP included as Attachment F of the *Final Order on Amendment #2*, as approved by the
28 Department in consultation with ODFW. The certificate holder shall conduct wildlife
29 monitoring as described in the final WMMP, as amended from time to time. ~~Wildlife~~
30 ~~Monitoring and Mitigation Plan that is incorporated as Exhibit 2 of the Final Order and as~~
31 ~~amended from time to time. The final WMMP shall specify that the first long-term raptor~~
32 ~~nest survey will be conducted in the first raptor nesting season that is at least 5 years after~~
33 ~~the completion of construction and is in a year that is divisible by five (i.e., 2020, 2025,~~
34 ~~2030); the certificate holder shall repeat the survey at 5-year intervals thereafter.~~
35 [Final Order on Amendment 2 IV.G.2.5] [Mandatory Condition OAR 345-027-0020(6)]

36
37 NWC confirmed that there has been no substantive change in land management practices since
38 field surveys were first conducted in 2009 and that an even greater proportion of the facility, as
39 amended, would be sited in agriculture compared to the facility proposed in the ASC (see
40 Attachment G to this final order). To ensure that habitat impacts are appropriately categorized
41 and that the associated mitigation is adequate to meet the Fish and Wildlife Habitat standard,

1 the Council amends Condition 10.7 of the site certificate to specify coordination with the
2 Department and ODFW and inclusion of methodology and calculations within the habitat
3 impact assessment report.

4
5 **Site Certificate Condition 10.7, as amended:** Before beginning construction and after
6 considering all microsite factors, the certificate holder shall provide to the Department a
7 map showing the final design locations of all components of the facility and the areas that
8 would be disturbed during construction and identifying the survey areas for all plant and
9 wildlife surveys. This information may be combined with the map submitted per the
10 requirements of Condition ~~9~~10.1. The certificate holder shall hire a qualified professional
11 biologist to conduct a pre-construction plant and wildlife investigation of all areas that
12 would be disturbed during construction that lie outside of the previously surveyed areas.
13 The pre-construction survey shall be planned in consultation with the Department and
14 ODFW, and survey protocols shall be confirmed with the Department and ODFW. Following
15 completion of the field survey, and final layout design and engineering, the certificate
16 holder shall provide the Department and ODFW a report containing the results of the
17 survey, showing expected final location of all facility components, the habitat categories of
18 all areas that will be affected by facility components, and the locations of any sensitive
19 resources. The report shall present in tabular format the acres of expected temporary and
20 permanent impacts to each habitat category, type, and sub-type. The pre-construction
21 survey shall be used to complete final design, facility layout, and microsite of facility
22 components. As part of the report, the certificate holder shall include its impact assessment
23 methodology and calculations, including assumed temporary and permanent impact
24 acreage for each transmission structure, wind turbine, access road, and all other facility
25 components. If construction laydown yards are to be retained post construction, due to a
26 landowner request or otherwise, the construction laydown yards must be calculated as
27 permanent impacts, not temporary.

28
29 As described in the *Final Order on the Application*, the certificate holder contracted with NWC
30 in 2010 to perform special-status plant and wildlife surveys and raptor nest surveys for the
31 facility. Condition 10.14 of the site certificate was adopted by the Council in the *Amended Final*
32 *Order on Amendment #1*, which required the certificate holder to complete two seasons of
33 raptor nest surveys prior to beginning construction. The condition specifies that at least one
34 season of the survey must be completed prior to beginning construction, to ensure that habitat
35 is properly categorized to account for active raptor nests. To comply with Condition 10.14 of
36 the site certificate, the certificate holder conducted the first season (2015) of raptor nest
37 surveys following the survey protocol set forth in the NWC Memorandum Regarding
38 Endangered and Threatened Plant Species and Raptor Surveys dated October 17, 2014
39 (Attachment B to the *Amended Final Order on Amendment #1*) and reported the survey results

1 to the Department via memorandum dated July 29, 2015.¹³⁵ The survey identified five active
2 raptor nests within a quarter mile of potential ground-disturbing activities. Of the five active
3 raptor nests identified, two nests were occupied by red-tailed hawk. No special status raptor
4 species nests were identified within the survey area (half mile from potential ground-disturbing
5 activities). The Department provided ODFW with the July 2015 survey results for review and
6 comment. ODFW noted that the agency did not see anything of particular concern in the
7 results.

8
9 The certificate holder conducted the second season of raptor nest surveys in April 2016 and
10 reported the survey results to the Department on June 27, 2016 (Attachment H to this final
11 order). Ground-based surveys were conducted for above-ground raptor nests on April 26 and
12 27, and an aerial survey occurred on April 30, 2016. The survey identified eight active raptor
13 nests within a quarter mile of potential ground-disturbing activities. Of the eight active raptor
14 nests identified, four nests were occupied by red-tailed hawk. No special status raptor species
15 nests were identified within the survey area.¹³⁶

16
17 Based on review of the 2015/2016 pre-construction raptor nest survey results by the
18 Department and ODFW, in the proposed order the Department recommended that the Council
19 adopt a condition that would require the certificate holder to conform to seasonal construction
20 restrictions and nest buffers specific to red-tailed hawk nests. ODFW submitted a comment
21 during the reviewing agency comment period on the proposed order requesting inclusion of a
22 more complete set of raptor disturbance guidelines as part of Condition 10.15 that would
23 provide the appropriate disturbance buffer and avoidance period in the event that one or more
24 raptor species other than red-tailed hawks are discovered prior-to or during construction.¹³⁷

¹³⁵ SRWAMD2Doc35 2015 Pre-Construction Supplemental Surveys 2015-07-29

¹³⁶ SRWAMD2Doc49 2016-09-29. In a public comment on the proposed order, Ms. Gilbert commented that a condition in the site certificate is needed that requires “pre-construction biological surveys for the proposed 230 kV line that will serve as the interconnect for the project” and seems to base her comment on an interpretation that the 230 kV grid-interconnection transmission line was not included as part of the “total project.” The 230 kV grid-interconnection transmission line is included in the site boundary and is subject to all survey requirements. Biological surveys were conducted to evaluate habitat categories and potential temporary and permanent habitat impacts in 2009 as part of the original application. The habitat impact assessment and habitat mitigation plan (HMP) were updated in 2011 in response to ODFW’s comments on RFA#1. The Department requested review and comment from ODFW on the draft amended HMP and received confirmation that the impacts and mitigation continued to meet ODFW’s Fish and Wildlife Habitat Mitigation Policy. Therefore, this comment is not addressed further in this order.

¹³⁷ SRWAMD2Doc41 2016-08-30. In the proposed order, Recommended Site Certificate Condition 10.15 stated, “During construction from March 31 to August 31, the certificate holder shall implement a 500-foot buffer zone around nest sites of known raptor nests (specifically red tailed hawk) in the vicinity of ground-disturbing construction activities, unless the nest fledge young, the nest fails (i.e. is abandoned), or the Department in consultation with ODFW approves an alternative plan.”

1 Based upon ODFW's request and to ensure adequate protection of raptor nests during
2 construction, the Council adopts the following condition:

3
4 **Site Certificate Condition 10.15:** During construction the certificate holder shall observe the
5 raptor nest avoidance guidelines shown in the following table around known raptor nests in
6 the vicinity of ground-disturbing construction activities, unless the nest fledges young, the
7 nest fails (i.e., is abandoned), or the Department in consultation with ODFW approves an
8 alternative plan.
9

Species	Disturbance Buffer	Nesting Season – Avoidance Period
Golden eagle	0.25 mile	Feb 1- Aug 31
Red-tailed hawk	500 feet	Mar 1- Aug 31
Ferruginous hawk	0.25 mile	Mar 15- Aug 15
Swainson's hawk	0.25 mile	April 1- Aug 15
Prairie Falcon	0.25 mile	Jan 1- Jul 31
American peregrine falcon	0.5 mile	Mar 15- Jul 15
American kestrel	0.25 mile	Mar 1- Jul 31

10
11 On the same days as the 2016 raptor nest surveys, the certificate holder conducted surveys for
12 terrestrial vertebrate wildlife species that are United States Fish and Wildlife Service
13 Endangered, Threatened, or Candidate Species, Species of Concern, or Birds of Conservation
14 Concern, as well as species that the ODFW lists as having special status (Threatened,
15 Endangered, or Sensitive). The 2016 special status vertebrate wildlife species survey report
16 (Attachment H to this order) stated that the surveys resulted in three detections of loggerhead
17 shrikes and 35 detections of grasshopper sparrows. The amended draft Habitat Mitigation Plan
18 (HMP), provided as Attachment G to this order, describes the habitat mitigation area and states
19 that "NWC believes that the identified parcels have adequate potential for mitigating the
20 habitat loss expected to occur and for providing benefit for the wildlife species most likely to be
21 impacted by habitat loss associated with the Project, including grasshopper sparrow
22 (*Ammodramus savannarum*)...and loggerhead shrike (*Lanius ludovicianus*). The referenced
23 parcels for mitigation have been discussed with ODFW, LotusWorks, NWC, and the associated
24 landowners, and other parcels may be considered as well." In addition, the draft WMMP,
25 included as Attachment F to this order, includes a requirement for the certificate holder to
26 conduct two years of post-construction surveys to determine if there are noticeable changes in
27 the presence and overall use by grassland bird species as a result of facility construction and
28 operation. On July 26, 2016, ODFW confirmed that the mitigation specified in the revised draft

1 HMP would be sufficient to mitigate potential facility impacts on the grasshopper sparrow and
2 loggerhead shrike.¹³⁸

3
4 As described above, to satisfy the Council's Fish and Wildlife Habitat standard, the certificate
5 holder proposed compensatory mitigation in a draft HMP for habitat lost due to the footprint of
6 permanent facility components within the site boundary and to offset the temporal loss of
7 habitat quality due to construction disturbance. The Council approved the draft HMP in the
8 *Final Order on the Application*, and the draft revised HMP in the *Amended Final Order on*
9 *Amendment #1*. The draft revised HMP estimates a habitat mitigation area (HMA) of 65 acres to
10 mitigate for the permanent and temporary impacts to habitat in Categories 2, 3, and 4.

11
12 On the record of the proposed order, Ms. Gilbert commented on the 1:1 mitigation ratio
13 presented in the draft amended HMP (see Attachment G of this order), proposed by the
14 certificate holder, to mitigate for temporary impacts to Category 2 Big Game Winter Range
15 habitat, and stated that ODFW requires mitigation at a 2:1 ratio for Category 2 Big Game Winter
16 Range.¹³⁹ The draft amended HMP, which was reviewed and approved in concept by ODFW in
17 October 2014 prior to the issuance of the Final Order on RFA #1, presents, as a calculation
18 methodology, ratios for estimating the mitigation area required to offset temporary and
19 permanent impacts to Category 2 habitat. The Council's Fish and Wildlife Habitat standard,
20 which incorporates by reference ODFW's Fish and Wildlife Habitat Mitigation Policy, does not
21 establish a requirement for use of specific ratios in determining appropriate mitigation to
22 satisfy the standard as Ms. Gilbert contends.

23
24 The draft amended HMP presents a habitat mitigation area of approximately 65 acres to
25 mitigate for all impacts to Category 2 habitat, including temporary and permanent impacts, of
26 61.75 acres. As described in the draft amended HMP, the total mitigation area of approximately
27 65 acres represents no net loss and a net benefit of Category 2 habitat quantity, as is required

¹³⁸ In email correspondence, ODFW stated, "Yes, ODFW finds the certificate holder's mitigation plans to be sufficient for the grasshopper sparrow and loggerhead shrike. Of the four mitigation areas identified in the HMP, the two northernmost areas are large enough to have the potential to mitigate impacts to grasshopper sparrows and loggerhead shrikes if managed in a manner to protect and enhance grassland habitat." SRWAMD2Doc12 Agency Comment ODFW 2016-07-27

¹³⁹ SRWAMD2Doc49 2016-09-29. In a public comment on the proposed order, Ms. Gilbert references an agency comment letter received from ODFW on June 1, 2016 on the draft proposed order for the proposed Wheatridge Wind Energy Facility application for site certificate which stated, "ODFW recommends that the Applicant mitigate for all Category 2 habitat with the mitigation ratios in the draft plan for Category 2 habitat and not use the mitigation ratios for Category 2 big game." Ms. Gilbert states that, "ODFW provided the same comments on this development." Based on review of the record for this facility, the Department disagrees that these comments were provided by ODFW for this facility or to the extent they were only provided during the comment period for another facility, that the comments should apply to the Summit Ridge Wind Farm. Therefore, this comment is not further addressed in this order.

1 by the Council's Fish and Wildlife Habitat standard and the ODFW Fish and Wildlife Habitat
2 Mitigation Policy.

3
4 The draft amended HMP estimates the facility would permanently impact approximately 26.23
5 acres of Category 2 habitat, and would temporarily impact approximately 35.52 acres of
6 Category 2 habitat. In addition, the certificate holder is required to restore vegetation in all
7 areas that are temporarily impacted by facility construction (see Site Certificate Condition 9.6).
8 In accordance with the Council's Fish and Wildlife Habitat standard and the ODFW Fish and
9 Wildlife Habitat Mitigation Policy, a mitigation action needs to account for the nature, extent,
10 and duration of the impact to be mitigated in order to comply with the standard and policy. In
11 the case of temporary impacts, the ecological functions and values of those temporarily
12 impacted areas will return following successful revegetation and restoration. The Council must
13 consider the nature, extent, and duration of a facility's impacts when assessing if a proposed
14 mitigation package, including compensatory mitigation, will satisfy the standard.

15
16 As described above, the draft amended HMP was reviewed and approved in concept by ODFW
17 in October 2014 prior to the issuance of the Final Order on RFA #1; during this review, ODFW
18 stated that the proposed mitigation for direct habitat impacts to Category 2 habitat met or
19 exceeded the goals under ODFW's Fish and Wildlife Habitat Mitigation Policy.¹⁴⁰ Comments
20 received from ODFW on July 6, 2016 during the comment period for the current amendment
21 request indicated that the draft amended HMP adequately addressed all previous comments on
22 the record.

23 The HMP was approved by Council in draft form and will be finalized prior to construction when
24 the total mitigation area is determined. The finalization of the HMP prior to construction is
25 generally limited to a confirmation of habitat categories in consultation with ODFW and subject
26 to approval by the Department, and to a final mathematical calculation of acreages to
27 determine the habitat mitigation acreage based upon an approved calculation methodology.
28 However, the core substance of the plan (the applicable ratios, the required habitat
29 enhancement actions, the monitoring procedures, the reporting requirements and success
30 criteria) is not expected to change.

31
32 The Council amends Condition 10.4 of the site certificate specifying that the certificate holder
33 will develop and submit a final HMP for approval by the Department in consultation with
34 ODFW, and that the Council retains authority to approve, reject or modify the final HMP. In
35 addition, to ensure successful implementation of the HMA/HMP by the transferee, the Council
36 amends Condition 10.4 specifying that the qualifications of the specialists identified to
37 implement and manage the HMA are provided to the Department prior to construction:
38

¹⁴⁰ SRWAMD1Doc51

1 **Site Certificate Condition 10.4, as amended:** Prior to construction, tThe certificate holder
2 shall:

3 a) Select qualified specialists (wildlife biologist/botanist) that have substantial
4 experience in creating, enhancing, maintaining, and protecting habitat mitigation areas
5 within Oregon;

6 b) Notify the Department of the identity and qualifications of the personnel or
7 contractors selected to implement and manage the habitat mitigation area;

8 c)-Acquire the legal right to create, enhance, maintain and protect a habitat mitigation
9 area, as long as the site certificate is in effect, by means of an outright purchase,
10 conservation easement or similar conveyance; and

11 d)-shall provide a copy of the documentation to the Department prior to the start of
12 construction.

13 d) Develop and submit a final Habitat Mitigation Plan (HMP) for approval by the
14 Department in consultation with ODFW, based upon the draft amended HMP included
15 as Attachment G of the *Final Order on Amendment #2*. The Council retains authority to
16 approve, reject or modify the final HMP and any future amendments; and,

17 e) Within the habitat mitigation area, the certificate holder shall improve the habitat
18 quality, within the habitat mitigation area, as described in the final HMP Habitat
19 Mitigation Plan that is incorporated as Exhibit 3 of the, and, and as amended from time
20 to time.

21
22 Compliance with Conditions 10.1 through 10.15 of the site certificate, as well as the new and
23 amended conditions, would ensure compliance with the Council's Fish and Wildlife Habitat
24 standard. Based upon this analysis, the Council finds that the facility, as amended, would not
25 change the Council's previous findings of compliance with the Council's Fish and Wildlife
26 Habitat standard.

27
28 On the record of the proposed order, Ms. Gilbert requested that Conditions 10.2(b) and (c) be
29 amended to remove the term "shall be avoided" in reference to impacts to Category 1 habitat
30 and commented that the term would allow impacts to occur to Category 1 habitat which would
31 not meet ODFW's Fish and Wildlife Habitat Mitigation Policy. Condition 10.2 was imposed in the
32 original site certificate to comply with the Council's Fish and Wildlife Habitat standard. The
33 condition clearly requires the certificate holder to not impact Category 1 habitat. As Ms. Gilbert
34 correctly notes, ODFW's Fish and Wildlife Habitat Mitigation Policy, as well as the Council's Fish
35 and Wildlife Habitat standard, do not allow impacts to Category 1 habitat. Any impact to
36 Category 1 habitat would be a violation of the Council's Fish and Wildlife Habitat standard, and,
37 the facility would not satisfy that standard. The Council has no reason to believe the facility, as
38 amended, would impact Category 1 habitat and therefore does not find that the comment
39 provides a basis to amend Condition 10.2(b) and (c).
40

41 **Conclusions of Law**

1
2 For the reasons discussed above, and subject to the existing, new, and amended site certificate
3 conditions, the Council finds that the facility, as amended, would comply with the Council's Fish
4 and Wildlife Habitat standard.

5
6 III.B.9. Threatened and Endangered Species: OAR 345-022-0070
7

8 *To issue a site certificate, the Council, after consultation with appropriate state agencies,*
9 *must find that:*

10
11 *(1) For plant species that the Oregon Department of Agriculture has listed as*
12 *threatened or endangered under ORS 564.105(2), the design, construction and*
13 *operation of the proposed facility, taking into account mitigation:*

14
15 *(a) Are consistent with the protection and conservation program, if any, that the*
16 *Oregon Department of Agriculture has adopted under ORS 564.105(3); or*

17
18 *(b) If the Oregon Department of Agriculture has not adopted a protection and*
19 *conservation program, are not likely to cause a significant reduction in the*
20 *likelihood of survival or recovery of the species; and*

21
22 *(2) For wildlife species that the Oregon Fish and Wildlife Commission has listed as*
23 *threatened or endangered under ORS 496.172(2), the design, construction and*
24 *operation of the proposed facility, taking into account mitigation, are not likely to*
25 *cause a significant reduction in the likelihood of survival or recovery of the species.*
26

27 **Findings of Fact**
28

29 The Threatened and Endangered Species standard requires the Council, in consultation with
30 appropriate state agencies, to find that the construction and operation of a facility is consistent
31 with applicable protection plans for threatened or endangered plant species. The Council must
32 also determine that the facility's construction and operation are not likely to cause a significant
33 reduction in the likelihood of survival or recovery of identified plant or animal species.
34

1 The Council addressed the Threatened and Endangered Species standard in Section IV.H of the
2 *Final Order on the Application* and determined that, subject to specified conditions, the
3 proposed facility complied with the Council's standard.^{141,142}
4

5 Condition 10.13 includes a requirement for the certificate holder to conduct new surveys for
6 threatened and endangered plants, but did not include an express requirement for the
7 certificate holder to report the results to the Department. The condition also lacked an express
8 requirement for the certificate holder to take steps to ensure compliance with the Threatened
9 and Endangered Species standard depending on the results of those surveys. Therefore, on
10 reconsideration, to ensure compliance with the Threatened and Endangered Species standard,
11 the Council adopted revised Condition 10.13 of the site certificate, which includes an express
12 requirement that the certificate holder report any changes based on those surveys to the
13 Department, Oregon Department of Agriculture (ODA), and ODFW. The condition further
14 requires that, if the surveys identify the presence of threatened or endangered species within
15 the survey area, the certificate holder implement appropriate measures to avoid a significant
16 reduction in the likelihood of survival or recovery of the species, as approved by the
17 Department, in consultation with ODA and ODFW.
18

19 In compliance with this condition, the certificate holder performed new field surveys in 2015
20 and 2016 for threatened and endangered plant species following the survey protocol set forth
21 in the NWC Memorandum Regarding Endangered and Threatened Plant Species and Raptor
22 Surveys dated October 17, 2014 (Attachment B to the *Amended Final Order on Amendment*
23 *#1*).¹⁴³ As described in the 2015 and 2016 survey reports (Attachment H to this order), prior to
24 conducting each additional year of field surveys, the certificate holder conducted a literature
25 review to determine if there were any new threatened and endangered species or any changes
26 in species status for those plant species potentially occurring near the facility. According to the
27 2015 and 2016 survey reports, the updated literature review resulted in no species status
28 changes, and no new species of concern were added to the list of species necessary for
29 inclusion in the supplemental plant survey.
30

31 Consistent with this October 17, 2014 memorandum, within 200 feet of the proposed turbine
32 string center lines, access roads, and other facilities, on June 19, 2015 and June 7, 2016 the

¹⁴¹ *Final Order on the Application* at 110

¹⁴² SRWAMD2Doc49 2016-09-29. In a public comment on the proposed order, Irene Gilbert commented that golden eagle surveys using a 6-mile buffer from the site boundary were necessary. She also commented that baseline surveys for Oregon spotted frog suitable habitat were necessary. These comments did not identify an applicable EFSC standard, rule or statute which would require additional surveys in order to satisfy a regulatory requirement applicable to the Council's decision on the requested amendment. Therefore, these comments are not further evaluated in this order.

¹⁴³ SRWAMD2Doc29 Survey Memos_S. Ostrowski 2016-06-26

1 certificate holder conducted a survey in all areas with habitat potentially suitable for Tygh
2 Valley milk-vetch, dwarf evening-primrose, diffuse stickseed, hepatic monkey-flower, and
3 Henderson's ryegrass. None of the identified plant species were encountered during the 2015
4 and 2016 surveys.

5
6 The Department provided ODA the 2015 and 2016 rare plant survey reports for review and
7 comment. On October 13, 2015, ODA stated via email that the 2015 rare plant survey report
8 was fine and requested no additional information or mitigation. Similarly, in response to
9 receiving the 2016 rare plant survey report, ODA stated that the agency had no questions or
10 concerns.¹⁴⁴ Given that the 2010, 2015, and 2016 rare plant field surveys did not encounter
11 special status plant species, and because the certificate holder has already complied with the
12 requirements of Condition 10.13, the Council finds that, subject to the conditions referenced in
13 Section IV.H.1 of the *Final Order on Application*, the proposed facility, as amended, complies
14 with subsection 1 of the Council's Threatened and Endangered Species standard.

15
16 As discussed in Exhibit Q of the ASC, only one special status wildlife species—the bald eagle,
17 which is protected under the federal Bald and Golden Eagle Protection Act and was listed by
18 the state as threatened at the time of submittal of the ASC—was identified as potentially
19 occurring within the site boundary.¹⁴⁵ In the *Final Order on the Application*, the Council found
20 that, based on the limited use of the facility site by bald eagles and considering the mitigation
21 measures that the certificate holder will implement, the design, construction, and operation of
22 the proposed facility are not likely to cause a significant reduction in the likelihood of survival or
23 recovery of the bald eagle species. The requested amendments do not affect this finding. In
24 addition, on March 9, 2012 the Oregon Fish and Wildlife Commission approved removing the
25 bald eagle from the Oregon Endangered Species List. Therefore, the Council finds that, subject
26 to the conditions referenced in Section IV.H.1 of the *Final Order on Application*, the proposed
27 facility, as amended, complies with subsection 2 of the Council's Threatened and Endangered
28 Species standard.

29 30 **Conclusions of Law**

31
32 For the reasons discussed above, and subject to the existing site certificate conditions, the
33 Council finds that the facility, as amended, complies with the Council's Threatened and
34 Endangered Species standard.

144 SWRAMD2Doc21 Agency Review of Survey Results_ODA 2016-06-29

145 ASC Exhibit Q at 2

1 III.B.10. Scenic Resources: OAR 345-022-0080

2
3 *(1) Except for facilities described in section (2), to issue a site certificate, the Council must*
4 *find that the design, construction and operation of the facility, taking into account*
5 *mitigation, are not likely to result in significant adverse impact to scenic resources and*
6 *values identified as significant or important in local land use plans, tribal land*
7 *management plans and federal land management plans for any lands located within the*
8 *analysis area described in the project order.*
9

10 **Findings of Fact**

11
12 The Scenic Resources standard requires the Council to find that the facility would not cause a
13 significant adverse impact to identified scenic resources and values. To be considered under the
14 standard, scenic resources and values must be identified as significant or important in local land
15 use plans, tribal land management plans, and/or federal land management plans.
16

17 The Council addressed the Scenic Resources standard in Section IV.I of the *Final Order on the*
18 *Application*. The Council found that, subject to specified conditions to ensure adequate
19 mitigation, the design, construction, and operation of the facility were not likely to result in
20 significant adverse impacts to scenic resources and values identified as significant or important
21 in local land use plans, tribal land management plans, and federal land management plans for
22 any lands located within the analysis area.¹⁴⁶
23

24 In the *Final Order on the Application*, Council considered the facility's impact to the following
25 scenic resources identified by the applicable resource plans within the analysis area: CRGNSA,
26 the Lower Deschutes River Canyon, the White River Canyon, resources in the John Day River
27 Canyon, the Mt. Hood National Forest, the Oregon National Historic Trail, the Journey Through
28 Time Scenic Byway, Wasco County Resources, and Sherman County Resources. In both RFAs #1
29 and #2, the certificate holder did not identify any additional scenic resources for analysis. The
30 Council included in the *Final Order on the Application* three site certificate conditions to
31 mitigate adverse impacts to scenic resources (in the existing site certificate, these are
32 Conditions 6.15, 6.16, and 6.26). These conditions include, among other requirements, such
33 measures as mounting the nacelle on smooth uniform steel structures that are painted
34 uniformly in a low-reflectivity neutral gray, white, or off-white color and requiring the minimum
35 turbine lighting required by law.
36

37 The impacts to scenic resources from the existing turbine option approved as part of RFA #1
38 (which would continue to be an option under the current RFA) were evaluated in the *Amended*

¹⁴⁶ *Final Order on Application* at 121

1 *Final Order on Amendment #1*. The Council found therein that the request under RFA #1 to
2 increase the size of the turbines and rotors and to decrease the number of turbines would
3 affect the findings in the *Final Order on the Application* but that, as first amended and subject
4 to compliance with the conditions in the site certificate, the facility would be in compliance
5 with the Council's Scenic Resources standard.

6
7 As described in this final order, RFA #2 seeks to add a facility design option (the new turbine
8 option) that would allow the use of turbines that have a shorter turbine hub height, a larger
9 rotor diameter, and a shorter overall maximum height than the existing turbine option
10 approved in the *Amended Final Order on Amendment #1*. If selected, this additional turbine
11 option would also result in a fewer number of overall turbines, reduced from 72 to 64. The new
12 turbine option would continue to use the same previously approved turbine micrositings
13 corridors.

14
15 As part of RFA #2, the certificate holder evaluated the facility's continuing compliance with the
16 Council's Scenic Resources standard and provided the results of an updated visual analysis
17 conducted by DEA that determined where the new turbine option would be potentially seen
18 from significant or important scenic resources within the analysis area.¹⁴⁷ The updated analysis
19 was provided in RFA #2 and compared the impacts on scenic resources of the new turbine
20 option with the impacts from the existing turbine option. Additional information related to
21 scenic resources was also provided in the certificate holder's response to the Department's first
22 and second information requests. Based on its analysis, DEA stated that the visibility of the new
23 turbine option would remain about the same or slightly less than the existing turbine option.

24
25 The Department did not receive any public or agency comment on RFA #2 concerning issues of
26 compliance with the Scenic Resources standard.¹⁴⁸

27 28 *Columbia River Gorge National Scenic Area*

29
30 The Council assessed the facility's impact to scenic resources of the CRGNSA in Section IV.I.1.a.i
31 of the *Final Order on Application*, and in that document the Council found that the facility as

¹⁴⁷ RFA #2, Section 5.1 and Attachment 2, and Amendment Information Request Response to AIR 12.
SRWAMD2Doc1 2016-02-17; SRWAMD2Doc22 2016-07-20

¹⁴⁸ However, Wasco County's March 14, 2016 comment letter (SRWAMD2Doc14 2016-03-14) included comments
related to the visual impact of the facility and compliance with the WCLUDO Sections 19.030(C)(4)(a),
19.030(C)(4)(c), and 19.030(D)(1)(a)(3). The facility's compliance with those criteria are discussed in the
corresponding subsections within Section III.B.6, *Protected Areas* of this order.

1 originally designed would not cause a significant adverse impact to the visual characteristics of
2 the identified resource. The Council found that the facility would generally be visible in the
3 CRGNSA at approximately 11 miles away, from State Route 14 in Washington State, and in
4 areas generally not accessible to the public. In addition, the Council concluded that the CRGNSA
5 and its associated management plan protect scenic resources within the CRGNSA, but do not
6 preclude development on private property outside the CRGNSA. Finally, the Council found that
7 there are a number of existing development features between the proposed facility and the
8 scenic resources within the CRGNSA that would detract from the visual character of the area.¹⁴⁹
9

10 In the *Amended Final Order on Amendment #1* the Council found that the increased size of the
11 existing turbine option compared to the facility specifications in the ASC would slightly increase
12 the visibility in these isolated areas but an increase of 20 meters to the wind turbines at a
13 distance of 11 miles would not result in a significant change that would affect the Council's
14 previous findings for visual impacts to the CRGNSA.¹⁵⁰ In RFA #2, the certificate holder's visual
15 analysis of the new turbine option determined that this turbine option would have very similar
16 visibility from the CRGNSA as the existing turbine option. The same findings made by the
17 Council in the *Final Order on the Application* and the *Amended Final Order on Amendment #1*
18 would continue to apply to the amended facility, including that the CRGNSA protects scenic
19 resources within the CRGNSA, but not development outside the CRGNSA, and that there are a
20 number of other existing development features that would be seen from the scenic resource
21 areas to the amended facility. Therefore, the Council finds that the facility, as amended, would
22 not have significant adverse impacts to resources and values identified as significant or
23 important in the CRGNSA Management Plan.
24

25 *Lower Deschutes River Canyon*

26

27 The Council previously assessed the facility's impact to the Lower Deschutes River Canyon in
28 Section IV.I.1.a.ii of the *Final Order on the Application*, and at that time the Council found that
29 the facility as originally designed would not cause a significant adverse impact to identified
30 resources within the Lower Deschutes River Canyon. The Council found that while the facility,
31 based on the original facility design, would likely be visible from the canyon floor and the
32 Deschutes River, the turbines would be subordinate to the surrounding landscape and would
33 not dominate the views from the river canyon. Additionally, the Council found that the
34 applicable federal land management plans for the Deschutes River do not purport to regulate
35 development on the facility site, which would be located on privately owned land some

¹⁴⁹ *Final Order on the Application* at 114-116

¹⁵⁰ *Amended Final Order on Amendment #1* at 82 and 83.

1 distance from the designated Lower Deschutes Wild and Scenic River. Finally, the Council also
2 found that while part of the river is designated as a State Scenic Waterway, the administrative
3 rules of the State Scenic Waterway Program do not regulate land beyond the boundaries a
4 quarter mile from the riverbank, whether or not such land is visible from the river. As such, the
5 Council concluded that the facility as originally designed is not likely to have significant adverse
6 impacts to identified scenic resources associated with the Deschutes River Canyon.¹⁵¹

7
8 In the *Amended Final Order on Amendment #1* the Council found that the increased size of the
9 turbines and elimination of 15 turbines under the existing turbine option (as compared to the
10 facility specifications in the ASC) would result in a minimal increase to the visual impact on the
11 Deschutes River Canyon but would not result in the facility dominating the viewshed.¹⁵²

12
13 The certificate holder's visual analysis of the new turbine option determined that the requested
14 design option would have similar visibility from the Deschutes River Canyon as the existing
15 turbine option. The certificate holder's assessment concludes that the new turbine option
16 would be somewhat less visible from certain key viewing points, though also slightly more
17 visible from areas along the canyon walls and rims, areas that are generally inaccessible to the
18 public. Visual simulation modeling results are included in RFA #2 to support the certificate
19 holder's conclusions.¹⁵³

20
21 The same findings made by the Council in the *Final Order on the Application* would continue to
22 apply to the amended facility, including that the management plans for the Deschutes River
23 Canyon protect scenic resources within the management areas, but do not regulate
24 development outside the management areas, and that the views of the amended facility from
25 the Deschutes River would be visually subordinate to the surrounding landscape and would not
26 dominate the view. Therefore, the Council finds that the facility, as amended, would not have
27 significant adverse impacts to the scenic resources and values identified as significant or
28 important in the Lower Deschutes River Canyon Management Plan and Two Rivers Resource
29 Management Plan.

30 31 *White River Canyon*

32
33 The Council analyzed the impacts to the White River Canyon in Section IV.I.1.a.iii of the *Final*
34 *Order on the Application*. At that time the Council found that the facility as originally designed
35 would not cause significant adverse impacts to the visual characteristics of the White River

¹⁵¹ *Final Order on the Application* at 119

¹⁵² *Amended Final Order on Amendment #1* at 83

¹⁵³ SRWAMD2Doc1 Request for Amendment No.2 2016-02-17; SRWAMD2Doc22 Certificate Holder Responses to AIRs 2016-07-20

1 Canyon as the facility would not be visible from the river or its shoreline, and would only be
2 visible from remote and inaccessible locations from higher canyon walls. Additionally, the
3 Council found in the *Final Order on the Application* that the previously approved facility would
4 not be visible from White River Falls State Park.

5
6 In the *Amended Final Order on Amendment #1* the Council found that the increased height of
7 the turbines compared to the originally approved facility would not result in any increased
8 impact to the White River Canyon and would not be likely to result in adverse impacts to scenic
9 resources and values in White River National Wild and Scenic River Management Plan.¹⁵⁴

10
11 The certificate holder's updated visual analysis concludes that the new turbine option would
12 have very similar visibility from the White River Canyon as the originally approved facility. The
13 visual analysis concludes that the new turbine option would not be visible from the White River
14 or the shoreline, and would only be visible from higher canyon walls and rims. The certificate
15 holder's analysis further concludes that the new turbine option would not be visible from White
16 River Falls State Park.¹⁵⁵ Therefore, the Council finds that the facility, as amended, would not
17 have significant adverse impacts to the scenic resources and values identified in the White River
18 National Wild and Scenic River Management Plan.

19
20 *John Day River Canyon*

21
22 The Council analyzed the impacts to the resources identified in the John Day River Canyon in
23 Section IV.I.1.a.iv of the *Final Order on the Application*. The Council found that the facility as
24 originally designed would not cause a significant impact to the visual characteristics of the
25 resources in the John Day River Canyon because the facility would be visible only from small
26 portions of the higher canyon walls with limited access at distances of over 18 miles.¹⁵⁶

27
28 In the *Amended Final Order on Amendment #1* the Council found that any impacts of the
29 proposed 20-meter increase in the size of the turbines under the existing turbine option (as
30 compared to the facility specifications in the ASC) on the visual characteristics of the John Day
31 River Canyon resources are likely to be minimal, and that the facility, as first amended, is not
32 likely to result in adverse impacts to scenic resources and values identified in the John Day River

¹⁵⁴ *Amended Final Order on Amendment #1* at 84-85

¹⁵⁵ SRWAMD2Doc1 Request for Amendment No.2 2016-02-17; SRWAMD2Doc22 Certificate Holder Responses to AIRs 2016-07-20

¹⁵⁶ *Final Order on the Application* at 118

1 Canyon Management Plan and the Two Rivers Resource Management Plan.¹⁵⁷ The certificate
2 holder's updated visual analysis concludes that the new turbine option would have very similar
3 visibility from the John Day River Canyon as the originally approved facility and the existing
4 turbine option. The visual analysis concludes that the new turbine option would not be visible
5 from the John Day River or the shoreline, and would only be visible from limited portions of the
6 higher canyon walls and rims, at a distance of over 18 miles.¹⁵⁸ Therefore, the Council finds that
7 the facility, as amended, would not have significant adverse impacts to the scenic resources and
8 values identified in the John Day River Canyon Management Plan and the Two Rivers Resource
9 Management Plan.

11 *Mt. Hood National Forest*

13 The Council analyzed the impacts to the Mt. Hood National Forest in Section IV.I.1.a.v of the
14 *Final Order on the Application*. The Council found that the facility as originally designed would
15 not have significant adverse visual impacts on the Mt. Hood National Forest as the facility
16 would be 15 miles away from the forest, and access to the areas where the facility would be
17 visible are limited. Furthermore, the forest is heavily treed, which would further reduce any
18 views from the forest to the facility. Additionally, the Council found that the Mt. Hood National
19 Forest Land and Resource Management Plan guides the management of visual resources within
20 the forest itself, including limiting logging and other man-made development in the forest. This
21 has the effect of maintaining forested vegetation, which would obscure possible views to the
22 facility.¹⁵⁹

24 In the *Amended Final Order on Amendment #1* the Council found that the increased height of
25 the turbines compared to the originally approved facility would have a minimal, if any, visual
26 impact on the Mt. Hood National Forest given the distance of the facility from the forest and
27 the dense vegetation that would obscure views from the forest to the facility.¹⁶⁰

29 The certificate holder's updated visual analysis concludes that the new turbine option would
30 have very similar visibility from the Mt. Hood National Forest as the original facility and the
31 existing turbine option. As the Council found in the *Final Order on the Application*, the Mt. Hood
32 National Forest remains heavily treed, obscuring views of the facility, and the facility is over 15
33 miles from the national forest.¹⁶¹

¹⁵⁷ *Amended Final Order on Amendment #1* at 85

¹⁵⁸ SRWAMD2Doc1 Request for Amendment No.2 2016-02-17; SRWAMD2Doc22 Certificate Holder Responses to AIRs (AIR 12) 2016-07-20

¹⁵⁹ *Final Order on the Application* at 119

¹⁶⁰ *Amended Final Order on Amendment #1* at 85

¹⁶¹ SRWAMD2Doc1 Request for Amendment No.2 2016-02-17; SRWAMD2Doc22 Certificate Holder Responses to AIRs (AIR 12) 2016-07-20

Therefore, the Council finds that the facility, as amended, would not have significant adverse impacts to the scenic resources and values identified as important in the Mt. Hood National Forest Land and Resource Management Plan.

Oregon National Historic Trail

The Council analyzed the impacts to the Oregon National Historic Trail in Section IV.I.1.a.vi of the *Final Order on the Application*. The Council found that the original facility design would not be visible from the four high-potential sites identified by the Oregon National Historic Trail Management Plan (these sites are: Deschutes River Crossing, The Dalles Complex, Tygh Valley, and Biggs Junction).¹⁶² The *Amended Final Order on Amendment #1* found that the existing turbine option would also not be visible from those sites.¹⁶³ The certificate holder's updated visual analysis for the new turbine option reaches the same conclusion: the facility, as amended, would not be visible from the high-potential Oregon National Historic Trail sites. Therefore, the Council finds that the facility, as amended, would not have significant adverse impacts to the scenic resources and values identified as important in the Oregon National Historic Trail Management Plan.

Journey Through Time Scenic Byway

The Council analyzed the impacts to the Journey Through Time Scenic Byway in Section IV.I.1.a.vii of the *Final Order on the Application*. The Council found that the facility as originally designed would be visible in the background along portions of the byway, but would be subordinate to the surrounding landscape, and that the facility is compatible with the byway's stated goals, in particular the goals of job creation and building a regional identity. In addition, the Council found that there are other wind turbines that have already been developed in this area that would be visible from the Journey Through Time Scenic Byway.¹⁶⁴

In the *Amended Final Order on Amendment #1* the Council found that the increased height of the turbines compared to the originally approved facility would have a minimal, if any, visual impact to the byway given the distance of the facility (6.5 miles) from the resource.¹⁶⁵ The certificate holder's updated visual analysis concludes that the new turbine option would have

¹⁶² *Final Order on the Application* at 119

¹⁶³ *Amended Final Order on Amendment #1* at 85

¹⁶⁴ *Final Order on the Application* at 120

¹⁶⁵ *Amended Final Order on Amendment #1* at 86

1 very similar visibility from the Journey Through Time Scenic Byway as the original facility and
2 the existing turbine option, and thus the certificate holder states that the facility remains
3 compatible with the byway.¹⁶⁶
4

5 Therefore, the Council finds that the facility, as amended, would not have significant adverse
6 impacts to the scenic resources and values identified as important in the Journey Through Time
7 Scenic Byway Management Plan.
8

9 *Wasco County Resources*

10

11 The Council analyzed the impacts to Wasco County Resources identified by the WCPP in Section
12 IV.I.1.a.viii of the *Final Order on the Application*. These resources included Interstate 84 (I-84)
13 east of The Dalles, Highway OR-197 between I-84 and Dufur, OR-197 from Tygh Ridge extending
14 13 miles south, the CRGNSA, and Pine Hollow Lake. The analysis determined that the facility
15 would not be visible from Pine Hollow or I-84. The Council found in the *Final Order on the*
16 *Application* that even though the facility, as originally designed, would be visible from portions
17 of OR-197 at a distance of 7.6 miles to 1.8 miles, given the intermittent nature of the views, the
18 distance, and the presence of existing transmission lines, the facility would have minimal
19 impacts of the identified Wasco County Resources.¹⁶⁷ Impacts to the CRGNSA are discussed
20 previously.
21

22 In the *Amended Final Order on Amendment #1* the Council found that the increased height of
23 the turbines compared to the originally approved facility would not alter the visual impact of
24 the facility on Wasco County Resources.¹⁶⁸ The certificate holder's updated visual analysis
25 concludes that the new turbine option would have very similar visibility from the scenic
26 sections of OR-197 as the originally approved facility. The visual analysis concludes that the new
27 turbine option, as with the originally approved facility, would not be visible from I-84 or Pine
28 Hollow Lake.¹⁶⁹ Consistent with the Council's finding in the *Final Order on the Application*, the
29 facility, as amended, would still be located away from the OR-197 scenic areas, the views from
30 the road to the facility would be intermittent, and there are existing features including
31 transmission lines in the viewshed.
32

33 Therefore, the Council finds that the facility, as amended, would not have significant adverse
34 impacts to the scenic resources and values identified as important in the WCCP.

¹⁶⁶ SRWAMD2Doc1 Request for Amendment No.2 2016-02-17; SRWAMD2Doc22 Certificate Holder Responses to AIRs (AIR 12) 2016-07-20

¹⁶⁷ *Final Order on the Application* at 120

¹⁶⁸ *Amended Final Order on Amendment #1* at 86

¹⁶⁹ SRWAMD2Doc1 Request for Amendment No.2 2016-02-17; SRWAMD2Doc22 Certificate Holder Responses to AIRs (AIR 12) 2016-07-20

1
2 *Sherman County Resources*
3

4 The Council analyzed the impacts to Sherman County Resources identified in the Sherman
5 County Comprehensive Plan in Section IV.I.1.a.ix of the *Final Order on the Application*. The
6 Sherman County Comprehensive Plan and associated policies call for encouraging the
7 preservation of the rural nature of the Sherman County landscape including protecting trees
8 when practical. The Council found in the *Final Order on the Application* that the facility would
9 not impact trees or the rural nature of Sherman County, particularly considering that the facility
10 is located entirely within Wasco County.¹⁷⁰ In the *Amended Final Order on Amendment #1* the
11 Council made the same findings for the existing turbine option. Sherman County did not
12 comment on RFA #2. The facility, as amended, would remain outside the borders of Sherman
13 County and would therefore not change these findings. Therefore, the Council finds that the
14 facility, as amended, would not have significant adverse impacts to the Sherman County
15 Resources identified in the Sherman County Comprehensive Plan.
16

17 **Conclusion of Law**
18

19 Based on the foregoing findings and subject to compliance with the conditions in the site
20 certificate, the Council finds that the design, construction, and operation of the facility, as
21 amended, would continue to comply with the Council's Scenic Resources standard.
22

23 **III.B.11. Historic, Cultural, and Archaeological Resources: OAR 345-022-0090**
24

25 *(1) Except for facilities described in sections (2) and (3), to issue a site certificate, the*
26 *Council must find that the construction and operation of the facility, taking into account*
27 *mitigation, are not likely to result in significant adverse impacts to:*
28

29 *(a) Historic, cultural or archaeological resources that have been listed on, or would*
30 *likely be listed on the National Register of Historic Places;*
31

32 *(b) For a facility on private land, archaeological objects, as defined in ORS*
33 *358.905(1)(a), or archaeological sites, as defined in ORS 358.905(1)(c); and*
34

35 *(c) For a facility on public land, archaeological sites, as defined in ORS 358.905(1)(c).*
36

37 *(2) The Council may issue a site certificate for a facility that would produce power from*
38 *wind, solar or geothermal energy without making the findings described in section (1).*

¹⁷⁰ *Final Order on the Application* at 121

1 *However, the Council may apply the requirements of section (1) to impose conditions on*
2 *a site certificate issued for such a facility.*

3 * * *

4 5 **Findings of Fact**

6
7 Section (1) of the Historic, Cultural and Archaeological Resources standard generally requires
8 the Council to find that the proposed facility is not likely to result in significant adverse impacts
9 to identified historic, cultural, or archaeological resources. Under Section (2), the Council may
10 issue a site certificate for a wind power facility without making findings of compliance with this
11 section. However, the Council may impose site certificate conditions based on the requirements
12 of this standard.

13
14 In the *Final Order on the Application* and the *Amended Final Order on Amendment #1*, the
15 Council found that Conditions 11.1 through 11.6 of the site certificate address the requirements
16 of this standard.¹⁷¹ The requested amendments would not increase ground disturbance or
17 otherwise alter the Council's previous findings regarding the Historic, Cultural and
18 Archaeological Resources standard. The certificate holder will remain subject to the conditions
19 included in the original site certificate.

20 21 **Conclusions of Law**

22
23 Based on the foregoing analysis, and in accordance with OAR 345-022-0090(2), the Council
24 relies on the existing site certificate conditions to address the Historic, Cultural and
25 Archaeological Resources standard.

26 27 **III.B.12. Recreation: OAR 345-022-0100**

28
29 *(1) Except for facilities described in section (2), to issue a site certificate, the Council must*
30 *find that the design, construction and operation of a facility, taking into account*
31 *mitigation, are not likely to result in a significant adverse impact to important*
32 *recreational opportunities in the analysis area as described in the project order. The*
33 *Council shall consider the following factors in judging the importance of a recreational*
34 *opportunity:*

35
36 *(a) Any special designation or management of the location;*

37 *(b) The degree of demand;*

38 *(c) Outstanding or unusual qualities;*

¹⁷¹ *Final Order on Application* at 138

- 1 (d) Availability or rareness;
2 (e) Irreplaceability or irretrievability of the opportunity.
3

4 **Findings of Fact**
5

6 The Recreation standard requires the Council to find that the design, construction, and
7 operation of a facility are not likely to result in adverse impacts to important recreational
8 opportunities.
9

10 The Council addressed the Recreation standard in Section IV.J of the *Final Order on the*
11 *Application* and Section III.B.3.I of the *Amended Final Order on Amendment #1*. The Council
12 identified four important recreational resources: the Deschutes River Corridor; Mack's Canyon
13 Archaeological and Recreational Site; the Lower Deschutes Back Country Byway; and Wasco
14 County Scenic Highway Segments. The *Amended Final Order on Amendment #1* also considered
15 potential impacts to Cottonwood Canyon Park, a state recreation area that opened after the
16 original site certificate was issued. The Council found that the design, construction, and
17 operation of the facility, as originally proposed and as first amended, were not likely to result in
18 a significant adverse impact to any important recreational opportunities in the analysis area.¹⁷²
19 The Council did not impose any conditions related to this standard.
20

21 The requested amendment to add a new turbine option that would have a shorter turbine hub
22 height, a larger rotor diameter, a shorter overall maximum height, and fewer total number of
23 turbines than the existing option affects the analysis of compliance with this standard. As
24 discussed in Section III.B.3.j of the *Amended Final Order on Amendment #1*, the existing turbine
25 option would likely be visible from the Lower Deschutes River Canyon but the impacts would be
26 intermittent and subordinate to the landscape. As such, the visual impacts should not have a
27 significant adverse impact on the opportunities for fishing, rafting, camping, and other
28 recreational activities available in the Lower Deschutes River Canyon. As discussed in Section
29 III.B.10, *Scenic Resources* of this order, due to the general inaccessibility of the areas where
30 visibility of the facility under the new turbine option would slightly increase over the existing
31 turbine option, and given the predicted reduction in visibility from the river, the Council finds
32 that the facility, as amended, would not result in a significant adverse visual impact to the
33 Lower Deschutes River Canyon. The same analysis applies to the Lower Deschutes Back Country
34 Byway and Mack's Canyon Archaeological and Recreational Site as they are both located within
35 the Lower Deschutes River Canyon and provide similar recreational opportunities. Section
36 III.B.10, *Scenic Resources*, wherein the Council finds that the facility, as amended, would not
37 have significant adverse impacts to the scenic resources and values identified as important in

¹⁷² *Final Order on Application* at 124

1 the WCCP, contains the analysis for visual impacts to Wasco County Scenic Highway segments,
2 which were identified for their value to road touring (a recreational opportunity).

3
4 Since the *Final Order on the Application*, a new state recreation area was opened within the
5 analysis area. Cottonwood Canyon State Park opened in September 2013 and is located 18.5
6 miles from the facility. The Council found in the *Amended Final Order on Amendment #1* that
7 because of the distance of the facility from the park, even if Cottonwood Canyon Park were an
8 important recreational opportunity under the relevant factors, the recreational opportunities
9 available at the park are not likely to be impacted by the existing turbine option.¹⁷³ The new
10 turbine option would be located at a similar distance from the park. Based on the information
11 provided by the certificate holder, the proposed facility would be inaudible in the park and
12 would not be visible from the park.¹⁷⁴ Therefore, the facility, as amended, would not result in a
13 significant adverse impact to important recreational opportunities within Cottonwood Canyon
14 State Park.

15 16 **Conclusions of Law**

17
18 For the reasons discussed above, the Council finds that the facility, as amended, complies with
19 the Council's Recreation standard.

20 21 **III.B.13. Public Services: OAR 345-022-0110**

22
23 *(1) Except for facilities described in sections (2) and (3), to issue a site certificate, the*
24 *Council must find that the construction and operation of the facility, taking into account*
25 *mitigation, are not likely to result in significant adverse impact to the ability of public*
26 *and private providers within the analysis area described in the project order to provide:*
27 *sewers and sewage treatment, water, storm water drainage, solid waste management,*
28 *housing, traffic safety, police and fire protection, health care and schools.*

29
30 *(2) The Council may issue a site certificate for a facility that would produce power from*
31 *wind, solar or geothermal energy without making the findings described in section (1).*
32 *However, the Council may apply the requirements of section (1) to impose conditions on*
33 *a site certificate issued for such a facility.*

34 * * * * *

35

¹⁷³ *Amended Final Order on Amendment #1* at 89

¹⁷⁴ SRWAMD1Doc55 Response to RAI 1 and Attachment D to the Final Order

1 **Findings of Fact**

2
3 The Council's Public Services standard requires the Council to evaluate a proposed facility's
4 impacts on the ability of public and private service providers to supply sewer and sewage
5 treatment, water, stormwater drainage, solid waste management, housing, traffic safety, police
6 and fire protection, health care, and schools.

7
8 Under OAR 345-022-0110(2), the Council may issue a site certificate for a facility that would
9 produce power from wind without making findings with respect to the Public Services standard.
10 However, the Council may impose site certificate conditions based upon the requirements of
11 the standard.

12
13 The Council addressed the Public Services standard in Section V.C of the *Final Order on the*
14 *Application* and Section III.B.3.m of the *Amended Final Order on Amendment #1*, and imposed
15 numerous conditions to address the requirements of this standard.¹⁷⁵ The Council slightly
16 modifies the language of three of these conditions to clarify timing requirements, as follows:

17
18 **Site Certificate Condition 8.2, as amended:** ~~Prior to~~ During construction, the certificate
19 holder shall require that all on-site construction contractors develop ~~and implement~~ a site
20 health and safety plan to be implemented during facility construction that informs workers
21 and others on-site about first aid techniques and what to do in case of an emergency and
22 that includes important telephone numbers and the locations of on-site fire extinguishers
23 and nearby hospitals. The certificate holder shall ensure that construction contractors have
24 personnel on-site who are trained and equipped for tower rescue and who are first aid and
25 CPR certified.

26
27 **Site Certificate Condition 8.3, as amended:** ~~During~~ Prior to commencing operation, the
28 certificate holder shall develop ~~and implement~~ a site health and safety plan to be
29 implemented during facility operation that informs employees and others on-site about first
30 aid techniques and what to do in case of an emergency and that includes important
31 telephone numbers and the locations of on-site fire extinguishers and nearby hospitals. The
32 certificate holder shall ensure that operations personnel are trained and equipped for tower
33 rescue. The facility must maintain training records and have a current copy of the site
34 health and safety plan on-site and available upon request by the Department of Energy.

35
36 **Site Certificate Condition 8.4, as amended:** ~~During~~ Prior to construction ~~and operation of~~
37 ~~the facility~~, the certificate holder shall develop ~~and implement~~ fire safety plans in
38 consultation with the Columbia Rural Fire District to minimize the risk of fire and to respond

¹⁷⁵ *Final Order on Application* at 145

1 appropriately to any fires that occur on the facility site. The plans shall be maintained onsite
2 and implemented throughout construction and operation of the facility. In developing the
3 fire safety plans, the certificate holder shall take into account the dry nature of the region
4 and shall address risks on a seasonal basis. The certificate holder shall meet annually with
5 local fire protection agency personnel to discuss emergency planning and shall invite local
6 fire protection agency personnel to observe any emergency drill or tower rescue training
7 conducted at the facility.
8

9 The findings in the *Final Order on the Application* were based on the public service providers'
10 representations of their ability to provide their respective services. In late summer and early fall
11 of 2014, as part of RFA #1, the certificate holder contacted each of the public service providers
12 listed in Exhibit U of the ASC and received confirmation that each provider continues to be able
13 to provide the services listed to serve the facility.¹⁷⁶
14

15 **Conclusions of Law**

16

17 Based on the foregoing analysis, and in accordance with OAR 345-022-0110(2), the Council
18 relies upon on the existing and amended site certificate conditions to address the Public
19 Services standard.
20

21 **III.B.14. Waste Minimization: OAR 345-022-0120**

22

23 *(1) Except for facilities described in sections (2) and (3), to issue a site certificate, the*
24 *Council must find that, to the extent reasonably practicable:*
25

26 *(a) The applicant's solid waste and wastewater plans are likely to minimize*
27 *generation of solid waste and wastewater in the construction and operation of the*
28 *facility, and when solid waste or wastewater is generated, to result in recycling and*
29 *reuse of such wastes;*
30

31 *(b) The applicant's plans to manage the accumulation, storage, disposal and*
32 *transportation of waste generated by the construction and operation of the facility*
33 *are likely to result in minimal adverse impact on surrounding and adjacent areas.*
34

¹⁷⁶ *Response to RAI 1 at Appendix E*

1 **Findings of Fact**

2
3 The Waste Minimization standard requires the Council to find that the certificate holder would
4 minimize generation of solid waste and wastewater, and manage waste generated to result in
5 minimal adverse impacts on the surrounding and adjacent areas.
6

7 The Council addressed the Waste Minimization standard in Section V.D of the *Final Order on*
8 *the Application* and found that the facility, with conditions, complied with the Waste
9 Minimization standard.¹⁷⁷
10

11 The requested amendments would not impact the facility's ability to comply with the Waste
12 Minimization standard or otherwise impact the Council's previous findings of compliance with
13 this standard. Accordingly, Council finds that the certificate holder would minimize and manage
14 solid waste and wastewater, resulting in minimal adverse impacts on surrounding and adjacent
15 areas.
16

17 **Conclusions of Law**

18
19 For the reasons discussed above, and in accordance with OAR 345-022-0120(2), the Council
20 relies on the existing site certificate conditions to address the Waste Minimization standard.
21

22 **III.B.15. Division 23 Standards**

23
24 The Division 23 standards apply only to "nongenerating facilities" as defined in ORS
25 469.503(2)(e)(K), except nongenerating facilities that are related or supporting facilities. The
26 facility is not a nongenerating facility as defined in statute, and therefore Division 23 is
27 inapplicable to the requested amendment.
28

29 **III.B.16. Division 24 Standards**

30
31 The Council's Division 24 standards include specific standards for siting facilities including wind,
32 underground gas storage reservoirs, transmission lines, and facilities that emit carbon dioxide.
33

34 **III.B.16.a. Public Health and Safety Standards for Wind Energy Facilities: OAR 345-024-0010**

35
36 *To issue a site certificate for a proposed wind energy facility, the Council must find that*
37 *the applicant:*
38

¹⁷⁷ *Final Order on Application* at 149

1 (1) *Can design, construct and operate the facility to exclude members of the public*
2 *from close proximity to the turbine blades and electrical equipment.*

3
4 (2) *Can design, construct and operate the facility to preclude structural failure of the*
5 *tower or blades that could endanger the public safety and to have adequate safety*
6 *devices and testing procedures designed to warn of impending failure and to*
7 *minimize the consequences of such failure*

8
9 **Findings of Fact**

10
11 OAR 345-024-0010 requires the Council to consider specific public health and safety standards
12 related to wind energy facilities. In particular, the Council must evaluate the applicant's
13 proposed measures to exclude members of the public from close proximity to the turbine blades
14 and electrical equipment, and the applicant's ability to design, construct, and operate the facility
15 to prevent structural failure of the tower or blades and to provide sufficient safety devices to
16 warn of failure.

17
18 The Council addressed the Public Health and Safety standard for wind facilities in Section IV.K of
19 the *Final Order on the Application* and found that the certificate holder could design, construct,
20 and operate the facility to exclude members of the public from close proximity to the turbine
21 blades and electrical equipment. The Council further found that the certificate holder could
22 design, construct, and operate the facility to preclude structural failure of the tower or blades
23 that could endanger public safety, and to have adequate safety devices and testing procedures
24 designed to warn of impending failure and to minimize the consequences of such failure.¹⁷⁸
25 Accordingly, the Council found that the facility, with conditions, complied with this standard. In
26 the *Amended Final Order on Amendment #1*, the Council found that, subject to compliance with
27 the public health and safety conditions (including Condition 5.4), the facility, as first amended,
28 complied with this standard.¹⁷⁹ The requested amendments would not have any additional
29 impact on compliance with the Public Health and Safety standard for wind facilities.

30
31 On the record of the proposed order, Ms. Gilbert commented that a reduced setback for
32 turbines from roads, as addressed in Section III.B.5 *Land Use* of this order, should not be
33 granted and would not comply with public health and safety requirements pursuant to ORS

¹⁷⁸ *Id.* at 127

¹⁷⁹ *Amended Final Order on Amendment #1* at 92

1 469.501(1)(g) and OAR 345-024-0010(2).¹⁸⁰ She asserted that the reduced setback would
2 increase the probability of injury or death from turbine blade failure.¹⁸¹ OAR 345-024-0010(2),
3 adopted by Council in accordance with ORS 469.501(1)(g), does not establish a minimum
4 setback requirement nor require that a certificate holder demonstrate an elimination of all
5 public health and safety risk from unanticipated catastrophic failure. Instead, it requires that
6 the certificate holder design, construct and operate the facility to avoid such a failure and have
7 adequate mechanisms in place to warn of an impending failure. Conditions 7.1, 7.2, 7.3, 7.4, 7.5
8 and 7.6 of the site certificate were imposed to ensure compliance with OAR 345-024-0010(2)
9 and include requirements for installation and operation of sufficient safety devices and
10 implementation of procedures designed to warn of impending failure and to minimize the
11 consequence of such failures.

12 **Conclusions of Law**

13
14
15 Based on the reasoning above, and subject to compliance with the existing Public Health and
16 Safety standard conditions, the Council concludes that the facility, as amended, continues to
17 comply with the Council's Public Health and Safety standards for wind energy facilities.

18 **III.B.16.B. Siting Standards for Wind Energy Facilities: OAR 345-024-0015**

19
20
21 *To issue a site certificate for a proposed wind energy facility, the Council must find that*
22 *the applicant can design and construct the facility to reduce cumulative adverse*
23 *environmental effects in the vicinity by practicable measures including, but not limited*
24 *to, the following:*

25
26 *(1) Using existing roads to provide access to the facility site, or if new roads are*
27 *needed, minimizing the amount of land used for new roads and locating them to*
28 *reduce adverse environmental impacts.*

29
30 *(2) Using underground transmission lines and combining transmission routes.*
31

¹⁸⁰ The evaluation of the reduced setback, or administrative adjustment to Wasco County's setback requirement, is included in Section III.B.5. *Land Use*, of the final order. The administrative adjustment would allow for a minimum setback of 1.1 (550 ft), versus 1.5 (750 ft), times the blade-tip height of the turbines from the right-of-way of dedicated roads within the site boundary, and would only apply to 17 turbines. As noted in the final order, the Director of Wasco County Public Works Department commented on the record that the adjustment would not unduly impair safety on county roads and that the public roads are lightly traveled. Furthermore, the County Planning Department submitted a letter to the Department stating that the setback adjustment request was complete and satisfied the Wasco County Land Use and Development Ordinance criteria.

¹⁸¹ SRWAMD2Doc49 2016-09-29.

1 (3) Connecting the facility to existing substations, or if new substations are needed,
2 minimizing the number of new substations.

3
4 (4) Designing the facility to reduce the risk of injury to raptors or other vulnerable
5 wildlife in areas near turbines or electrical equipment.

6
7 (5) Designing the components of the facility to minimize adverse visual features.

8
9 (6) Using the minimum lighting necessary for safety and security purposes and using
10 techniques to prevent casting glare from the site, except as otherwise required by the
11 Federal Aviation Administration or the Oregon Department of Aviation
12

13 **Findings of Fact**

14
15 The Wind Energy Facility Cumulative Effects standard requires the certificate holder to use
16 practicable measures in designing and constructing a facility to reduce the cumulative adverse
17 environmental effects in the vicinity. The standard does not require the Council to find that the
18 facility would have no cumulative environmental impacts. Instead, the Council must find that
19 the applicant is able to use “practicable measures” in the design and construction of the facility
20 to reduce the cumulative effects.

21
22 The Council addressed the Cumulative Effects standard for wind facilities in Section IV.L of the
23 *Final Order on the Application* and found that the proposed design, construction, and operation
24 of the facility would minimize cumulative adverse environmental effects in the vicinity through
25 compliance with the requirements of the Council’s Siting Standards for Wind Energy
26 Facilities.¹⁸² Specifically, in approving the original ASC, the Council considered and made
27 findings regarding cumulative impacts of the facility related to (1) roads; (2) transmission lines
28 and substations; (3) wildlife protection; (4) visual features; and (5) lighting. As approved, the
29 certificate holder is required to use existing county roads to gain access to the site.¹⁸³ The
30 transmission lines and the one substation are required to, where possible, underground the
31 power collection system.¹⁸⁴ The facility is required to be designed to adhere to the 2006 Avian
32 Powerline Interaction Committee’s suggested practices for raptor protection on power lines

¹⁸² *Id.* at 128

¹⁸³ *Id.*

¹⁸⁴ *Id.* at 129

1 and provide mitigation according to ODFW's habitat mitigation guidelines.¹⁸⁵ The wind turbine
2 towers must be coated with neutral gray, white, or off-white tones to blend in with the
3 surrounding landscape.¹⁸⁶ The turbines are required to have only the minimum lighting
4 required by the FAA and the substation and O&M facilities are required to have lighting that is
5 shielded or directed downward.^{187, 188}

6
7 The *Amended Final Order on Amendment #1* made the same findings.¹⁸⁹ The current requested
8 amendments do not impact the cumulative environmental effects of the components
9 authorized for construction or otherwise change the facts upon which the Council relied in
10 making findings for this standard regarding the cumulative environmental effects from this
11 wind facility.

12 **Conclusions of Law**

14
15 The Council finds that, subject to the existing site certificate conditions, the facility, as
16 amended, complies with the Council's Siting Standards for Wind Energy Facilities.

17 **III.B.16.C. Siting Standards for Transmission Lines: OAR 345-0240-0090**

18
19
20 *To issue a site certificate for a facility that includes any transmission line under Council*
21 *jurisdiction, the Council must find that the applicant:*

- 22
23 *(1) Can design, construct and operate the proposed transmission line so that*
24 *alternating current electric fields do not exceed 9 kV per meter at one meter above*
25 *the ground surface in areas accessible to the public;*
26 *(2) Can design, construct and operate the proposed transmission line so that induced*
27 *currents resulting from the transmission line and related or supporting facilities will*
28 *be as low as reasonably achievable*

¹⁸⁵ *Id.*

¹⁸⁶ *Id.*

¹⁸⁷ *Id.*

¹⁸⁸ SRWAMD2Doc49 2016-09-29. In a public comment on the proposed order, Ms. Gilbert commented that the facility should be sited to eliminate facility visibility from areas of the Lower Deschutes River Canyon and seems to associate her comment with the Cumulative Effects Standard for Wind Energy Facilities. However, the standard does not require the Council to find that the facility, as amended, would have no cumulative environmental impacts nor does it establish a requirement to eliminate or even reduce a facility's potential visibility from specific areas (e.g., wild or scenic rivers). Therefore, these comments are not further evaluated in this order.

¹⁸⁹ *Amended Final Order on Amendment #1* at 94

1
2 **Findings of Fact**
3

4 These standards address safety hazards associated with electric fields around transmission
5 lines. Section (1) of OAR 345-024-0090 sets a limit for electric fields from transmission lines of
6 not more than 9 kV per meter at one meter above the ground surface in areas that are
7 accessible to the public. Section (2) requires measures to reduce the risk of induced current.
8

9 The Council addressed the Siting Standards for Transmission Lines in Section IV.K of the *Final*
10 *Order on the Application*. In the *Final Order on the Application*, the Council found that the
11 certificate holder could construct and operate the proposed transmission lines so that
12 alternating current electric fields do not exceed 9 kV per meter at one meter above the ground
13 surface in areas accessible to the public.¹⁹⁰ The Council further found that the certificate holder
14 could design, construct, and operate the proposed transmission lines so that induced currents
15 resulting from the transmission lines would be as low as reasonably achievable.¹⁹¹ Therefore,
16 the Council concluded that the facility complied with the Siting Standards for Transmission
17 Lines.¹⁹²
18

19 The *Amended Final Order on Amendment #1* found that the facility, as first amended, did not
20 propose any physical changes to the approved transmission line, and therefore would not
21 impact the facility's ability to comply with the Siting Standards for Transmission Lines or
22 otherwise impact the Council's previous findings of compliance with this standard.¹⁹³ The
23 current requested amendments also do not propose any physical changes to the approved
24 transmission line. However, to reflect the current requirements of Mandatory Condition OAR
25 345-027-0023(4)(a), the Council amends Condition 6.6 as follows:
26

27 **Site Certificate Condition 6.6., as amended:** The certificate holder must design, construct
28 and operate the transmission line in accordance with the requirements of the 2012 Edition
29 of the National Electrical Safety Code approved on June 3, 2011, by the American National
30 Standards Institute, Section C2, 1997 Edition).
31

32 In a comment letter on RFA #2, the Oregon Public Utilities Commission (PUC) recommended
33 conditions to ensure compliance with applicable safety requirements. In accordance with the
34 PUC request, and to ensure compliance with OAR 345-024-0090, the Council adopts the
35 following conditions:

¹⁹⁰ *Id.* at 132

¹⁹¹ *Id.*

¹⁹² *Final Order on Application* at 106

¹⁹³ *Amended Final Order on Amendment #1* at 95

1
2 **Site Certificate Condition 7.12:** Prior to construction, the certificate holder shall schedule a
3 time to brief the OPUC Safety, Reliability, and Security Division (Safety) Staff as to how it will
4 comply with OAR Chapter 860, Division 024 during design, construction, operations, and
5 maintenance of the transmission facilities.
6

7 **Site Certificate Condition 7.13:** During operation, the certificate holder shall:

- 8 a. Update the OPUC Safety Staff as to how the operator will comply with OAR Chapter
9 860, Division 024 on an ongoing basis considering future operations, maintenance,
10 emergency response, and alterations until facility retirement.
11 b. File the following required information with the Commission:
12 i. Each person who is subject to the Public Utility Commission's authority under
13 ORS 757.035 and who engages in the operation of an electric power line as
14 described in ORS 757.035 must provide the commission with the following
15 information before January 2 of each even-numbered year:
16 a. The name and contact information of the person that is responsible
17 for the operation and maintenance of the electric power line, and for
18 ensuring that the electric power line is safe, on an ongoing basis; and
19 b. The name and contact information of the person who is responsible
20 for responding to conditions that present an imminent threat to the
21 safety of employees, customers and the public.
22 ii. In the event that the contact information described in subsection (a) of this
23 condition changes or that ownership of the electric power line changes, the
24 person who engages in the operation of the electric power line must notify
25 the commission of the change as soon as practicable, but no later than within
26 90 days.
27 iii. If the person described in subsection (a) of this condition is not the public
28 utility, as defined in ORS 757.005, in whose service territory the electric
29 power line is located, the commission shall make the information provided to
30 the commission under subsection (1) of this section available to the public
31 utility in whose service territory the electric power line is located. [2013
32 c.235 §3]
33 c. Provide OPUC Safety Staff with:
34 i. Maps and Drawings of routes and installation of electrical supply lines
35 showing:
36 • Transmission lines and structures (over 50,000 Volts)
37 • Distribution lines and structures - differentiating underground and
38 overhead lines (over 600 Volts to 50,000 Volts)
39 • Substations, roads and highways
40

- 1 ii. Plan and profile drawings of the transmission lines (and name and contact
2 information of responsible professional engineer).
3

4 **Conclusions of Law**
5

6 For the reasons discussed above, and subject to compliance with the existing, amended, and
7 new Transmission Line Siting standard conditions, the Council finds that the facility, as
8 amended, complies with the Council's Siting Standards for Transmission Lines.
9

10 **III.B.17. Other Applicable Regulatory Requirements Under Council Jurisdiction**
11

12 Under ORS 469.503(3) and under the Council's General Standard of Review (OAR 345-022-
13 0000), the Council must determine whether the proposed facility complies with "all other
14 Oregon statutes and administrative rules..., as applicable to the issuance of a site certificate for
15 the proposed facility." This section addresses the applicable Oregon statutes and administrative
16 rules that are not otherwise addressed in Council standards, including noise control regulations,
17 regulations for removal or fill of material affecting waters of the state, and regulations for
18 appropriating ground water.
19

20 **III.B.17.a. Noise Control Regulations: OAR 340-035-0035**
21

22 *(1) Standards and Regulations:*
23

23 ***

24 *(b) New Noise Sources:*
25

26 *(A) New Sources Located on Previously Used Sites. No person owning or*
27 *controlling a new industrial or commercial noise source located on a previously*
28 *used industrial or commercial site shall cause or permit the operation of that*
29 *noise source if the statistical noise levels generated by that new source and*
30 *measured at an appropriate measurement point, specified in subsection (3)(b) of*
31 *this rule, exceed the levels specified in Table 8, except as otherwise provided in*
32 *these rules. For noise levels generated by a wind energy facility including wind*
33 *turbines of any size and any associated equipment or machinery, subparagraph*
34 *(1)(b)(B)(iii) applies.*
35

35 *****
36

37 **Findings of Fact**
38

39 The noise control regulations in OAR 340-035-0035 apply to noise associated with operation of
40 a facility as a new industrial or commercial noise source. The Council addressed the noise
41 control regulations in Section VI.A of the *Final Order on the Application*. In the original ASC, to

1 represent the range of turbines that could be used at the proposed facility, the certificate
2 holder provided total and octave band sound power level data for the worst case (loudest)
3 scenario. To ensure that the facility as-built would comply with the noise regulations, the
4 Council adopted four conditions that require the certificate holder to provide information to
5 the Department about the turbines selected and the final design layout before beginning
6 construction. Condition 12.2 specifically requires that the certificate holder submit a new noise
7 analysis to the Department prior to construction that demonstrates that the facility would be in
8 compliance with all relevant noise-related requirements. The Council found that the facility,
9 with conditions, complied with the noise control regulations.¹⁹⁴

10
11 The requested amendments affect the Council's previous findings to the extent the change in
12 the blade tip height or the required turbine setbacks (see the discussion related to WCLUDO
13 Section 19.030(D)(1)(c) in this order) could alter results of the noise modeling (by altering the
14 noise level generated by the turbines and the distance of the turbines from noise sensitive
15 receptors). However, Condition 12.2, which requires final noise analysis based on the final
16 selected turbine layout and model, would account for any changes based on the change in
17 blade tip height and turbine locations. Therefore, the Council finds that, subject to Conditions
18 12.1 and 12.2, the facility, as amended, satisfies this standard.

19 20 **Conclusions of Law**

21
22 For the reasons discussed above, and subject to the existing site certificate conditions, the
23 Council concludes that the facility, as amended, complies with the applicable noise control
24 regulations in OAR 340-035-0035.

25 26 **III.B.17.b. Removal-Fill**

27
28 The Oregon Removal-Fill Law (ORS 196.800 through .990) and DSL regulations (OAR 141-085-
29 0005 through 141-085-0090) require a Removal-Fill Permit if 50 cubic yards or more of material
30 is removed, filled, or altered within any "waters of the state" at the proposed site.¹⁹⁵

31 32 **Findings of Fact**

33

¹⁹⁴ *Final Order on Application* at 156

¹⁹⁵ OAR 141-085-0010(225) defines "Waters of this State." The term includes wetlands and certain other water bodies.

1 The DSL concurred with the certificate holder's wetland delineation study for the facility on
2 April 5, 2010. On February 22, 2016, DSL informed the Department that, for the wetland
3 delineation to remain valid past April 4, 2016, the certificate holder would need to submit to
4 DSL a Request for Reissuance of a Jurisdictional Determination and receive concurrence from
5 DSL on the wetland and waterway boundaries presented in that request. On May 31, 2016,
6 following correspondence between DSL and the certificate holder, the Department received a
7 copy of DSL's letter of concurrence.¹⁹⁶

8
9 The Council addressed the Removal-Fill Law in Section VI.A.2 of the *Final Order on the*
10 *Application*. The Council found that, because the certificate holder proposed to avoid all
11 impacts to identified wetlands and waterways, and subject to Condition 6.9, which prohibits the
12 certificate holder from removing material from waters of the state or adding new fill material to
13 waters of the state such that the total volume of removal and fill exceeds 50 cubic yards for the
14 facility as a whole, the facility would not require a Removal-Fill Permit.¹⁹⁷ The certificate holder
15 confirmed that, under the current amendment request, the facility components would be
16 located to avoid impacts to wetlands and waterways;¹⁹⁸ therefore, the approved amendments
17 do not alter the conclusion that the facility will not require a Removal-Fill Permit. The Council
18 deems this representation to be a binding commitment made by the certificate holder and
19 therefore the Council imposes the following condition:

20
21 **Site Certificate Condition 6.34:** During facility design and construction, the certificate
22 holder shall ensure that facility components are sited to avoid direct impacts to wetlands
23 and waterways.

24 25 **Conclusions of Law**

26
27 Subject to compliance with existing Condition 6.9 and new Site Certificate Condition 6.34, the
28 Council concludes that the facility, as amended, would not require a state Removal-Fill Permit.

29 30 **III.B.17.c. Water Rights**

31
32 Under ORS Chapters 537 and 540 and OAR Chapter 690, the Oregon Water Resources
33 Department (OWRD) administers water rights for appropriation and use of the water resources

¹⁹⁶ SRWAMDDoc3 Agency Comment_DSL (A. Downing) 2016-05-31

¹⁹⁷ *Final Order on Application* at 158

¹⁹⁸ SRWAMD2Doc22 Certificate Holder Responses to AIRs 2016-07-20

1 of the state. Under OAR 345-022-0000(1), the Council must determine whether the facility
2 would comply with these statutes and administrative rules.

3
4 **Findings of Fact**

5
6 The Council addressed the Ground Water Act in Section VI.C of the *Final Order on the*
7 *Application*. The Council found that the facility would comply with the Ground Water Act of
8 1955 and the rules of OWRD.¹⁹⁹

9
10 The requested amendments would not impact the facility's water use or otherwise impact
11 compliance with the Ground Water Act of 1955 or any OWRD rules.

12
13 **Conclusions of Law**

14
15 For the reasons discussed above, the Council concludes that the facility, as amended, complies
16 with the applicable water rights statutes and regulations.

¹⁹⁹ *Final Order on Application* at 160

1 **IV. GENERAL APPLICATION OF CONDITIONS**

2
3 The conditions referenced in this final order include conditions that are specifically required by
4 OAR 345-027-0020 (Mandatory Conditions in Site Certificates), OAR 345-027-0023 (Site Specific
5 Conditions), OAR 345-027-0028 (Monitoring Conditions), or OAR Chapter 345, Division 26
6 (Construction and Operation Rules for Facilities). The conditions referenced in this final order
7 include conditions based on representations in RFA #2 and the supporting record. The Council
8 deems these representations to be binding commitments made by the certificate holder. This
9 final order also includes conditions that the Council finds necessary to ensure compliance with
10 the siting standards of OAR Chapter 345, Divisions 22 and 24.

11
12 In addition to all other conditions referenced or included in this final order, the certificate
13 holder is subject to all conditions and requirements contained in the rules of the Council and in
14 local ordinances and state law in effect on the date the amended site certificate is executed.
15 Under ORS 469.401(2), upon a clear showing of a significant threat to public health, safety, or
16 the environment that requires application of later-adopted laws or rules, the Council may
17 require compliance with such later-adopted laws or rules.

18
19 The Council recognizes that many specific tasks related to the design, construction, operation,
20 and retirement of the facility will be undertaken by the certificate holder's agents or
21 contractors. Nevertheless, the certificate holder is responsible for ensuring that all agents and
22 contractors comply with all provisions of the site certificate.
23

1 **V. GENERAL CONCLUSION AND FINAL ORDER**

2
3 The requested amendment would (1) transfer the existing site certificate from LotusWorks-
4 Summit Ridge I, LLC to Summit Ridge Wind, LLC; (2) authorize a lesser setback from the right-of-
5 way of any dedicated road within the site boundary than is required by WCLUDO Section
6 19.030(D)(1)(c)(2); (3) extend the deadline to begin construction from August 19, 2016 to
7 August 19, 2018; (4) extend the deadline to complete construction from August 19, 2019 to
8 August 19, 2021; and (5) add a new turbine option that, if selected, would reduce the maximum
9 number of wind turbines from 72 to 64; reduce the peak generating capacity from 194.4 MW to
10 192.0 MW; decrease the maximum wind turbine hub height from 91 meters to 84 meters;
11 decrease the maximum blade tip height from 152 meters to 150 meters; and decrease the
12 blade tip minimum clearance from 23 meters to 18 meters.

13 Based on the findings and conclusions included in this order, the Council makes the following
14 findings:
15

16 (1) The request for contested case does not raise a significant issue of fact or law that
17 may affect the Council's determination that Request for Amendment 2 to the Summit
18 Ridge Wind Farm Site Certificate meets an applicable standard.
19

20 (2) RFA #2 to the Summit Ridge Wind Farm Site Certificate complies with the
21 requirements of the Oregon Energy Facility Siting statutes, ORS 469.300 to ORS 469.570
22 and ORS 469.590 to ORS 469.619.
23

24 (3) RFA #2 to the Summit Ridge Wind Farm Site Certificate complies with the applicable
25 standards adopted by the Council pursuant to ORS 469.501.
26

27 (4) RFA #2 to the Summit Ridge Wind Farm Site Certificate complies with all other
28 Oregon statutes and administrative rules that were included in and governed by the
29 original site certificate and are applicable to the amendment of the site certificate for
30 the Summit Ridge Wind Farm.
31

32 (5) Summit Ridge Wind Holdings, LLC, as the new parent company of the new certificate
33 holder (transferee) and Summit Ridge Wind, LCC (transferee), complies with the
34 standards described in OAR 345-022-0010 and OAR 345-022-0050 and will be lawfully
35 entitled to possession or control of the Summit Ridge Wind Farm as described in the site
36 certificate as amended by this order.
37

38 Accordingly, the Council finds that the requested amendment would comply with the General
39 Standard of Review (OAR 345-022-0000). The Council finds, based on a preponderance of the
40 evidence on the record, that the site certificate may be amended and transferred as requested
41 by the certificate holder and transferee.

1
2 **Final Order**

3
4 The Council 1) denies the request for contested case; 2) approves RFA #2 and issues an amended
5 site certificate for the Summit Ridge Wind Farm, subject to the terms and conditions set forth
6 above; and 3) approves the transfer of the site certificate to Summit Ridge Wind, LLC as the new
7 certificate holder and Summit Ridge Wind Holdings, LLC as the new parent company of the
8 Summit Ridge Wind Farm subject to the terms and conditions set forth above.
9

10 Issued this 4th day of November, 2016

11
12 The Oregon Energy Facility Siting Council

13
14 By: 
15 Barry Beyeler, Chair
16 Energy Facility Siting Council
17

18 **Attachments:**

19 Attachment A: Amended Site Certificate

20 Attachment B: Reviewing Agency Comment Summary Table

21 Attachment C: Certificate Holder Request for Administrative Adjustment (Turbine Setbacks)

22 Attachment D: Certificate Holder Responses to Additional Information Requests

23 Attachment E: Draft Revegetation and Weed Control Plan (dated August 19, 2011)

24 Attachment F: Draft Wildlife Monitoring and Mitigation Plan (dated August 19, 2011)

25 Attachment G: Amended Draft Habitat Mitigation Plan (dated October 21, 2014)

26 Attachment H: 2016 Raptor Nest, Special Status Vertebrate Wildlife Species, and Rare Plant
27 Survey Result Memos
28
29
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31
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41

1 **Notice of the Right to Appeal**

2 The right to appeal this order approving an amendment to a site certificate is provided in ORS
3 469.403. Pursuant to ORS 469.403, any party to a contested case proceeding on an amended
4 site certificate application may appeal the Council's approval or rejection of the amended site
5 certificate application to the Oregon Supreme Court. To appeal you must file a petition for
6 judicial review with the Supreme Court within 60 days from the day this order was served on
7 you. If this order was personally delivered to you, the date of service is the date you received
8 this order. If this order was mailed to you, the date of service is the date it was mailed, not the
9 date you received it. If you do not file a petition for judicial review within the 60-day time
10 period, you lose your right to appeal

Attachment A: Amended Site Certificate (Executed November 4, 2016)

1
2
3
4
5
6
7 **SECOND AMENDED SITE CERTIFICATE**
8
9 **FOR THE**
10
11 **SUMMIT RIDGE WIND FARM**
12
13
14
15
16
17
18
19
20
21
22
23
24

25
26 Issued November 4, 2016
27 by
28

29 OREGON ENERGY FACILITY SITING COUNCIL
30 625 Marion Street NE
31 Salem, OR 97301-3737
32

33 *PHONE: 503-378-4040*

34 *FAX: 503-373-7806*
35

36
37 Amending the
38 Site Certificate for the Summit Ridge Wind Farm
39 of August 7, 2015
40

**SUMMIT RIDGE WIND FARM SITE CERTIFICATE
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Acronyms and Abbreviations

Council	Oregon Energy Facility Siting Council
Department	Oregon Department of Energy
DOGAMI	Oregon Department of Geology and Mineral Industries
DPO	Draft Proposed Order
ESCP	Erosion and Sediment Control Plan
FAA	Federal Aviation Administration
NPDES	National Pollutant Discharge Elimination System
O&M	Operations and Maintenance
OAR	Oregon Administrative Rule
ODFW	Oregon Department of Fish and Wildlife
ORS	Oregon Revised Statute
WCLUDO	Wasco County Land Use and Development Ordinance

1.0. INTRODUCTION

The Oregon Energy Facility Siting Council (Council) issues this site certificate for the Summit Ridge Wind Farm (Summit Ridge) in the manner authorized under ORS Chapter 469. This site certificate is a binding agreement between the State of Oregon (State), acting through the Council, and Summit Ridge Wind, LLC (certificate holder) authorizing the certificate holder to construct and operate the facility in Wasco County, Oregon.

The findings of fact, reasoning, and conclusions of law underlying the terms and conditions of this site certificate are set forth in the Council's *Final Order in the Matter of the Application for a Site Certificate for the Summit Ridge Wind Farm* (Final Order) issued on August 19, 2011, the Council's *Amended Final Order in the Matter of the Request for Amendment #1* (Amended Final Order on Amendment 1), and the Council's *Final Order on the Request for Contested Case, Amendment #2 and Request for Transfer of the Site Certificate* (Final Order on Amendment 2), and incorporated herein by this reference. In interpreting this site certificate, any ambiguity will be clarified by reference to the following, in order of priority: (1) this Site Certificate, (2) Final Order on Amendment 2, (3) the Amended Final Order on Amendment 1, (4) the Final Order and (4) the record of the proceedings that led to the Final Order, Amended Final Order on Amendment 1, and Final Order on Amendment 2.

This site certificate does not address, and is not binding with respect to, matters that were not addressed in the Council's Final Order, Amended Final Order on Amendment 1, or Final Order on Amendment 2. Such matters include, but are not limited to: building code compliance; wage; hour; and other labor regulations; local government fees and charges; other design or operational issues that do not relate to siting the facility [Oregon Revised Statute (ORS) 469.401(4)]; and permits issued under statutes and rules for which the decision on compliance has been delegated by the federal government to a state agency other than the Council. ORS 469.503(3).

The obligation of the certificate holder to report information to the Department or the Council under the conditions listed in this site certificate is subject to the provisions of ORS 192.502 *et seq.* and ORS 469.560. To the extent permitted by law, the Department and the Council will not publicly disclose information that may be exempt from public disclosure if the certificate holder has clearly labeled such information and stated the basis for the exemption at the time of submitting the information to the Department or the Council. If the Council or the Department receives a request for the disclosure of the information, the Council or the Department, as appropriate, will make a reasonable attempt to notify the certificate holder and will refer the matter to the Attorney General for a determination of whether the exemption is applicable, pursuant to ORS 192.450.

The Council recognizes that many specific tasks related to the design, construction, operation and retirement of the facility will be undertaken by the certificate holder's agents or contractors. Nevertheless, the certificate holder is responsible for ensuring compliance with all provisions of the site certificate.

The definitions in ORS 469.300 and OAR 345-001-0010 apply to terms used in this site certificate, except where otherwise stated, or where the context clearly indicates otherwise.

2.0. SITE CERTIFICATION

- 2.1. To the extent authorized by state law and subject to the conditions set forth herein, the State authorizes the certificate holder to construct, operate, and retire a wind energy facility, together with certain related or supporting facilities, at the site in Wasco County, Oregon, as described in Section 3.0 of this site certificate.
[ORS 469.401(1)]
- 2.2. This site certificate is effective until 1) it is terminated under OAR 345-027-0110 or the rules in effect on the date that termination is sought; or 2) until the site certificate is revoked under ORS 469.440 and OAR 345-029-0100 or the statutes and rules in effect on the date that revocation is ordered.
[ORS 469.401(1)]
- 2.3. Both the State and the certificate holder shall abide by local ordinances, state law, and the rules of the Council in effect on the date this site certificate is executed. ORS 469.401(2). In addition, upon a clear showing of a significant threat to public health, safety, or the environment that requires application of later-adopted laws or rules, the Council may require compliance with such later-adopted laws or rules.
[ORS 469.401(2)]
- 2.4. For a permit, license, or other approval addressed in and governed by this site certificate, the certificate holder shall comply with applicable state and federal laws adopted in the future to the extent that such compliance is required under the respective state agency statutes and rules.
[ORS 469.401(2)]
- 2.5. Subject to the conditions herein, this site certificate binds the State and all counties, cities, and political subdivisions in Oregon as to the approval of the site and the construction, operation, and retirement of the facility as to matters that are addressed in and governed by this site certificate.
[ORS 469.401(3)]
- 2.6. Each affected state agency, county, city, and political subdivision in Oregon with authority to issue a permit, license, or other approval addressed in or governed by this site certificate shall, upon submission of the proper application and payment of the proper fees, but without hearings or other proceedings, issue such permit, license, or other approval subject only to conditions set forth in this site certificate.
[ORS 469.401(3)]
- 2.7. After issuance of this site certificate, each state agency or local government agency that issues a permit, license, or other approval for the facility shall continue to exercise enforcement authority over such permit, license, or other approval.
[ORS 469.401(3)]

- 1
2 2.8. After issuance of this site certificate, the Council shall have continuing authority over
3 the site and may inspect, or direct the Oregon Department of Energy (Department) to
4 inspect, or request another state agency or local government to inspect, the site at any
5 time in order to ensure that the facility is being operated consistently with the terms and
6 conditions of this site certificate.
7 [ORS 469.430]
8
- 9 2.9. The certificate holder shall request an amendment of the site certificate to increase the
10 combined peak generating capacity of the facility beyond 194.4 megawatts, to increase
11 the number of wind turbines to more than 72 wind turbines or to install wind turbines
12 with a hub height greater than 91 meters, a blade tip height greater than 152 meters or a
13 blade tip clearance less than 18 meters above ground.
14 [Final Order on Amendment 2] [Mandatory Condition OAR 345-027-0020(3)]
15
- 16 2.10. Before any transfer of ownership of the facility or ownership of the site certificate
17 holder, the certificate holder shall inform the Department of the proposed new owners.
18 The requirements of OAR 345-027-0100 apply to any transfer of ownership that
19 requires a transfer of the site certificate.
20 [Final Order IV.B.2.8] [Mandatory Condition OAR 345-027-0020(15)]
21
- 22 2.11. Any matter of non-compliance under the site certificate shall be the responsibility of the
23 certificate holder. Any notice of violation issued under the site certificate shall be
24 issued to the certificate holder. Any civil penalties assessed under the site certificate
25 shall be levied on the certificate holder.
26 [Final Order IV.B.2.5]
27
- 28 2.12. Within 72 hours after discovery of conditions or circumstances that may violate the
29 terms or conditions of the site certificate, the certificate holder shall report the
30 conditions or circumstances to the Department.
31 [Final Order IV.B.2.7]
32
- 33 2.13. The Council shall not change the conditions of this site certificate except as provided
34 for in OAR Chapter 345, Division 27.
35 [Final Order VII.1] [Mandatory Condition OAR 345-027-0020(1)]
36
- 37 2.14. Following the completion of surveys required by this site certificate, the Department
38 will present the results of those surveys and required consultations at the next regularly
39 scheduled Council meeting.
40 [Added at the August 7, 2015 Energy Facility Siting Council Meeting]
41

3.0 DESCRIPTION OF FACILITY

LOCATION AND SITE BOUNDARY

Summit Ridge is located in Wasco County, Oregon approximately 17 miles southeast of The Dalles, and eight miles east of Dufur, Oregon. The facility site boundary encompasses approximately 11,000 acres on private land subject to long-term wind energy leases with the landowners.

As defined by OAR 345-001-0010, the “site boundary” is the perimeter of the site of the energy facility, its related or supporting facilities, all temporary laydown and staging areas and all corridors and micrositing corridors. The Summit Ridge turbines will be located within micrositing corridors approximately 1,300 feet wide.

THE ENERGY FACILITY

Summit Ridge has a combined peak generating capacity of 194.4 megawatts (MW). The facility consists of up to 72 wind turbine generators.

Turbines will be mounted on tubular steel towers no greater than 91 meters (299 feet) tall at the turbine hub, with a maximum blade tip height no greater than 152 meters (499 feet) and a minimum blade tip clearance of no less than 18 meters (59 feet) above the ground. Turbines include a nacelle that houses the generator and gearbox, and supports the rotor and blades at the hub. A gravel turbine pad area would surround the base of each concrete turbine foundation. A step-up transformer increases the output voltage of each wind turbine generator to the voltage of the power collection system. The step-up transformer will be installed on its own concrete pad at the base of each wind turbine tower, or located in the nacelle, depending on the final turbine model selected.

Summit Ridge includes the following related or supporting facilities:

- Power collection system
- Collector substation
- 230-kV transmission line
- Supervisory Control and Data Acquisition (SCADA) System
- Operations and maintenance (O&M) facility
- Meteorological (met) towers
- Access roads
- Temporary roadway modifications
- Additional temporary construction areas (including laydown areas, crane paths, and a concrete batch plant)

POWER COLLECTION SYSTEM

Power from each turbine will be transmitted via the approximately 49-mile collection line system to the collector substation. The new 34.5-kV collection lines will be constructed underground to

1 the extent possible, although up to 10% of the collector lines may be placed aboveground due to
2 site-specific geotechnical or environmental considerations. Aboveground segments would be
3 supported by H-frame wood poles approximately 55 feet in height.

4 5 **COLLECTOR SUBSTATION**

6
7 The 34.5 kV collector line system will link each turbine to the facility collector substation, which
8 will step up the power from 34.5 kV to 230 kV. The centrally-located collector substation will
9 occupy approximately five acres, surrounded by a graveled, fenced area.

10 11 **230 KV TRANSMISSION LINE**

12
13 A new overhead 230 kV transmission feeder line approximately eight miles in length connects
14 the facility's collector substation to the regional grid at a substation operated by the Bonneville
15 Power Administration (BPA). The 230 kV transmission line runs northwest from the collector
16 substation for approximately two miles, then almost due west for another six miles to the BPA
17 substation, connecting with BPA's 500 kV "Big Eddy to Maupin-Redmond" transmission line.

18
19 The Summit Ridge transmission line will be supported on wooden H-frame poles that are 70 feet
20 in height and spaced approximately 800 feet apart. The right-of-way for the transmission line is
21 approximately 150 feet wide.

22
23 BPA will be responsible for the operation and maintenance of the interconnection facility. If the
24 Summit Ridge facility ceases operation and a decommissioning/retirement plan is implemented,
25 the transmission system operator is not obliged under this site certificate to dismantle the
26 interconnection station, which will also be used to serve other customers.

27 28 **SUPERVISORY CONTROL AND DATA ACQUISITION (SCADA) SYSTEM**

29
30 A SCADA system will be installed at the facility to enable remote operation and collect operating
31 data for each wind turbine, and archive wind and performance data. The SCADA system will be
32 linked via fiber optic cables or other means of communication to a central computer in the O&M
33 building. SCADA system wires will be installed in the collector line underground trenches, or
34 overhead as necessary with the collector line.

35 36 **OPERATIONS AND MAINTENANCE (O&M) FACILITY**

37
38 One permanent O&M facility will be located within the five-acre facility collector substation site,
39 and will include up to 10,000 square feet of enclosed space for office and workshop areas, a
40 control room, and kitchen and sanitary facilities. The O&M facility will have an adjacent
41 graveled parking area and an approximately 300-foot by 300-foot fenced storage area. The
42 Facility will also include an on-site well and septic system. Domestic water needs for the O&M
43 facility will be served by an on-site well and septic system.

METEOROLOGICAL TOWERS

A maximum of three permanent un-guyed meteorological towers will be placed within the site boundary to collect wind resource data (these towers will replace seven existing temporary towers). The met towers will be the same height as the hub of the turbines, approximately 80 meters (263 feet) tall. Met tower foundations may be constructed as deep as 40 feet, depending on soil conditions and geotechnical engineering requirements.

ACCESS ROADS

Approximately 19 miles of new roads will be constructed within the site boundary to provide access to the turbines and other facility components. Access roads will be designed to be 20-foot wide graveled surfaces with 10-foot compacted shoulders to accommodate construction cranes. After the completion of construction, all new roads within the site boundary will be restored to a total width of 20 feet for general use during facility operation.

TEMPORARY ROADWAY MODIFICATIONS

Approximately six miles of existing private roads will be upgraded to accommodate construction and operation of the facility. Where needed, existing roads will be improved to 20-foot wide graveled surfaces with 10-foot compacted shoulders to accommodate construction equipment and cranes. After the completion of construction, improved roads within the site boundary will be restored to a total width of 20-feet for general use during facility operation.

ADDITIONAL CONSTRUCTION AREAS

During construction, up to six temporary laydown areas will be used for the delivery and staging of wind turbine components and other equipment and materials, as well as the staging of construction trailers for the construction crews. Five of the six temporary laydown areas will be located on approximately four acres, covered with gravel, which will be removed following completion of facility construction. The sixth temporary laydown area will encompass the permanent five-acre collector substation and O&M site. Concrete for construction of the facility would be obtained from an on-site concrete batch plant to be located on a graveled 2-acre site within the site boundary.

4.0. GENERAL ADMINISTRATIVE CONDITIONS

4.1. The certificate holder shall begin construction of the facility by August 19, 2018. The Council may grant an extension of the deadline to begin construction in accordance with OAR 345-027-0030 or any successor rule in effect at the time the request for extension is submitted.

[Final Order on Amendment 2] [Mandatory Condition OAR 345-027-0020(4)]

4.2. The certificate holder shall complete construction of the facility by August 19, 2021. Construction is complete when: 1) the facility is substantially complete as defined by the certificate holder's construction contract documents, 2) acceptance testing has been satisfactorily completed; and 3) the energy facility is ready to begin continuous operation consistent with the site certificate. The certificate holder shall promptly notify the Department of the date of completion of construction. The Council may grant an extension of the deadline for completing construction in accordance with OAR 345-027-0030 or any successor rule in effect at the time the request for extension is submitted.

[Final Order on Amendment 2] [Mandatory Condition OAR 345-027-0020(4)]

4.3. The certificate holder shall submit a legal description of the site to the Department of Energy within 90 days after beginning operation of the facility. The legal description required by this rule means a description of metes and bounds or a description of the site by reference to a map and geographic data that clearly and specifically identifies the outer boundaries that contain all parts of the facility.

[Final Order III.D.3] [Mandatory Condition OAR 345-027-0020(2)]

4.4. The certificate holder shall design, construct, operate and retire the facility:

- a. Substantially as described in the site certificate;
- b. In compliance with the requirements of ORS Chapter 469, applicable Council rules, and applicable state and local laws, rules and ordinances in effect at the time the site certificate is issued; and
- c. In compliance with all applicable permit requirements of other state agencies.

[Final Order III.D.4] [Mandatory Condition OAR 345-027-0020(3)]

4.5. The certificate holder shall construct the turbines and transmission line within the corridor locations set forth in Exhibit C of the application for site certificate, subject to the conditions of this site certificate.

[Final Order III.D.8] [Mandatory Condition OAR 345-027-0023(5)]

4.6. The certificate holder shall obtain all necessary federal, state, and local permits or approvals required for construction, operation, and retirement of the facility or ensure that its contractors obtain the necessary federal, state, and local permits or approvals.

[Final Order IV.B.2.4]

5.0. PRE-CONSTRUCTION REQUIREMENTS

In addition to pre-construction requirements contained elsewhere in this site certificate, the certificate holder must meet the following requirements:

5.1. Before beginning construction, the certificate holder shall notify the Department of the identity and qualifications of the major design, engineering and construction contractor(s) for the facility. The certificate holder shall select contractors that have substantial experience in the design, engineering and construction of similar facilities. The certificate holder shall report to the Department any change of major contractors.
[Final Order IV.B.2.1]

5.2. The certificate holder shall contractually require all construction contractors and subcontractors involved in the construction of the facility to comply with all applicable laws and regulations and with the terms and conditions of the site certificate. Such contractual provisions shall not operate to relieve the certificate holder of responsibility under the site certificate.
[Final Order IV.B.2.2]

5.3. Before beginning construction, the certificate holder shall ensure that participating landowners obtain 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.
[Final Order IV.D.2.4] [WCLUDO section 3.210(H)]

5.4. Before beginning construction, the certificate holder shall submit a Notice of Proposed Construction or Alteration to the Federal Aviation Administration (FAA) and the Oregon Department of Aviation identifying the proposed final locations of turbine towers and meteorological towers, and shall provide to the Department copies of a Determination of No Hazard for all turbine towers and meteorological towers or an equivalent determination to confirm that the structures comply with applicable FAA and Oregon Department of Aviation air hazard rules. The certificate holder shall promptly notify the Department of the responses from the FAA and Oregon Department of Aviation.
[Amended Final Order on Amendment 1 IV.K.2.4]

- 1 5.5. Before beginning construction, the certificate holder shall provide to the Department a
2 description of the turbine types selected for the facility demonstrating compliance with
3 this condition. The certificate holder may select turbines of any type, subject to the
4 following restrictions and compliance with all other site certificate conditions:
5 a. The total number of turbines at the facility must not exceed 72 turbines.
6 b. The combined peak generating capacity of the facility must not exceed 194.4
7 megawatts.
8 c. The turbine hub height must not exceed 91 meters and the maximum blade tip height
9 must not exceed 152 meters above grade.
10 d. The minimum blade tip clearance must be 18 meters above ground.
11 [Final Order on Amendment 2] [Mandatory Condition OAR 345-027-0020(3)]
12
- 13 5.6. Before beginning construction the certificate holder shall obtain approval of a final
14 Revegetation and Weed Control Plan [based upon the draft plan included as Attachment
15 E of the *Final Order on Amendment #2*] from the Department, in consultation with the
16 Wasco County Weed Department and ODFW, to control the introduction and spread of
17 noxious weeds, and shall implement that approved plan during all phases of
18 construction and operation of the facility.
19 [Final Order on Amendment #2] [WCLUDO Section 3.210(J)(17)(5)]
20
- 21 5.7. Except as necessary for the initial survey or as otherwise allowed for wind energy
22 facilities, transmission lines or pipelines under OAR 345-027-0020, the certificate
23 holder shall not begin construction, as defined in OAR 345-001-0010, or create a
24 clearing on any part of the site until the certificate holder has construction rights on all
25 parts of the site. For the purpose of this rule, “construction rights” means the legal right
26 to engage in construction activities. For wind energy facilities, transmission lines or
27 pipelines, if the certificate holder does not have construction rights on all parts of the
28 site, the certificate holder may nevertheless begin construction, as defined in OAR 345-
29 001-0010, or create a clearing on a part of the site if the certificate holder has
30 construction rights on that part of the site and:
31 a. The certificate holder would construct and operate part of the facility on that part of
32 the site even if a change in the planned route of the transmission line or pipeline
33 occurs during the certificate holder’s negotiations to acquire construction rights on
34 another part of the site; or
35 b. The certificate holder would construct and operate part of a wind energy facility on
36 that part of the site even if other parts of the facility were modified by amendment of
37 the site certificate or were not built.
38 [Final Order III.D.6] [Mandatory Condition OAR 345-027-0020(5)]
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- 1 5.8. Before beginning construction, the certificate holder shall conduct a site-specific
2 geotechnical investigation and shall report its findings to the Oregon Department of
3 Geology & Mineral Industries (DOGAMI) and the Department. The certificate holder
4 shall conduct the geotechnical investigation after consultation with DOGAMI and in
5 general accordance with DOGAMI open file report 00-04 "Guidelines for Engineering
6 Geologic Reports and Site-Specific Seismic Hazard Reports."
7 [Final Order V.A.2.1]
8
- 9 5.9. Before beginning construction of any new State Highway approaches or utility
10 crossings, the certificate holder shall obtain all required permits from the Oregon
11 Department of Transportation (ODOT) subject to the applicable conditions required by
12 OAR Chapter 734, Divisions 51 and 55. The certificate holder shall submit the
13 necessary application or applications in a form satisfactory to ODOT and the
14 Department for the location, construction and maintenance of approaches to State
15 Highway 197 for access to the site. The certificate holder shall submit the necessary
16 application or applications in a form satisfactory to ODOT and the Department for the
17 location, construction and maintenance of collector cables or transmission lines
18 crossing Highway 197.
19 [Final Order V.C.2.12]
20
- 21 5.10. Before beginning construction, the certificate holder shall notify the Department in
22 advance of any work on the site that does not meet the definition of "construction" in
23 ORS 469.300 (excluding surveying, exploration, or other activities to define or
24 characterize the site) and shall provide to the Department a description of the work and
25 evidence that its value is less than \$250,000.
26 [Final Order IV.B.2.6]
27
- 28 5.11. Prior to the beginning of construction a Road Impact Assessment/Geotechnical Report
29 for roads to be used by the project shall be submitted to the Department and Wasco
30 County. Said report should include an analysis of project-related traffic routes to be
31 used during phases of construction, project operation and decommissioning. These
32 reports shall be incorporated into a Road Use Agreement with the County.
33 [Amended Final Order on Amendment 1 V.C.2.17]
34
- 35 5.12. Prior to beginning construction of new access roads, the certificate holder shall obtain
36 any Road Approach Permit(s) that may be required by the Wasco County Public
37 Works Department.
38 [Final Order on Amendment 2]
39
- 40 5.13. Prior to beginning construction, the certificate holder shall obtain any Utility Permit(s)
41 that may be required by the Wasco County Public Works Department.
42 [Final Order on Amendment 2]
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- 1 5.14. Before beginning construction, the certificate holder shall provide to the Department
2 evidence demonstrating that the certificate holder has obtained a guarantee from the
3 turbine manufacturer for those turbines located within one mile of the boundaries of the
4 Deschutes Federal Wild and Scenic River and the Deschutes State Scenic Waterway
5 that the maximum sound power of those turbines would not exceed 109 dBA plus 2 dB
6 uncertainty when measured according to IEC (International Electrotechnical
7 Commission) 61400-11:2002 ed. 2. No turbine shall be located closer than 0.72 miles
8 from any protected area.
9

10 **6.0. DESIGN, CONSTRUCTION, AND OPERATIONS**

- 11
- 12 6.1. During construction, the certificate holder shall have a full-time, on-site assistant
13 construction manager who is qualified in environmental compliance to ensure
14 compliance with all site certificate conditions. The certificate holder shall notify the
15 Department of the name, telephone number, and e-mail address of this person prior to
16 the start of construction and immediately upon any change in the contact information.
17 [Final Order IV.B.2.3]
18
- 19 6.2. The certificate holder shall provide portable toilets for on-site sewage handling during
20 construction and shall ensure that they are pumped and cleaned regularly by a licensed
21 contractor who is qualified to pump and clean portable toilet facilities.
22 [Final Order V.C.2.1]
23
- 24 6.3. The certificate holder shall implement a waste management plan during construction
25 that includes but is not limited to the following measures:
26 a. Recycling steel and other metal scrap.
27 b. Recycling wood waste.
28 c. Recycling packaging wastes such as paper and cardboard.
29 d. Collecting non-recyclable waste for transport to a local landfill by a licensed water
30 hauler.
31 e. Segregating all hazardous wastes such as used oil, oily rags and oil-absorbent
32 materials, mercury-containing lights and lead-acid and nickel-cadmium batteries for
33 disposal by a licensed firm specializing in the proper recycling or disposal of
34 hazardous wastes.
35 f. Confining concrete delivery truck rinse-out to a designated wash-out area and burying
36 other concrete waste as part of backfilling.
37 [Final Order V.D.2.1]
38
- 39 6.4. The certificate holder shall install the 34.5-kV collector system underground to the
40 extent practical. The certificate holder shall install underground lines at a minimum
41 depth of three feet. Based on geotechnical conditions or other engineering
42 considerations, the certificate holder may install segments of the collector system
43 aboveground, but the total length of aboveground segments must not exceed five miles.
44 [Final Order VI.D.2.1]
45
46

- 1 6.5. In advance of, and during, preparation of detailed design drawings and specifications
2 for the 230-kV and 34.5-kV transmission lines, the certificate holder shall consult with
3 the Utility Safety and Reliability Section of the Oregon Public Utility Commission to
4 ensure that the designs and specifications are consistent with applicable codes and
5 standards.
6 [Final Order VI.D.2.3]
7
- 8 6.6. The certificate holder must design, construct and operate the transmission line in
9 accordance with the requirements of the 2012 Edition of the National Electrical Safety
10 Code approved on June 3, 2011.
11 [Final Order on Amendment 2] [Mandatory Condition OAR 345-027-0023(4)(a)]
12
- 13 6.7. The certificate holder shall consult with the Wasco Electric Cooperative during the
14 design, construction, and operation of the Summit Ridge Wind Farm to ensure that the
15 integrity and reliability of the power grid in Wasco County is maintained.
16 [Final Order VI.D.2.4]
17
- 18 6.8. The certificate holder shall design and construct the facility in accordance with
19 requirements set forth by the Oregon Building Codes Division and any other applicable
20 codes and design procedures.
21 [Final Order V.A.2.4]
22
- 23 6.9. To protect wetlands and waterways, the certificate holder shall construct the proposed
24 facility substantially as described in the Final Order. Specifically, the certificate holder
25 shall not remove material from waters of the State or add new fill material to waters of
26 the State such that the total volume of removal and fill exceeds 50 cubic yards for the
27 project as a whole.
28 [Final Order VI.B.2.1]
29
- 30 6.10. The certificate holder shall design, engineer and construct the facility to avoid dangers
31 to human safety presented by non-seismic hazards. As used in this condition, “non-
32 seismic hazards” include settlement, landslides, flooding and erosion.
33 [Final Order V.A.2.5]
34
- 35 6.11. The certificate holder shall design, engineer and construct the facility to avoid dangers
36 to human safety presented by seismic hazards affecting the site that are expected to
37 result from all maximum probable seismic events. “Seismic hazard” includes ground
38 shaking, landslide, liquefaction, lateral spreading, tsunami inundation, fault
39 displacement and subsidence.
40 [Final Order V.A.2.6] [Mandatory Condition OAR 345-027-0020(12)]
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- 1 6.12. The certificate holder shall design and construct the facility using the minimum land
2 area necessary for safe construction and operation. The certificate holder shall locate
3 access roads and temporary construction laydown and staging areas to minimize
4 disturbance of farming practices and, wherever feasible, shall place turbines and
5 transmission interconnection lines along the margins of cultivated areas to reduce the
6 potential for conflict with farm operations.
7 [Final Order IV.D.2.7] [WCLUDO Section 3.210(J)(17)(5)]
8
- 9 6.13. The certificate holder shall notify the Department, the State Building Codes Division
10 and DOGAMI promptly if site investigations or trenching reveal that conditions in the
11 foundation rocks differ significantly from those described in the application for a site
12 certificate. After the Department receives the notice, the Council may require the
13 certificate holder to consult with the DOGAMI and the Building Codes Division and to
14 propose mitigation actions.
15 [Final Order V.A.2.2] [Mandatory Condition OAR 345-027-0020(13)]
16
- 17 6.14. The certificate holder shall notify the Department, the State Building Codes Division
18 and DOGAMI promptly if shear zones, artesian aquifers, deformations or clastic dikes
19 are found at or in the vicinity of the site.
20 [Final Order V.A.2.3] [Mandatory Condition OAR 345-027-0020(14)]
21
- 22 6.15. To reduce the visual impact of the facility, the certificate holder shall:
23 a. Mount nacelles on smooth, steel structures, painted uniformly in a low-reflectivity,
24 neutral gray, white, or off-white color.
25 b. Paint the substation structures in a low-reflectivity neutral color to blend with the
26 surrounding landscape.
27 c. Not allow any advertising to be used on any part of the facility.
28 d. Use only those signs required for facility safety, required by law or otherwise
29 required by this site certificate, except that the certificate holder may erect a sign
30 near the O&M building to identify the facility, may paint turbine numbers on each
31 tower and may allow unobtrusive manufacturers' logos on turbine nacelles.
32 e. Maintain any signs allowed under this condition in good repair.
33 [Final Order IV.I.2.1]
34
- 35 6.16. The certificate holder shall design and construct the O&M building to be generally
36 consistent with the character of similar buildings used by commercial farmers or
37 ranchers in the area and shall paint the building in a low-reflectivity, neutral color to
38 blend with the surrounding landscape.
39 [Final Order IV.I.2.2]
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- 1 6.17. The certificate holder shall design and construct new access roads and private road
2 improvements to standards approved by the Wasco County Road Department. Where
3 modifications of County roads are necessary, the certificate holder shall construct the
4 modifications entirely within the County road rights-of-way and in conformance with
5 County road design standards subject to the approval of the Wasco County Road
6 Department. Where modifications of State roads or highways are necessary, the
7 certificate holder shall construct the modifications entirely within the public road rights-
8 of-way and in conformance with ODOT standards subject to the approval of ODOT.
9 [Final Order V.C.2.13]
- 10
11 6.18. The certificate holder shall cooperate with the Wasco County Public Works
12 Department to ensure that any unusual damage or wear to county roads that is caused
13 by construction of the facility is repaired by the certificate holder. Upon completion of
14 construction, the certificate holder shall restore public roads to pre-construction
15 condition or better to the satisfaction of the applicable county departments.
16 [Final Order V.C.2.14]
- 17
18 6.19. During construction of the facility, the certificate holder shall implement measures to
19 reduce traffic impacts, including:
20 a. Providing notice to adjacent landowners when heavy construction traffic is
21 anticipated.
22 b. Providing appropriate traffic safety signage and warnings.
23 c. Requiring flaggers to be at appropriate locations at appropriate times during
24 construction to direct traffic reduce accident risks.
25 d. Using traffic diversion equipment (such as advance signage and pilot cars) when
26 slow or oversize construction loads are anticipated.
27 e. Maintaining at least one travel lane at all times to the extent reasonably possible so
28 that roads will not be closed to traffic because of construction vehicles.
29 f. Encouraging carpooling for the construction workforce.
30 g. Including traffic control procedures in contract specifications for construction of the
31 facility.
32 h. Keeping Highway 197 free of gravel that tracks out onto the highway at facility
33 access points.
34 [Final Order V.C.2.15]
- 35
36 6.20. The certificate holder shall ensure that no equipment or machinery is parked or stored
37 on any County road whether inside or outside the site boundary. The certificate holder
38 may temporarily park equipment off the road but within County rights-of-way with the
39 approval of the County Roadmaster.
40 [Final Order V.C.2.16]
- 41
42 6.21. The height of the proposed Operations and Maintenance building shall not exceed 35
43 feet in height.
44 [Final Order IV.D.2.1] [WCLUDO Section 3.210(F)(2)]
45
46

- 1 6.22. Signage for the proposed facility shall conform to the following requirements:
2 a. The certificate holder shall install the following signs at the facility:
3 i. "No Trespassing" signs shall be attached to any perimeter fence;
4 ii. "Danger" signs shall be posted at the height of five feet on turbine towers and
5 accessory structures;
6 iii. A sign shall be posted on the tower showing an emergency telephone
7 number; and
8 iv. Manual electrical and/or overspeed shutdown disconnect switch(es) shall be
9 clearly labeled.

10 [Final Order IV.D.2.2] [WCLUDO Section 19.030(C)(7)]

- 11 b. Signage installed in accordance with Condition 6.22.a shall meet the following
12 requirements:

- 13 i. Permanent signs shall not project beyond the property line.
14 ii. Signs shall not be illuminated or capable of movement.
15 iii. Permanent signs shall describe only uses permitted and conducted on the
16 property on which the sign is located.
17 iv. Freestanding signs shall be limited to twelve square feet in area and 8 feet in
18 height measured from natural grade. Signs on buildings are permitted in a
19 ratio of one square foot of sign area to each linear foot of building frontage
20 but in no event shall exceed 32 square feet and shall not project above the
21 building.
22 v. Freestanding signs shall be limited to one at the entrance of the property. Up
23 to one additional sign may be placed in each direction of vehicular traffic
24 running parallel to the property if they are more than 750 feet from the
25 entrance of the property.
26 vi. Signs on buildings shall be limited to one per building and only allowed on
27 buildings conducting the use being advertised.

28 [Final Order IV.D.2.2] [WCLUDO Section 3.210(F)(4)]
29

- 30 6.23. Except as necessary to meet the requirements of the Federal Aviation Administration to
31 warn aircraft of obstructions, the certificate holder shall design and implement a
32 lighting plan to ensure that all outdoor lighting is directed downward, limited in
33 intensity, and is shielded and hooded to prevent light from projecting onto adjacent
34 properties, roadways, and waterways. Shielding and hooding materials shall be
35 composed of nonreflective, opaque materials.

36 [Final Order IV.D.2.3] [WCLUDO section 3.210(F)(4)]
37

- 38 6.24. The certificate holder shall be responsible for restoring, as nearly as possible, to its
39 former condition any agricultural land and associated improvements that are damaged
40 or otherwise disturbed by the siting, maintenance, repair or reconstruction of the
41 facility.

42 [Final Order IV.D.2.5] [WCLUDO Section 3.210(J)(8)(c)]
43
44
45
46

- 1 6.25. The certificate holder shall consult with area landowners and lessees during
2 construction and operation of the facility and shall implement measures to reduce or
3 avoid any adverse impacts to farm practices on surrounding lands and to avoid any
4 increase in farming costs.
5 [Final Order IV.D.2.6] [WCLUDO Sections 5.020(J) and 5.020(K)]
6
- 7 6.26. The certificate holder shall not use exterior nighttime lighting except:
8 a. The minimum turbine tower lighting required or recommended by the Federal
9 Aviation Administration.
10 b. Safety and security lighting at the O&M facility and substation, if such lighting is
11 shielded or downward-directed to reduce offsite glare.
12 [Final Order IV.I.2.3]
13
- 14 6.27. The certificate holder shall design, construct and operate the facility in a manner to
15 ensure that the facility avoids any material signal interference with communication
16 systems such as, but not limited to, radio, telephone, television, satellite, microwave or
17 emergency communication systems. Should any material interference occur, the
18 certificate holder must develop and implement a mitigation plan in consultation with the
19 Department.
20 [Amended Final Order on Amendment 1 IV.D.2.9]
21
- 22 6.28. During facility design and construction, the certificate holder shall comply with the
23 following turbine setback distances, as measured from the centerline of the turbine to
24 the edge of the dwelling, as set forth below.
25 a. Except as provided in subsection (b) of this condition, wind turbines shall be set back
26 from the property line of any abutting property not part of the project (non-project
27 boundaries), the right-of-way of any dedicated road, and any above ground major
28 utility facility line a minimum of 1.5 times the blade tip height of the wind turbine
29 tower. Wind turbines shall be set back from any above ground minor utility facility
30 line a minimum of 1.1 times the blade tip height of the wind turbine tower.
31 b. Wind turbine tower numbers 21, 22, 23, 24, 26, 27, 28, 29, 30, 54, 55, 56, 57, 58, 59,
32 60, and 61 shall be set back a minimum of 1.1 times the blade tip height of the wind
33 turbine tower from the right-of-way of any dedicated road within the site boundary.
34 c. Wind turbines must be setback a minimum of 1 mile (5,280 feet) from all non-
35 resource zoned property boundaries located outside of urban growth boundaries or
36 urban reserves (as measured from the centerline of the turbine to the edge of the
37 property boundary zoned for non-resource purposes, e.g. rural residential).
38 [Final Order on Amendment 2]
39
- 40 6.29. The certificate holder must maintain all access roads for all-weather use to assure
41 adequate, safe and efficient emergency vehicle and maintenance vehicle access to the
42 site.
43 [Amended Final Order on Amendment 1 V.C.2.18]
44
45
46

1 6.30. The certificate holder shall submit a legal description of the site to the Wasco County
2 GIS Department upon the beginning operation of the facility. This information shall
3 include the actual latitude and longitude or Oregon State Plane North American Datum
4 1983 (NAD83) High Accuracy Reference Network (HARN) coordinates of each turbine
5 tower, support structures for the 34.5-kV collector lines and 230-kV transmission line,
6 and other related and supporting facilities. The certificate holder may provide the
7 information in a GIS layer based on the geospatial data that includes all characteristics
8 of spatial features of the facility site boundary. The certificate holder shall confer with
9 the Department prior to submittal of GIS-based information.

10 [Amended Final Order on Amendment 1 IV.D.2.11]
11

12 6.31. During facility construction and operation, the certificate holder shall report to the
13 Department, within 7 days, any change in the corporate structure of the parent
14 company, Summit Ridge Wind Holdings, LLC. The certificate holder shall report
15 promptly to the Department any change in its access to the resources, expertise, and
16 personnel of Summit Ridge Wind Holdings, LLC.

17 [Final Order on Amendment 2]
18

19 6.32 During facility design and construction, the certificate holder shall ensure that the
20 foundations of the turbines, substation, and operations and maintenance building are set
21 back a minimum of 100 feet from any waterbodies designated as fish-bearing, 50 feet
22 from any waterbodies designated as non-fish bearing, and 25 feet from all waterbodies
23 (seasonal or permanent) not identified on any federal, state, or local inventory.

24 [Final Order on Amendment 2]
25

26 6.33 During facility design and construction, the certificate holder shall ensure that facility
27 components are not developed within the Environmental Protection District 4 as
28 designated by Wasco County.

29 [Final Order on Amendment 2]
30

31 6.34 During facility design and construction, the certificate holder shall ensure that facility
32 components are sited to avoid direct impacts to wetlands and waterways.

33 [Final Order on Amendment 2]
34
35

7.0. PUBLIC HEALTH AND SAFETY

- 7.1. The certificate holder shall construct turbine towers with no exterior ladders or access to the turbine blades and shall install locked tower access doors. The certificate holder shall keep tower access doors locked at all times, except when authorized personnel are present.
[Final Order IV.K.2.1]
- 7.2. For turbine types having pad-mounted step-up transformers, the certificate holder shall install the transformers at the base of each tower in locked cabinets designed to protect the public from electrical hazards and to avoid creation of artificial habitat for raptor prey.
[Final Order IV.K.2.2]
- 7.3. To protect the public from electrical hazards, the certificate holder shall enclose the facility substation with appropriate fencing and locked gates.
[Final Order IV.K.2.3]
- 7.4. The certificate holder shall follow manufacturers' recommended handling instructions and procedures to prevent damage to turbine or turbine tower components that could lead to failure.
[Final Order IV.K.2.5]
- 7.5. The certificate holder shall have an operational safety-monitoring program and shall inspect all turbine and turbine tower components on a regular basis. The certificate holder shall maintain or repair turbine and turbine tower components as necessary to protect public safety.
[Final Order IV.K.2.6]
- 7.6. The certificate holder shall install and maintain self-monitoring devices on each turbine, linked to sensors at the operations and maintenance building, to alert operators to potentially dangerous conditions, and the certificate holder shall immediately remedy any dangerous conditions. The certificate holder shall maintain automatic equipment protection features in each turbine that would shut down the turbine and reduce the chance of a mechanical problem causing a fire.
[Final Order IV.K.2.7]

- 1 7.7. The certificate holder shall notify the Department of Energy and Wasco County within
2 72 hours of any occurrence involving the facility if:
3 a. There is an attempt by anyone to interfere with its safe operation;
4 b. A natural event such as an earthquake, flood, tsunami or tornado, or a human- caused
5 event such as a fire or explosion affects or threatens to affect the public health and
6 safety or the environment;
7 c. There is a mechanical failure or accident on the site associated with construction or
8 operation of the facility that may result in public health and safety concerns; or
9 d. There is any fatal injury at the facility.
10 [Final Order IV.K.2.8 and OAR 345-026-017]
11
- 12 7.8. During operation, the certificate holder shall discharge sanitary wastewater generated at
13 the Operations and Maintenance building to a licensed on-site septic system in
14 compliance with State of Oregon permit requirements. The certificate holder shall
15 design the septic systems for a discharge capacity of less than 5,000 gallons per day.
16 [Final Order V.C.2.2]
17
- 18 7.9. The certificate holder shall take reasonable steps to reduce or manage human exposure
19 to electromagnetic fields, including but not limited to:
20 a. Constructing all aboveground transmission lines at least 200 feet from any residence
21 or other occupied structure, measured from the centerline of the transmission line.
22 b. Constructing all aboveground 34.5-kV transmission lines with a minimum clearance
23 of 20 feet from the ground.
24 c. Constructing all aboveground 230-kV transmission lines with a minimum clearance
25 of 25 feet from the ground
26 d. Providing to landowners a map of underground and overhead transmission lines on
27 their property and advising landowners of possible health risks from electric and
28 magnetic fields.
29 e. Designing and maintaining all transmission lines so that alternating current electric
30 fields do not exceed 9-kV per meter at one meter above the ground surface in areas
31 accessible to the public.
32 f. Designing and maintaining all transmission lines so that induced voltages during
33 operation are as low as reasonably achievable.
34 [Final Order VI.D.2.2]
35
- 36 7.10. The certificate holder must develop and implement a program that provides reasonable
37 assurance that all fences, gates, cattle guards, trailers, or other objects or structures of a
38 permanent nature that could become inadvertently charged with electricity are grounded
39 or bonded throughout the life of the line.
40 [Final Order IV.M.2.2] [Site Specific Condition OAR 345-027-0023(4)]
41
- 42 7.11. A current copy of the electrical protection plan developed in compliance with Condition
43 7.10 must be available at the O&M building and provided upon request by ODOE staff.
44 [Final Order IV.M.2.3]
45
46

1 7.12 Prior to construction, the certificate holder shall schedule a time to brief the OPUC
2 Safety, Reliability, and Security Division (Safety) Staff as to how it will comply with
3 OAR Chapter 860, Division 024 during design, construction, operations, and
4 maintenance of the facilities.

5 [Final Order on Amendment 2]
6

7 7.13 During operation, the certificate holder shall:

8 a. Update the OPUC Safety Staff as to how the operator will comply with OAR Chapter
9 860, Division 024 on an ongoing basis considering future operations, maintenance,
10 emergency response, and alterations until facility retirement.

11 b. File the following required information with the Commission:

12 i. Each person who is subject to the Public Utility Commission's authority
13 under ORS 757.035 and who engages in the operation of an electric power
14 line as described in ORS 757.035 must provide the commission with the
15 following information before January 2 of each even-numbered year:

16 a. The name and contact information of the person that is responsible for
17 the operation and maintenance of the electric power line, and for
18 ensuring that the electric power line is safe, on an ongoing basis; and

19 b. The name and contact information of the person who is responsible for
20 responding to conditions that present an imminent threat to the safety
21 of employees, customers and the public.

22 ii. In the event that the contact information described in subsection (a) of this
23 condition changes or that ownership of the electric power line changes, the
24 person who engages in the operation of the electric power line must notify the
25 commission of the change as soon as practicable, but no later than within 90
26 days.

27 iii. If the person described in subsection (a) of this condition is not the public
28 utility, as defined in ORS 757.005, in whose service territory the electric
29 power line is located, the commission shall make the information provided to
30 the commission under subsection (1) of this section available to the public
31 utility in whose service territory the electric power line is located. [2013
32 c.235 §3]

33 c. Provide OPUC Safety Staff with:

34 i. Maps and Drawings of routes and installation of electrical supply lines
35 showing:

- 36 • Transmission lines and structures (over 50,000 Volts)
- 37 • Distribution lines and structures - differentiating underground and
- 38 overhead lines (over 600 Volts to 50,000 Volts)
- 39 • Substations, roads and highways

40 ii. Plan and profile drawings of the transmission lines (and name and contact
41 information of responsible professional engineer).

42 [Final Order on Amendment 2]
43
44
45

8.0. ON-SITE SAFETY AND SECURITY

8.1. During construction and operation of the facility, the certificate holder shall provide for on-site security and shall establish good communications between on-site security personnel and the Wasco County Sheriff's Office. During operation, the certificate holder shall ensure that appropriate law enforcement agency personnel have an up-to-date list of the names and telephone numbers of facility personnel available to respond on a 24-hour basis in case of an emergency on the facility site.
[Final Order V.C.2.3]

8.2. Prior to construction, the certificate holder shall require that all on-site construction contractors develop a site health and safety plan to be implemented during facility construction that informs workers and others on-site about first aid techniques and what to do in case of an emergency and that includes important telephone numbers and the locations of on-site fire extinguishers and nearby hospitals. The certificate holder shall ensure that construction contractors have personnel on-site who are trained and equipped for tower rescue and who are first aid and CPR certified.
[Final Order on Amendment 2]

8.3. Prior to commencing operation, the certificate holder shall develop a site health and safety plan to be implemented during facility operation that informs employees and others on-site about first aid techniques and what to do in case of an emergency and that includes important telephone numbers and the locations of on-site fire extinguishers and nearby hospitals. The certificate holder shall ensure that operations personnel are trained and equipped for tower rescue. The facility must maintain training records and have a current copy of the site health and safety plan on-site and available upon request by the Department of Energy.
[Final Order on Amendment 2]

8.4. Prior to construction, the certificate holder shall develop fire safety plans in consultation with the Columbia Rural Fire District to minimize the risk of fire and to respond appropriately to any fires that occur on the facility site. The plans shall be maintained onsite and implemented throughout construction and operation of the facility. In developing the fire safety plans, the certificate holder shall take into account the dry nature of the region and shall address risks on a seasonal basis. The certificate holder shall meet annually with local fire protection agency personnel to discuss emergency planning and shall invite local fire protection agency personnel to observe any emergency drill or tower rescue training conducted at the facility.
[Final Order on Amendment 2]

- 1 8.5. Upon the beginning of operation of the facility, the certificate holder shall provide a site
2 plan to the Columbia Rural Fire District. The certificate holder shall indicate on the site
3 plan the identification number assigned to each turbine and the actual location of all
4 facility structures. The certificate holder shall provide an updated site plan if additional
5 turbines or other structures are later added to the facility. During operation, the
6 certificate holder shall ensure that appropriate fire protection agency personnel have an
7 up-to-date list of the names and telephone numbers of facility personnel available to
8 respond on a 24-hour basis in case of an emergency on the facility site.
9 [Final Order V.C.2.7]
- 10
11 8.6. The certificate holder shall construct turbines and pad-mounted transformers on
12 concrete foundations and shall cover the ground within a 15-foot radius with non-
13 flammable material. The certificate holder shall maintain the non-flammable pad area
14 covering during operation of the facility.
15 [Final Order V.C.2.8]
- 16
17 8.7. During construction and operation of the facility, the certificate holder shall ensure that
18 the O&M building and all service vehicles are equipped with shovels and portable fire
19 extinguishers of a 4A50BC or equivalent rating.
20 [Final Order V.C.2.9]
- 21
22 8.8. During construction, the certificate holder shall ensure that construction vehicles and
23 equipment are operated on graveled areas to the extent possible and that open flames,
24 such as cutting torches, are kept away from dry grass areas.
25 [Final Order V.C.2.10]
- 26
27 8.9. During operation, the certificate holder shall ensure that all on-site employees receive
28 annual fire prevention and response training by qualified instructors or members of the
29 local fire districts. The certificate holder shall ensure that all employees are instructed to
30 keep vehicles on roads and off dry grassland, except when off-road operation is
31 required for emergency purposes.
32 [Final Order V.C.2.11]
- 33
34

9.0. PROTECTION OF SOIL

- 9.1. The certificate holder shall conduct all construction work in compliance with an Erosion and Sediment Control Plan (ESCP) satisfactory to the Oregon Department of Environmental Quality and as required under the National Pollutant Discharge Elimination System (NPDES) Storm Water Discharge General Permit #1200-C. The certificate holder shall include in the ESCP any procedures necessary to meet local erosion and sediment control requirements or storm water management requirement. [Final Order IV.C.2.1]
- 9.2. During construction, the certificate holder shall limit truck traffic to improved road surfaces to avoid soil compaction and wind erosion on dirt roads, to the extent practicable. [Final Order IV.C.2.2]
- 9.3. During construction, the certificate holder shall implement best management practices to control any dust generated by construction activities, such as applying water to roads and disturbed soil areas. [Final Order IV.C.2.3]
- 9.4. The certificate holder shall handle hazardous materials used on the site in a manner that protects public health, safety and the environment and shall comply with all applicable local, state and federal environmental laws and regulations. The certificate holder shall not store diesel fuel or gasoline on the facility site. [Final Order IV.C.2.4]
- 9.5. If a spill or release of hazardous material occurs during construction or operation of the facility, the certificate holder shall notify the Department within 72 hours and shall clean up the spill or release and dispose of any contaminated soil or other materials according to applicable regulations. The certificate holder shall make sure that spill kits containing items such as absorbent pads are located on equipment and at the O&M building. The certificate holder shall instruct employees about proper handling, storage and cleanup of hazardous materials. [Final Order IV.C.2.5]
- 9.6. Upon completion of construction, the certificate holder shall restore vegetation to the extent practicable and shall landscape all areas disturbed by construction in a manner compatible with the surroundings and proposed use and in compliance with the Revegetation and Weed Control Plan (Exhibit 1 to the Final Order). Upon completion of construction, the certificate holder shall remove all temporary structures not required for facility operation and dispose of all timber, brush, refuse and flammable or combustible material resulting from clearing of land and construction of the facility. [Final Order IV.C.2.6] [Mandatory Condition OAR 345-027-0020(11)]

1 9.7. During operation of the facility, the certificate holder shall restore areas that are
2 temporarily disturbed during facility maintenance or repair activities using the same
3 methods and monitoring procedures described in the Revegetation and Weed Control
4 Plan.
5 [Final Order IV.C.2.7]
6

7 9.8. During facility operation, the certificate holder shall routinely inspect and maintain all
8 transmission line corridors, roads, pads and trenched areas and, as necessary, maintain
9 or repair erosion and sediment control measures and control the introduction and spread
10 of noxious weeds.
11 [Final Order IV.C.2.8]
12
13

1 **10.0. PROTECTION OF NATURAL RESOURCES**

2
3 10.1. Before beginning construction, the certificate holder shall provide to the Department, to
4 the Oregon Department of Fish and Wildlife (ODFW) and to the Planning Director of
5 Wasco County detailed maps of the facility site, showing the final locations where the
6 certificate holder proposes to build facility components, and a table showing the acres
7 of temporary habitat impact by habitat category and subtype and the acres of permanent
8 habitat impact by habitat category and subtype. The detailed maps of the facility site
9 shall indicate the habitat categories of all areas that would be affected during
10 construction. In classifying the affected habitat into habitat categories, the certificate
11 holder shall consult with ODFW. The certificate holder shall not begin ground
12 disturbance in an affected area until the habitat assessment has been approved by the
13 Department. The Department may employ a qualified contractor to confirm the habitat
14 assessment by on-site inspection.
15 [Final Order IV.G.2.1]

16
17 10.2. The certificate holder shall incorporate the design elements listed below into the final
18 facility design to avoid or mitigate impacts to sensitive wildlife habitat:
19 a. Where practicable, facility components and construction areas shall be located to
20 avoid or minimize temporary and permanent impacts to high quality native habitat
21 and to retain habitat cover in the general landscape.
22 b. No facility components may be constructed within areas of Category 1 habitat and
23 temporary disturbance of Category 1 habitat shall be avoided.
24 c. The design of the facility and areas of temporary and permanent disturbance shall
25 avoid impacts to any Category 1 habitat, to any State-listed threatened or endangered
26 plant or wildlife species, and to any State Candidate plant species.
27 [Final Order IV.G.2.2]

28
29 10.3. The certificate holder shall implement measures to avoid or mitigate impacts to
30 sensitive wildlife habitat during construction including, but not limited to, the
31 following:
32 a. Preparing and distributing maps to employees and contractors to show areas that are
33 off-limits to construction personnel, such as nesting or denning areas for sensitive
34 wildlife species;
35 b. Avoiding unnecessary road construction, temporary disturbance and vehicle use;
36 c. Limiting construction work to approved and surveyed areas shown on facility
37 constraint maps; and
38 d. Ensuring that all construction personnel are instructed to avoid driving cross- country
39 or taking short-cuts within the site boundary or otherwise disturbing areas outside of
40 the approved and surveyed construction areas.
41 [Final Order IV.G.2.3]

- 10.4. Prior to construction, the certificate holder shall:
- a. Select qualified specialists (wildlife biologist/botanist) that have substantial experience in creating, enhancing, and protecting habitat mitigation areas within Oregon;
 - b. Notify the Department of the identity and qualifications of the personnel or contractors selected to implement and manage the habitat mitigation area;
 - c. Acquire the legal right to create, enhance, maintain and protect a habitat mitigation area, as long as the site certificate is in effect, by means of an outright purchase, conservation easement or similar conveyance;
 - d. Develop and submit a final Habitat Mitigation Plan (HMP) for approval by the Department in consultation with ODFW, based upon the draft amended HMP included as Attachment G of the Final Order on Amendment #2. The Council retains the authority to approve, reject or modify the final HMP and any future amendments; and,
 - e. Improve the habitat quality, within the habitat mitigation area, as described in the final HMP, and as amended from time to time.
- [Final Order on Amendment 2]
- 10.5. Prior to construction, the certificate holder shall finalize the Wildlife Monitoring and Mitigation Plan (WMMP), based on the draft WMMP included as Attachment F of the *Final Order on Amendment #2*, as approved by the Department in consultation with ODFW. The certificate holder shall conduct wildlife monitoring as described in the final WMMP, as amended from time to time. The final WMMP shall specify that the first long-term raptor nest survey will be conducted in the first raptor nesting season that is at least 5 years after the completion of construction and is in a year that is divisible by five (i.e., 2020, 2025, 2030); the certificate holder shall repeat the survey at 5-year intervals thereafter.
- [Final Order on Amendment 2]
- 10.6. The certificate holder shall hire a qualified environmental professional to provide environmental training during construction and operation. Environmental training includes information on the sensitive species present onsite, precautions to avoid injuring or destroying wildlife or sensitive wildlife habitat, exclusion areas, permit requirements and other environmental issues. The certificate holder shall instruct construction and operations personnel to report any injured or dead wildlife detected while on the site to the appropriate onsite environmental manager.
- [Final Order IV.G.2.6]

10.7. Before beginning construction and after considering all micro-siting factors, the certificate holder shall provide to the Department a map showing the final design locations of all components of the facility and the areas that would be disturbed during construction and identifying the survey areas for all plant and wildlife surveys. This information may be combined with the map submitted per the requirements of Condition 10.1. The certificate holder shall hire a qualified professional biologist to conduct a pre-construction plant and wildlife investigation of all areas that would be disturbed during construction that lie outside of the previously surveyed areas. The pre-construction survey shall be planned in consultation with the Department and ODFW, and survey protocols shall be confirmed with the Department and ODFW. Following completion of the field survey, and final layout design and engineering, the certificate holder shall provide the Department and ODFW a report containing the results of the survey, showing expected final location of all facility components, the habitat categories of all areas that will be affected by facility components, and the locations of any sensitive resources. The report shall present in tabular format the acres of expected temporary and permanent impacts to each habitat category, type, and sub-type. The pre-construction survey shall be used to complete final design, facility layout, and micro-siting of facility components. As part of the report, the certificate holder shall include its impact assessment methodology and calculations, including assumed temporary and permanent impact acreage for each transmission structure, wind turbine, access road, and all other facility components. If construction laydown yards are to be retained post construction, due to a landowner request or otherwise, the construction laydown yards must be calculated as permanent impacts, not temporary.

[Final Order on Amendment 2]

- 10.8. The certificate holder shall reduce the risk of injuries to avian species by:
- a. Installing turbine towers that are smooth steel structures that lack features that would allow avian perching.
 - b. Installing meteorological towers that are non-guyed structures to eliminate the risk of avian collision with guy-wires.
 - c. Designing and installing all aboveground transmission line support structures following the most current suggested practices for avian protection on power lines published by the Avian Power Line Interaction Committee.

[Final Order IV.H.2.1]

- 10.9. During facility operation, the certificate holder shall obtain water for on-site uses from an on-site well located near the O&M building. The certificate holder shall construct the on-site well subject to compliance with the provisions of ORS 537.765 relating to keeping a well log. The certificate holder shall not use more than 5,000 gallons of water per day from the on-site well. The certificate holder may use other sources of water for on-site uses subject to prior approval by the Department.

[Final Order VI.C.2.1]

1 10.10. During facility operation, if equipment washing becomes necessary, the certificate
2 holder shall ensure that there is no runoff of wash water from the site or discharges to
3 surface waters, storm sewers or dry wells. The certificate holder shall not use acids,
4 bases or metal brighteners with the wash water. The certificate holder may use
5 biodegradable, phosphate-free cleaners sparingly.
6 [Final Order VI.C.2.2]
7

8 10.11. The certificate holder shall implement a waste management plan during operation that
9 includes but is not limited to the following measures:
10 a. Training employees to minimize and recycle solid waste.
11 b. Recycling paper products, metals, glass and plastics.
12 c. Recycling used oil and hydraulic fluid.
13 d. Collecting non-recyclable waste for transport to a local landfill by a licensed waste
14 hauler.
15 e. Segregating all hazardous, non-recyclable wastes such as used oil, oily rags and oil-
16 absorbent materials, mercury-containing lights and lead-acid and nickel- cadmium
17 batteries for disposal by a licensed firm specializing in the proper recycling or
18 disposal of hazardous wastes.
19 [Final Order V.D.2.2]
20

21 10.12 The certificate holder shall not conduct any construction activities on land mapped as
22 Big Game Winter Range by the Oregon Department of Fish and Wildlife between
23 December 1 and April 15.
24 [Amended Final Order on Amendment 1 IV.G.2.2]
25

26 10.13. Prior to the beginning of construction of the facility the certificate holder shall perform
27 new field surveys for threatened and endangered species following the survey protocol
28 set forth in the Northwest Wildlife Consultants Memorandum regarding Endangered
29 and Threatened Plant Species and Raptor Nest Surveys dated October 17, 2014. The
30 certificate holder shall report the results of the field surveys to the Department, ODA
31 and ODFW. If the surveys identify the presence of threatened or endangered species
32 within the survey area, the certificate holder shall implement appropriate measures to
33 avoid a significant reduction in the likelihood of survival or recovery of the species, as
34 approved by the Department, in consultation with ODA and ODFW.
35 [Amended Final Order on Amendment 1 IV.H.2.2]
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10.14. The certificate holder shall conduct two (2) seasons of raptor nest surveys with at least one (1) season of the surveys occurring prior to the beginning of construction. The raptor nest surveys shall be conducted following the instructions set forth in the Raptor Nest Survey Protocol for Summit Ridge Wind Farm included as Attachment B to the First Amended Site Certificate. The certificate holder shall report the results of the field surveys to the Department and ODFW. If the surveys identify the presence of raptor nests within the survey area, the certificate holder shall implement appropriate measures to assure that the design, construction and operation of the facility are consistent with the fish and wildlife habitat mitigation goals and standards of OAR 635-415-0025, as approved by the Department, in consultation with ODFW.
[Amended Final Order on Amendment 1 IV.G.2.8]

10.15. During construction the certificate holder shall observe the raptor nest avoidance guidelines shown in the following table around known raptor nests in the vicinity of ground-disturbing construction activities, unless the nest fledges young, the nest fails (i.e., is abandoned), or the Department in consultation with ODFW approves an alternative plan.

Species	Disturbance Buffer	Nesting Season – Avoidance Period
Golden eagle	0.25 mile	Feb 1 - Aug 31
Red-tailed hawk	500 feet	Mar 1 - Aug 31
Ferruginous hawk	0.25 mile	Mar 15 - Aug 15
Swainson’s hawk	0.25 mile	April 1 - Aug 15
Prairie Falcon	0.25 mile	Jan 1 - Jul 31
American peregrine falcon	0.5 mile	Mar 15 - Jul 15
American kestrel	0.25 mile	Mar 1 - Jul 31

[Final Order on Amendment 2]

1 **11.0. PROTECTION OF HISTORIC, CULTURAL AND ARCHAEOLOGICAL**
2 **RESOURCES**
3

4 11.1. Before beginning construction, the certificate holder shall label all identified historic,
5 cultural or archaeological resource sites on construction maps and drawings as “no
6 entry” areas. The applicant shall implement a 200 foot buffer for all rock alignment and
7 cairn sites, and shall implement a 100 foot buffer for all other archaeological sites. The
8 certificate holder may use existing private roads within the buffer areas but may not
9 widen or improve private roads within the buffer areas. The no-entry restriction does
10 not apply to public road rights-of-way within the buffer areas.
11 [Final Order Section V.B.2.1]
12

13 11.2. Before beginning construction, the certificate holder shall provide to the Department a
14 map showing the final design locations of all components of the facility, the areas that
15 would be temporarily disturbed during construction and the areas that were previously
16 surveyed as described in the Application for Site Certificate.
17 [Final Order V.B.2.2]
18

19 11.3. The certificate holder shall hire qualified personnel to conduct field investigation of all
20 areas to be disturbed during construction that lie outside the previously-surveyed areas.
21 The certificate holder shall provide a written report of the field investigation to the
22 Department and to the Oregon State Historic Preservation Office (SHPO). If any
23 potentially significant historic, cultural or archaeological resource sites are found during
24 the field investigation, the certificate holder shall instruct all construction personnel to
25 avoid the identified sites and shall implement appropriate measures to protect the sites,
26 including the measures described in Condition 11.5 and in accordance with the
27 Archaeological Monitoring Plan required per Condition 11.6.
28 [Final Order V.B.2.3]
29

30 11.4. The certificate holder shall ensure that a qualified archaeologist, as defined in OAR
31 736-051-0070, instructs construction personnel in the identification of cultural materials
32 and avoidance of accidental damage to identified resource sites. Records of such
33 training shall be maintained at the Operations and Maintenance Building and made
34 available to authorized representatives of the Oregon Department of Energy upon
35 request.
36 [Final Order V.B.2.4]
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- 1 11.5. The certificate holder shall ensure that construction personnel cease all ground-
2 disturbing activities in the immediate area if any archaeological or cultural resources are
3 found during construction of the facility until a qualified archeologist can evaluate the
4 significance of the find. The certificate holder shall notify the Department and SHPO
5 of the find. If the SHPO determines that the resource is significant, the certificate
6 holder shall make recommendations to the Council for mitigation, including avoidance,
7 field documentation and data recovery, in consultation with the Department, SHPO,
8 interested tribes and other appropriate parties. The certificate holder shall not restart
9 work in the affected area until the certificate holder has demonstrated to the Department
10 and the SHPO that it has complied with archaeological resource protection regulations.
11 [Final Order V.B.2.5]
12
- 13 11.6. The certificate holder shall prepare and implement an Archaeological Monitoring Plan
14 for construction and maintenance activities to address and mitigate impacts from
15 exposure of unanticipated or previously unidentified cultural properties that may be
16 exposed during construction or operation of the facility. A current copy of the plan
17 must be maintained at the Operations and Maintenance Building and made available to
18 authorized representatives of the Oregon Department of Energy upon request.
19 [Final Order V.B.2.6]
20

12.0. NOISE CONTROL AND NOISE COMPLAINT RESPONSE

- 12.1. To reduce construction noise impacts at nearby residences, the certificate holder shall:
- a. Confine the noisiest operation of heavy construction equipment to the daylight hours.
 - b. Require contractors to install and maintain exhaust mufflers on all combustion engine-powered equipment; and
 - c. Establish a complaint response system at the construction manager's office to address noise complaints. Records of noise complaints during construction must be made available to authorized representatives of the Department of Energy upon request.

[Final Order VI.A.2.1]

- 12.2. Before beginning construction, the certificate holder shall provide to the Department:
- a. Information that identifies the final design locations of all turbines to be built at the facility;
 - b. The maximum sound power level for the substation transformers and the maximum sound power level and octave band data for the turbine type(s) selected for the facility based on manufacturers' warranties or confirmed by other means acceptable to the Department;
 - c. The results of the noise analysis of the final facility design performed in a manner consistent with the requirements of OAR 340-035-0035(1)(b)(B)(iii)(IV) and (VI). The analysis must demonstrate to the satisfaction of the Department that the total noise generated by the facility (including the noise from turbines and substation transformers) will not exceed the maximum allowable noise level at any potentially-affected noise receptor. The analysis must also demonstrate that the facility would meet the ambient degradation test at the appropriate measurement point for potentially-affected noise sensitive properties, or that the certificate holder has obtained the noise waiver described in Condition 12.2.d for each noise-sensitive property where the ambient degradation standard cannot be met.
 - d. For each noise-sensitive property where the certificate holder relies on a noise waiver to demonstrate compliance with OAR 340-035-0035(1)(b)(B)(iii)(III), a copy of the a legally effective easement or real covenant pursuant to which the owner of the property authorizes the certificate holder's operation of the facility to increase ambient statistical noise levels L10 and L50 by more than 10 dBA at the appropriate measurement point. The legally-effective easement or real covenant must meet all of the following criteria:
 - i. Include a legal description of the burdened property (the noise sensitive property);
 - ii. Be recorded in the real property records of the county;
 - iii. Expressly benefit the certificate holder;
 - iv. Expressly run with the land and bind all future owners, lessees or holders of any interest in the burdened property; and
 - v. Not be subject to revocation without the certificate holder's written approval.

[Final Order VI.A.2.2]

1 12.3. During operation, the certificate holder shall maintain a complaint response system to
2 address noise complaints. The certificate holder shall notify the Department within 15
3 days of receiving a complaint about noise from the facility. The notification should
4 include, but is not limited to, the date the complaint was received, the nature of the
5 complaint, the complainant's contact information, the location of the affected property,
6 and any actions taken, or planned to be taken, by the certificate holder to address the
7 complaint.

8 [Final Order VI.A.2.3]
9

10 12.4. Upon written notification from the Department, the certificate holder will monitor and
11 record the actual statistical noise levels during operations to verify that the certificate
12 holder is operating the facility in compliance with the noise control regulations. The
13 monitoring plan must be reviewed and approved by the Department prior to
14 implementation. The cost of such monitoring, if required, will be borne by the
15 certificate holder.

16 [Final Order VI.A.2.4]
17

13.0. MONITORING AND REPORTING REQUIREMENTS - GENERAL

13.1. In addition to monitoring and reporting requirements elsewhere in this Site Certificate, the certificate holder shall also report according to the following requirements:

a. General reporting obligation for energy facilities under construction or operating:

- i. Within six months after beginning construction, and every six months thereafter during construction of the energy facility and related or supporting facilities, the certificate holder shall submit a semiannual construction progress report to the Department of Energy. In each construction progress report, the certificate holder shall describe any significant changes to major milestones for construction. The certificate holder shall include such information related to construction as specified in the site certificate. When the reporting date coincides, the certificate holder may include the construction progress report within the annual report described in Condition 13.1.b.
- ii. By April 30 of each year after beginning construction, the certificate holder shall submit an annual report to the Department addressing the subjects listed in Condition 13.1.b. The Council Secretary and the certificate holder may, by mutual agreement, change the reporting date.
- iii. To the extent that information required by Condition 13.1.b is contained in reports the certificate holder submits to other state, federal or local agencies, the certificate holder may submit excerpts from such other reports to satisfy this rule. The Council reserves the right to request full copies of such excerpted reports.

[Final Order VII.4.a] [OAR 345-026-0080(1)]

b. In the annual report, the certificate holder shall include the following information for the calendar year preceding the date of the report:

- i. Facility Status: An overview of site conditions, the status of facilities under construction, and a summary of the operating experience of facilities that are in operation. In this section of the annual report, the certificate holder shall describe any unusual events, such as earthquakes, extraordinary windstorms, major accidents or the like that occurred during the year and that had a significant adverse impact on the facility.
- ii. Reliability and Efficiency of Power Production: For electric power plants, the plant availability and capacity factors for the reporting year. The certificate holder shall describe any equipment failures or plant breakdowns that had a significant impact on those factors and shall describe any actions taken to prevent the recurrence of such problems.
- iii. Status of Surety Information: Documentation demonstrating that bonds or letters of credit as described in the site certificate are in full force and effect and will remain in full force and effect for the term of the next reporting period.
- iv. Monitoring Report: A list and description of all significant monitoring and mitigation activities performed during the previous year in accordance with site certificate terms and conditions, a summary of the results of those activities and a discussion of any significant changes to any monitoring or

- mitigation program, including the reason for any such changes.
- v. Compliance Report: A description of all instances of noncompliance with a site certificate condition. For ease of review, the certificate holder shall, in this section of the report, use numbered subparagraphs corresponding to the applicable sections of the site certificate.
- vi. Facility Modification Report: A summary of changes to the facility that the certificate holder has determined do not require a site certificate amendment in accordance with OAR 345-027-0050.

[Final Order VII.4.b] [OAR 345-026-0080(b)]

- 13.2. The certificate holder and the Department of Energy shall exchange copies of all correspondence or summaries of correspondence related to compliance with statutes, rules and local ordinances on which the Council determined compliance, except for material withheld from public disclosure under state or federal law or under Council rules. The certificate holder may submit abstracts of reports in place of full reports; however, the certificate holder shall provide full copies of abstracted reports and any summarized correspondence at the request of the Department.

[Final Order VII.5] [OAR 345-026-0105]

- 13.3. The following general monitoring conditions apply:
- The certificate holder shall consult with affected state agencies, local governments and tribes and shall develop specific monitoring programs for impacts to resources protected by the standards of Divisions 22 and 24 of OAR Chapter 345 and resources addressed by applicable statutes, administrative rules and local ordinances. The certificate holder must submit the monitoring programs to the Department of Energy and receive Department approval before beginning construction or, as appropriate, operation of the facility.
 - The certificate holder shall implement the approved monitoring programs described in Condition 13.3.a and monitoring programs required by permitting agencies and local governments.
 - For each monitoring program described in Conditions 13.3.a and 13.3.b, the certificate holder shall have quality assurance measures approved by the Department before beginning construction or, as appropriate, before beginning commercial operation.
 - If the certificate holder becomes aware of a significant environmental change or impact attributable to the facility, the certificate holder shall, as soon as possible, submit a written report to the Department describing the impact on the facility and any affected site certificate conditions.

[Final Order VII.2] [Mandatory Condition OAR 345-027-0020(6)]

1 **14.0. RETIREMENT AND FINANCIAL INSURANCE**

2
3 14.1. Before beginning construction, the certificate holder shall submit to the State of Oregon
4 through the Council a bond or letter of credit in the amount described herein naming the
5 State of Oregon, acting by and through the Council, as beneficiary or payee. The initial
6 bond or letter of credit amount is either \$6.965 million (in 3rd Quarter 2010 dollars), to
7 be adjusted to the date of issuance as described in (b), or the amount determined as
8 described in Condition 14.1.a below. The certificate holder shall adjust the amount of
9 the bond or letter of credit on an annual basis thereafter as described in Condition
10 14.1.b.

- 11 a. The certificate holder may adjust the amount of the bond or letter of credit based on
12 the final design configuration of the facility and turbine types selected. Any revision
13 to the restoration costs should be adjusted to the date of issuance as described in
14 Condition 14.1.b, and is subject to review and approval by the Department.
15 b. The certificate holder shall adjust the amount of the bond or letter of credit, using the
16 following calculation and subject to approval by the Department:
17 i. Adjust the Subtotal component of the bond or letter of credit amount
18 (expressed in 3rd Quarter 2010 dollars) to present value, using the U.S. Gross
19 Domestic Product Implicit Price Deflator, Chain-Weight, as published in the
20 Oregon Department of Administrative Services "Oregon Economic and
21 Revenue Forecast" or by any successor agency (the "Index") and using the 3rd
22 Quarter 2010 index value and the quarterly index value for the date of
23 issuance of the new bond or letter of credit. If at any time the Index is no
24 longer published, the Council shall select a comparable calculation to adjust
25 3rd Quarter 2010 dollars to present value.
26 ii. Add 1 percent of the adjusted Subtotal (i) for the adjusted performance bond
27 amount to determine the adjusted Gross Cost.
28 iii. Add 10 percent of the adjusted Gross Cost (ii) for the adjusted administration
29 and project management costs and 10 percent of the adjusted Gross Cost (ii)
30 for the adjusted future developments contingency.
31 iv. Add the adjusted Gross Cost (ii) to the sum of the percentages (iii) and round
32 the resulting total to the nearest \$1,000 to determine the adjusted financial
33 assurance amount.
34 c. The certificate holder shall use a form of bond or letter of credit approved by the
35 Council.
36 d. The certificate holder shall use an issuer of the bond or letter of credit approved by
37 the Council.
38 e. The certificate holder shall describe the status of the bond or letter of credit in the
39 annual report submitted to the Council required by Condition 13.1.b.
40 f. The bond or letter of credit shall not be subject to revocation or reduction before
41 retirement of the facility site.

42 [Final Order IV.F.2.1] [Mandatory Condition OAR 345-027-0020(8)]
43
44
45
46

- 1 14.2. If the certificate holder elects to use a bond to meet the requirements of Condition 14.1,
2 the certificate holder shall ensure that the surety is obligated to comply with the
3 requirements of applicable statutes, Council rules and this site certificate when the
4 surety exercises any legal or contractual right it may have to assume construction,
5 operation or retirement of the energy facility. The certificate holder shall also ensure
6 that the surety is obligated to notify the Council that it is exercising such rights and to
7 obtain any Council approvals required by applicable statutes, Council rules and this site
8 certificate before the surety commences any activity to complete construction, operate
9 or retire the energy facility.
10 [Final Order IV.F.2.2]
11
- 12 14.3. The certificate holder shall prevent the development of any conditions on the site that
13 would preclude restoration of the site to a useful, non-hazardous condition to the extent
14 that prevention of such site conditions is within the control of the certificate holder.
15 [Final Order IV.F.2.3] [Mandatory Condition OAR 345-027-0020(7)]
16
- 17 14.4. The certificate holder must retire the facility in accordance with a retirement plan
18 approved by the Council if the certificate holder permanently ceases construction or
19 operation of the facility. The retirement plan must describe the activities necessary to
20 restore the site to a useful, non-hazardous condition, as described in OAR 345-027-
21 0110(5). After Council approval of the plan, the certificate holder must obtain the
22 necessary authorization from the appropriate regulatory agencies to proceed with
23 restoration of the site.
24 [Final Order IV.F.2.4] [Mandatory Condition OAR 345-027-0020(9)]
25
- 26 14.5. The certificate holder is obligated to retire the facility upon permanent cessation of
27 construction or operation. If the Council finds that the certificate holder has
28 permanently ceased construction or operation of the facility without retiring the facility
29 according to a final retirement plan approved by the Council, as described in OAR 345-
30 027-0110, the Council shall notify the certificate holder and request that the certificate
31 holder submit a proposed final retirement plan to the Department within a reasonable
32 time not to exceed 90 days. If the certificate holder does not submit a proposed final
33 retirement plan by the specified date, the Council may direct the Department to prepare
34 a proposed final retirement plan for the Council's approval.
35 [Final Order IV.F.2.5] [Mandatory Condition OAR 345-027-0020(16)]
36
- 37 14.6. Upon the Council's approval of the final retirement plan, the Council may draw on the
38 bond or letter of credit submitted per the requirements of Condition 6.1 to restore the
39 site to a useful, non-hazardous condition according to the final retirement plan, in
40 addition to any penalties the Council may impose under OAR Chapter 345, Division 29.
41 If the amount of the bond or letter of credit is insufficient to pay the actual cost of
42 retirement, the certificate holder shall pay any additional cost necessary to restore the
43 site to a useful, non-hazardous condition. After completion of site restoration, the
44 Council shall issue an order to terminate the site certificate if the Council finds that the
45 facility has been retired according to the approved final retirement plan.
46 [Final Order IV.F.2.6] [Mandatory Condition OAR 345-027-0020(16)]

1
2 14.7. Following receipt of the site certificate or an amended site certificate, the certificate
3 holder shall implement a plan that verifies compliance with all site certificate terms and
4 conditions and applicable statutes and rules. As a part of the compliance plan, to verify
5 compliance with the requirement to begin construction by the date specified in the site
6 certificate, the certificate holder shall report promptly to the Department of Energy
7 when construction begins. Construction is defined in OAR 345-001-0010. In reporting
8 the beginning of construction, the certificate holder shall describe all work on the site
9 performed before beginning construction, including work performed before the Council
10 issued the site certificate, and shall state the cost of that work. For the purpose of this
11 exhibit, “work on the site” means any work within a site or corridor, other than
12 surveying, exploration or other activities to define or characterize the site or corridor.
13 The certificate holder shall document the compliance plan and maintain it for inspection
14 by the Department or the Council.
15 [Final Order VII.3] [OAR 345-026-0048]
16
17

1 **15.0. SUCCESSORS AND ASSIGNS**

2
3 To transfer this site certificate or any portion thereof or to assign or dispose of it in any other
4 manner, directly or indirectly, the certificate holder shall comply with OAR 345-027-0100.
5

6 **16.0. SEVERABILITY AND CONSTRUCTION**

7
8 If any provision of this agreement and certificate is declared by a court to be illegal or in conflict
9 with any law, the validity of the remaining terms and conditions shall not be affected, and the
10 rights and obligations of the parties shall be construed and enforced as if the agreement and
11 certificate did not contain the particular provision held to be invalid.
12

13 **17.0. GOVERNING LAW AND FORUM**

14
15 This site certificate shall be governed by the laws of the State of Oregon. Any litigation or
16 arbitration arising out of this agreement shall be conducted in an appropriate forum in Oregon.
17

18 **18.0. EXECUTION**

19
20 This site certificate may be executed in counterparts and will become effective upon signature by
21 the Chair of the Energy Facility Siting Council and the authorized representative of the certificate
22 holder.
23

24 **IN WITNESS THEREOF**, this site certificate has been executed by the State of Oregon, acting
25 by and through its Energy Facility Siting Council, and by Summit Ridge Wind, LLC.
26

27 ENERGY FACILITY SITING COUNCIL

Summit Ridge Wind, LLC

28
29
30 By: 

31 Barry Beyeler, Chair
32 Oregon Energy Facility Siting Council
33

By: 

Print: STEVEN A. OSSOWSKI, JR.

34 Date: 11/4/2016

Date: 11/04/16

Attachment B: Reviewing Agency Comment Summary Table

*Presents index of comments received during comment period for RFA#2

Attachment B: Reviewing Agency Comment Summary Table

Summit Ridge Wind Farm Request for Amendment #2 – Comment Summary Table					
Date Comment Received	Unique Record ID	Commenter Identification			Proposed Order Section No.
		Last Name	First Name	Organization	
Reviewing Agency Comments					
2/22/16	SRWAMD2Doc8	Hartman	Heidi	Oregon Department of State Lands	III.B.17.b. Removal-Fill
2/22/16	SRWAMD2Doc6	Stevenson	Chris	Oregon Department of State Lands	III.B.17.b. Removal-Fill
2/23/16	SRWAMD2Doc4	Stevenson	Chris	Oregon Department of State Lands	III.B.17.b. Removal-Fill
2/23/16	SRWAMD2Doc2	Caines	Jeff	Oregon Department of Aviation	III.B.16.a. Public Health and Safety Standards for Wind Facilities
2/25/16	SRWAMD2Doc7	Stevenson	Chris	Oregon Department of State Lands	III.B.17.b. Removal-Fill
3/01/16	SRWAMD2Doc9	Hartman	Heidi	Oregon Department of State Lands	III.B.17.b. Removal-Fill
3/03/16	SRWAMD2Doc13	Birkeland	Paul	Oregon Public Utility Commission	III.B.16. Division 24 Standards
3/14/16	SRWAMD2Doc14	Brewer	Angie	Wasco County Planning Department	III.B.6. Land Use
3/30/16	SRWAMD2Doc10	Hartman	Heidi	Oregon Department of State Lands	III.B.17.b. Removal-Fill
4/18/16	SRWAMD2Doc15	Brewer	Angie	Wasco County Planning Department	III.B.6. Land Use
4/21/16	SRWAMD2Doc16	Brewer	Angie	Wasco County Planning Department	III.B.6. Land Use
4/25/16	SRWAMD2Doc17	Howsley-Glover	Kelly	Wasco County Planning Department	III.B.6. Land Use
4/25/16	SRWAMD2Doc20	Thompson	Jeremy	Oregon Department of Fish and Wildlife	III.B.8. Fish and Wildlife Habitat
5/02/16	SRWAMD2Doc22	Thompson	Jeremy	Oregon Department of Fish and Wildlife	III.B.8. Fish and Wildlife Habitat
5/19/16	SRWAMD2Doc5	Stevenson	Chris	Oregon Department of State Lands	III.B.17.b. Removal-Fill
5/31/16	SRWAMD2Doc3	Downing	Andrea	Oregon Department of State Lands	III.B.17.b. Removal-Fill

Summit Ridge Wind Farm Request for Amendment #2 – Comment Summary Table					
6/29/16	SRWAMD2Doc21	Meinke	Robert	Oregon Department of Agriculture	II.C Reviewing Agency and Special Advisory Group Comments
7/06/16	SRWAMD2Doc11	Reif	Sarah	Oregon Department of Fish and Wildlife	III.B.8. Fish and Wildlife Habitat
7/07/16	SRWAMD2Doc18	Howsley-Glover	Kelly	Wasco County Planning Department	III.B.6. Land Use
7/26/16	SRWAMD2Doc19	Howsley-Glover	Kelly	Wasco County Planning Department	III.B.6. Land Use
7/27/16	SRWAMD2Doc12	Reif	Sarah	Oregon Department of Fish and Wildlife	III.B.8. Fish and Wildlife Habitat

Attachment C: Certificate Holder Request for Administrative Adjustment



LotusWorks – Summit Ridge I, LLC

9611 NE 117th Avenue
Suite 2840
Vancouver, WA 98662-2403

360.737.9692

March 22, 2016

Ms. Katie Clifford
Energy Facility Siting Analyst
Oregon Department of Energy
625 Marion Street NE
Salem, OR 97301

Subject: Request for Administrative Adjustment

Reference: LotusWorks-Summit Ridge I, LLC Site Certificate, Amendment #1

Ms. Clifford,

Amendment #1 to the LotusWorks-Summit Ridge I, LLC Site Certificate includes language that incorporates new land use standards into our project. This was the result of Wasco County's 2012 revision of their wind turbine land use ordinances and the incorporation of the updated ordinances into Addendum #1 of our Site Certificate this past August. The revised ordinances increase the setback distances for turbines along County roads to 1.5x the tip height of the turbine. Adhering to the new setback distances results in seventeen of our turbines being outside the current stated set back distances. Of those seventeen turbines, six or seven may be able to be moved within the existing site boundary and still meet the new setback requirement.

It should be noted that these turbines were located to take maximum advantage of the available wind and where placed based on the setback requirements that existed in 2010. Setting the turbines farther off the ridge has a definite negative impact on the amount of electricity each impacted turbine will produce. We readily acknowledge the requirements of changed and have examined the available options to identify the best solution for the project, the landowners and Wasco County.

After evaluating the available alternatives, we believe the best and least impactful solution for all concerned is to apply for an administrative adjustment to establish the setback distance along County roads impacted by our project at 1.1x the maximum height at the installed turbine rotor tip. The 1.1 multiplier would result in a safe and reasonable setback distance and should allow all turbines to fit inside the currently approved site boundary.

Wasco County ordinances clearly state an applicant may request an adjustment to non-project boundaries using the process described in 19.030(D)(1)(c)(3)(C) which states:

Adjustment Provision: Applicant may, as part of the wind energy permitting process, obtain an administrative adjustment to authorize a lesser setback from regulations addressing turbine



setbacks from dwellings in resource zones. This may be authorized as part of the CUP pursuant to the Administrative Action process of Section 2.060(A) by the Director or designee and upon findings that demonstrate the following criteria are met:

- (1) The underlying landowner (or applicable road authority or utility as may be appropriate for non-project boundary setbacks) has consented, in writing, to an adjusted setback.
- (2) The proposed adjustment complies with DEQ noise standard.
- (3) The proposed adjustment will not force a significant change in accepted farm or forest practices on surrounding lands devoted to or available for farm or forest use.
- (4) The proposed adjustment will not unduly burden existing infrastructure (e.g., underground utilities or leach fields).
- (5) The proposed adjustment will not unduly impair safety in the area.
- (6) The proposed adjustment will minimize impacts to environmental resources (e.g., wetlands or identified EPDs).

Our response to each of the six criteria is as follows:

1. The underlying landowner (or applicable road authority or utility as may be appropriate for non-project boundary setbacks) has consented, in writing, to an adjusted setback. We have already confirmed the consent of landowners either side of the roads in question and provide that consent in writing if so required.

Response: The only non-boundary landowner affected by our request would be the Wasco County road department as property on either side of the road is within the current project boundary and owned by participating landowners. By submittal of this request we are requesting the Wasco County Road department to provide its consent in writing of our revised setback request.

2. The proposed adjustment complies with DEQ noise standard.

Response: The area along the roads in question is sparsely populated and the road receives minimal use under normal circumstances. Participating landowners on either side of the road have signed noise waivers. In addition Section 12.0 "Noise Control and Noise Complaint Response" of the current approved site permit establishes the criteria for noise at the site and requires us to submit a noise analysis prior to the start of construction. We also believe the road and wind noise along the roads in question will serve to mask turbine noise along the roads.

3. The proposed adjustment will not force a significant change in accepted farm or forest practices on surrounding lands devoted to or available for farm or forest use.
Response: The proposed administrative adjustment actually lessens the impact on surrounding lands devoted to or available for farm use. At 1.5x the height of our tallest



available turbine tip, the setback distance would be 749' which places seventeen turbines outside the current project boundary. Using the 1.1x setback that distance is reduced to 549' and within the existing site boundary. The lesser setback distance would use approximately 5 acres less land and eliminate approximately 3400' in roads. The lesser setback distance would also prevent the expansion of the current site boundary by approximately an additional 122 acres to accommodate the 1.5x requirement.

4. The proposed adjustment will not unduly burden existing infrastructure (e.g., underground utilities or leach fields).

Response: The proposed adjustment places no additional burden on existing infrastructure. It actually reduces the quantity of water and chemicals needed for dust control.

5. The proposed adjustment will not unduly impair safety in the area.

Response: The proposed adjustment does not unduly impair safety in the area. The roads in question are lightly travelled. Even in the unlikely event a turbine would collapse, the distance from the road is sufficient for the turbine to extend its full fall height and not reach the road.

6. The proposed adjustment will minimize impacts to environmental resources (e.g., wetlands or identified EPDs).

Response: The proposed administrative setback actually reduces the impacts to environmental resources. Less farm land will be removed from production. Less habitat area will be disturbed and as stated previously less water will be used to control dust.

We ask that you pursue our request for an administrative adjustment to the setback requirement along county roads, included within the existing project boundary, with Wasco County at your earliest convenience.

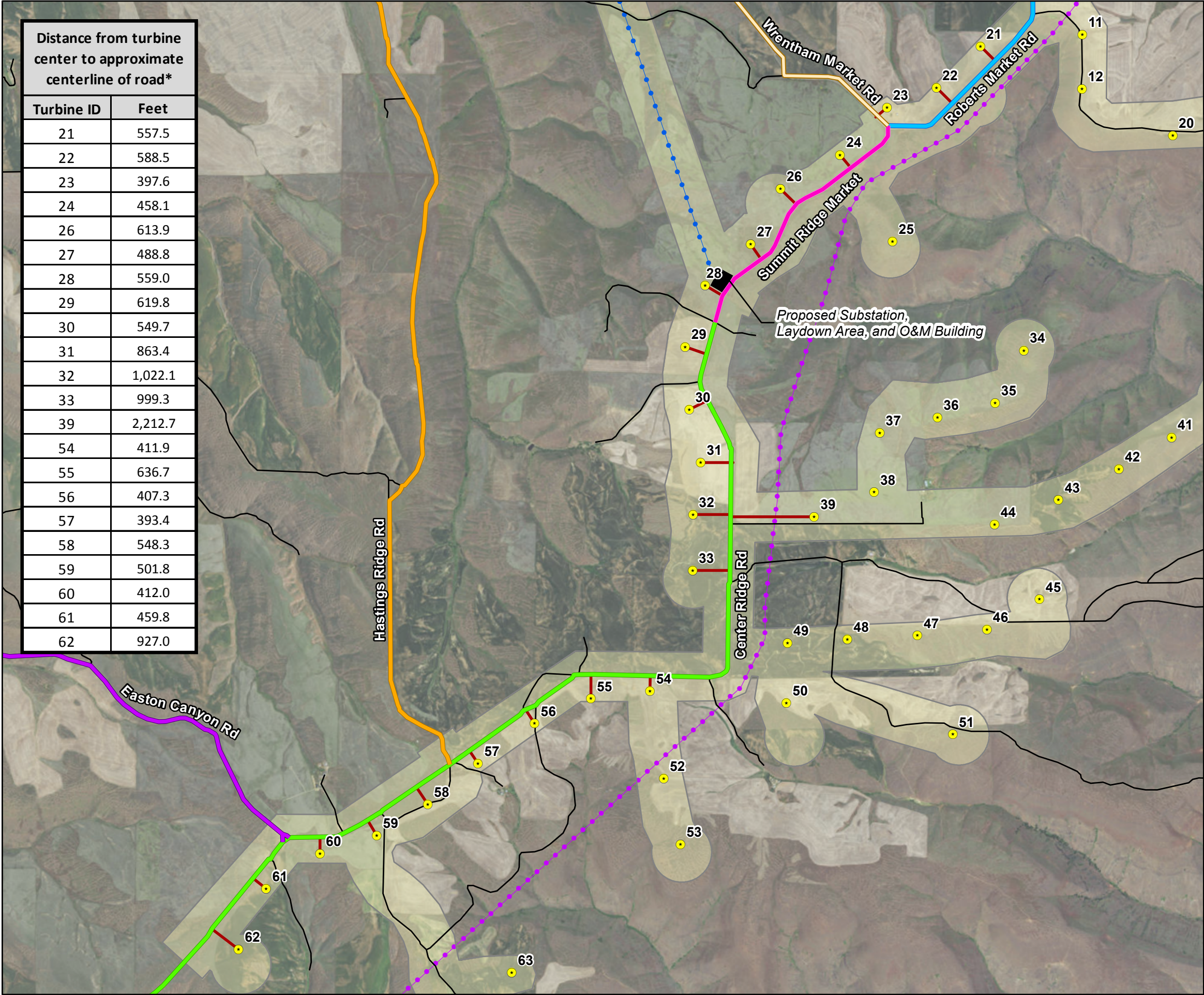
Thank you for your support in this matter. Please contact me should you have questions or require further clarification of this request.

Best regards,



Steven A. Ostrowski, Jr.

Cc: File



Distance from turbine center to approximate centerline of road*

Turbine ID	Feet
21	557.5
22	588.5
23	397.6
24	458.1
26	613.9
27	488.8
28	559.0
29	619.8
30	549.7
31	863.4
32	1,022.1
33	999.3
39	2,212.7
54	411.9
55	636.7
56	407.3
57	393.4
58	548.3
59	501.8
60	412.0
61	459.8
62	927.0

LotusWorks - Summit Ridge I, LLC

Distance to Road Analysis

Legend

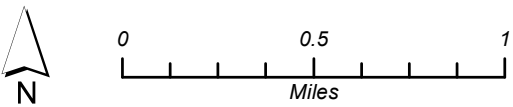
- Proposed Turbine Location
- Site Boundary
- Turbine center to approximate centerline of road*

Wasco County Road**

- Center Ridge Rd
- Easton Canyon
- Hastings Ridge
- Roberts Market Rd
- Summit Ridge Market Rd
- Wrentham Market Rd
- Other road

- Proposed Transmission Route
- Bonneville 500 kV Line
- Proposed Substation/O&M Facility

* Distance from center of turbine to road centerline based on ESRI world imagery
** County road linework data source: ESRI Streets basemap, 2010; county road names extracted from Wasco County Interactive Web Map:
http://co.wasco.or.us/county/dept_works_gis.cfm



Data Sources:
LearningSI, LLC, 2015
LotusWorks, 2009, 2014
Pioneer Surveying and Engineering, Inc., 2009



ESTERSON Sarah * ODOE

From: CLIFFORD Katie * ODOE
Sent: Tuesday, August 30, 2016 9:53 AM
To: ESTERSON Sarah * ODOE
Subject: FW: Setback variance - Summit Ridge Wind Farm
Attachments: 20160422-Revised Request for Adjustment.pdf; 20160422-Distance to Road Analysis.pdf

Katie Clifford

Energy Facility Siting Analyst
Oregon Department of Energy
C: (503) 302-0267

From: Steven Ostrowski [mailto:SOstrowski@energysi.org]
Sent: Friday, April 22, 2016 3:45 PM
To: Clifford, Katie <katie.clifford@state.or.us>
Cc: Angie Brewer <angieb@co.wasco.or.us>; Woods, Maxwell <maxwell.woods@state.or.us>
Subject: RE: Setback variance - Summit Ridge Wind Farm

Hi Katie,

Per your instructions below, please find our formal letter with attachment.

Have an enjoyable weekend.

Steve

From: Clifford, Katie [mailto:katie.clifford@state.or.us]
Sent: Friday, April 22, 2016 12:20 PM
To: Steven Ostrowski
Cc: Angie Brewer; Woods, Maxwell
Subject: RE: Setback variance - Summit Ridge Wind Farm

Hi Steve,

In order for ODOE, in consultation the Wasco County Planning Department, to evaluate this additional information, please provide ODOE with a formal letter that includes both the information in your March 22, 2016 letter and the new information in your email below. In other words, we need a comprehensive response/full package that provides evidence addressing each of the six criteria in Section 19.030(D)(1)(c)(3)(c).

Katie

Katie Clifford

Energy Facility Siting Analyst
Oregon Department of Energy
C: (503) 302-0267

From: Steven Ostrowski [<mailto:SOstrowski@energysi.org>]

Sent: Friday, April 22, 2016 9:27 AM

To: angieb@co.wasco.or.us; Clifford, Katie (katie.clifford@state.or.us) <katie.clifford@state.or.us>

Cc: arthurs@co.wasco.or.us

Subject: FW: Setback variance - Summit Ridge Wind Farm

Good morning Ms. Brewer,

As you are aware I met yesterday afternoon with Arthur Smith, Wasco County Road Master. As a result of our conversation, Mr. Smith consented to our requested setback variance. Below is a copy of the email in which Mr. Smith confirms his consent.

My discussions with Mr. Smith also provided the following daily traffic usage figures from a study Wasco County performed on the roads in question in 2013:

- Roberts Market Road – 33 vehicles/day
- Wrentham Market Road – 10 vehicles/day
- Summit Ridge Market Road – 11 vehicles/day
- Center Ridge Road – 23 vehicles/day

According to Mr. Smith, depending on whether you use a local or Federal reference, these figures would be considered either as no traffic or light traffic.

In reviewing the six criteria for approval of the variance Mr. Smith's consent as road authority would appear to fully satisfy requirement #1. Landowners along these roads are all project participants. Please confirm that as participating landowners proof of their consent is not required.

Criteria #2 is a pre-construction requirement and as you pointed out in your response will be determined by the ODOE

Criteria #3 appears self-evident from the information we provided that demonstrates less farm land will be used as a result of the change in setbacks

Criteria #4 also seems satisfied as there is no addition burden to existing infrastructure as a result of the requested setback variance.

Criteria #5 also appears satisfied as the setback does not unduly impair safety in the area. At the requested variance distance, in the unlikely event a turbine would collapse, it would not reach the road and create a safety hazard. The chance of collapse remains is the same for either position so there is no additional safety risk.

Criteria #6 also appears satisfied as there is no impact to wetlands or other environmental resources. This was confirmed in our most recent wetlands study performed in March and submitted to the State Department of Lands and available for your review should you so desire.

In addressing the specific reasons identified in your letter for finding our request incomplete we believe your concerns have now all been addressed.

Concern #1 – We are not requesting all turbines be subject to the variance. We are only seeking turbines located on County Roads. Per the attached map we seek to apply the variance to only those turbines that are currently less than 750' from the County roads. The specific Turbine ID's are: 21, 22, 23, 24, 26, 27, 28, 29, 30, 54, 55, 56, 57, 58, 59, 60, 61. In addition, for these turbines, where the distance currently exceeds 550' from the road, we will wherever possible use the distance from road currently indicated.

Concern #2 – This concern has been addressed by Mr. Smith's consent email below.

Concern #3 – As previously identified this is the responsibility of ODOE pre-construction review.

Concern #4 – The stated concern here is that our conclusions lacked sufficient evidence and support. Specifically:

- Our conclusion that safety was not unduly impaired was arrived at by concluding that should the unlikely event of a turbine collapse occur, the turbines would not reach the road. Therefore the safety risk using the setback variance of 1.1x would be similar to that of 1.5x. The turbines would collapse on privately owned participating owner farm land.
- The traffic study information provided by Mr. Smith as identified above confirms that the roads in question are lightly travelled.
- The distance between turbines exceeds 1000' in every instance. There is essentially no topographical differences between the locations. Previous geotechnical reviews of the entire site indicates similar conditions across the site. The turbines will be erected on land that is primarily used for agricultural purposes.

We believe with this additional information we have fully addressed this concern.

We appreciate the opportunity Wasco County and the Planning Department as afforded us to respond. We trust with this response we have resolved all items previously considered incomplete.

Best regards,

Steve



Steven A. Ostrowski, Jr.
President
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P 360.737.9692
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C 360.910.7625
sostrowski@energysi.org

From: Arthur Smith [<mailto:arthurs@co.wasco.or.us>]
Sent: Thursday, April 21, 2016 2:37 PM
To: Steven Ostrowski
Cc: Angie Brewer
Subject: Setback variance - Summit Ridge Wind Farm

Steve,

Thank you for meeting with me and discussing the proposed setback variance for the Summit Ridge wind farm project. I really appreciate all the information you provided.

With regards to Wasco County LUDO, Section 19.030 (D)(1)(c)(3)(c)(1) and acting as the designated road authority for Wasco County, I am consenting to the requested setback variance of 1.1. This variance will not unduly impair safety on the county roads in the project area and it will not unduly burden any county infrastructure.

If you have any questions, please feel free to contact me. Thanks.

Arthur

--

**Arthur Smith, Director
Wasco County Public Works
541-506-2645**

Distance from turbine center to approximate centerline of road*

Turbine ID	Feet
21	557.5
22	588.5
23	397.6
24	458.1
26	613.9
27	488.8
28	559.0
29	619.8
30	549.7
31	863.4
32	1,022.1
33	999.3
39	2,212.7
54	411.9
55	636.7
56	407.3
57	393.4
58	548.3
59	501.8
60	412.0
61	459.8
62	927.0

LotusWorks - Summit Ridge I, LLC

Distance to Road Analysis

- Legend**
- Proposed Turbine Location
 - Site Boundary
 - Turbine center to approximate centerline of road*
 - Wasco County Road****
 - Center Ridge Rd
 - Easton Canyon
 - Hastings Ridge
 - Roberts Market Rd
 - Summit Ridge Market Rd
 - Wrentham Market Rd
 - Other road
 - Proposed Transmission Route
 - Bonneville 500 kV Line
 - Proposed Substation/O&M Facility

* Distance from center of turbine to road centerline based on ESRI world imagery
 ** County road linework data source: ESRI Streets basemap, 2010; county road names extracted from Wasco County Interactive Web Map:
http://co.wasco.or.us/county/dept_works_gis.cfm



Data Sources:
 LearningSI, LLC, 2015
 LotusWorks, 2009, 2014
 Pioneer Surveying and Engineering, Inc., 2009



LotusWorks – Summit Ridge I, LLC

9611 NE 117th Avenue
Suite 2840
Vancouver, WA 98662-2403

360.737.9692

April 22, 2016

Ms. Katie Clifford
Energy Facility Siting Analyst
Oregon Department of Energy
625 Marion Street NE
Salem, OR 97301

Subject: Revised Request for Administrative Adjustment

Reference: LotusWorks-Summit Ridge I, LLC Site Certificate, Amendment #1, March 22, 2016 Letter Requesting Administrative Adjustment to Turbine Setback Requirements

Ms. Clifford,

This letter is a revision to our March 22, 2016 request for an Administrative Adjustment to change the setback requirements for Summit Ridge. Amendment #1 to the LotusWorks-Summit Ridge I, LLC Site Certificate includes language that incorporates new land use standards into our project. This was the result of Wasco County's 2012 revision of their wind turbine land use ordinances and the incorporation of the updated ordinances into Addendum #1 of our Site Certificate this past August. The revised ordinances increase the setback distances for turbines along County roads to 1.5x the tip height of the turbine. Adhering to the new setback distances results in seventeen of our turbines being inside the current stated set back distances.

Based on using a 64 turbine layout, the seventeen turbines we are seeking setback exception are identified on the attached map as having Turbine ID # 21, 22, 23, 24, 26, 27, 28, 29, 30, 54, 55, 56, 57 58, 59, 60 and 61.

It should be noted that these turbines were originally located to take maximum advantage of the available wind and where placed based on the setback requirements that existed in 2010. Setting the turbines farther off the ridge has a definite negative impact on the amount of electricity each impacted turbine will produce. We acknowledge the requirements changed and have examined the available options to identify the best solution for the project, the landowners and Wasco County.

We believe the best and least impactful solution for all concerned is to apply for an administrative adjustment to establish the setback distance for the turbines listed above along County roads impacted by our project at 1.1x the maximum height at the installed turbine rotor tip. The 1.1 multiplier would result in a safe and reasonable setback distance and will allow all turbines to fit inside the currently approved site boundary. This would also have the minimum impact to the performance of the turbines in question.



Wasco County ordinances clearly state an applicant may request an adjustment to non-project boundaries using the process described in 19.030(D)(1)(c)(3)(C) which states:

Adjustment Provision: Applicant may, as part of the wind energy permitting process, obtain an administrative adjustment to authorize a lesser setback from regulations addressing turbine setbacks from dwellings in resource zones. This may be authorized as part of the CUP pursuant to the Administrative Action process of Section 2.060(A) by the Director or designee and upon findings that demonstrate the following criteria are met:

- (1) The underlying landowner (or applicable road authority or utility as may be appropriate for non-project boundary setbacks) has consented, in writing, to an adjusted setback.
- (2) The proposed adjustment complies with DEQ noise standard.
- (3) The proposed adjustment will not force a significant change in accepted farm or forest practices on surrounding lands devoted to or available for farm or forest use.
- (4) The proposed adjustment will not unduly burden existing infrastructure (e.g., underground utilities or leach fields).
- (5) The proposed adjustment will not unduly impair safety in the area.
- (6) The proposed adjustment will minimize impacts to environmental resources (e.g., wetlands or identified EPDs).

Our response to each of the six criteria is as follows:

1. The underlying landowner (or applicable road authority or utility as may be appropriate for non-project boundary setbacks) has consented, in writing, to an adjusted setback. We have already confirmed the consent of landowners either side of the roads in question and provide that consent in writing if so required.

Response: The only non-boundary landowner affected by our request would be the Wasco County road department as property on either side of the road is within the current project boundary and owned by participating landowners. Arthur Smith, Director of Wasco County Public Works, in an email dated April 21, 2016 provided his consent to our requested setback variance. A copy of Mr. Smith's email is included as an attachment to this letter.

2. The proposed adjustment complies with DEQ noise standard.

Response: The area along the roads in question is sparsely populated and the road receives minimal use under normal circumstances. Participating landowners on either side of the road have signed noise waivers. In addition Section 12.0 "Noise Control and Noise Complaint Response" of the current approved site permit establishes the criteria for noise at the site and requires us to submit a noise analysis prior to the start of



construction. We also believe the road and wind noise along the roads in question will serve to mask turbine noise along the roads.

3. The proposed adjustment will not force a significant change in accepted farm or forest practices on surrounding lands devoted to or available for farm or forest use.

Response: The proposed administrative adjustment actually lessens the impact on surrounding lands devoted to or available for farm use. At 1.5x the height of our tallest available turbine tip, the setback distance would be 749' which places seventeen turbines outside the current project boundary. Using the 1.1x setback that distance is reduced to 549' and within the existing site boundary. The lesser setback distance would use approximately 5 acres less land and eliminate approximately 3400' in roads. The lesser setback distance would also prevent the expansion of the current site boundary by approximately an additional 122 acres to accommodate the 1.5x requirement.

4. The proposed adjustment will not unduly burden existing infrastructure (e.g., underground utilities or leach fields).

Response: The proposed adjustment places no additional burden on existing infrastructure. It actually reduces the quantity of water and chemicals needed for dust control. In his email informing us of his consent of our request to change the setback provision, Mr. Smith acknowledges the change in setback will not unduly burden any county infrastructure.

5. The proposed adjustment will not unduly impair safety in the area.

Response: The proposed adjustment does not unduly impair safety in the area. The roads in question are lightly travelled. Based on information provided by Mr. Smith from a 2013 Wasco County traffic study, daily vehicle use on the roads in question is as follows:

- Roberts Market Road – 33 vehicles/day
- Wrentham Market Road – 10 vehicles/day
- Summit Ridge Market Road – 11 vehicles/day
- Center Ridge Road – 23 vehicles/day

According to Mr. Smith, depending on whether you use a local or Federal reference, these figures would be considered either as no traffic or light traffic.

Mr. Smith also states:

This variance will not unduly impair safety on the county roads in the project area and it will not unduly burden any county infrastructure.



In the unlikely event a turbine would collapse, the distance from the road is sufficient for the turbine to extend its full fall height and not reach the road.

Our conclusion that safety was not unduly impaired was arrived at by concluding that should the unlikely event of a turbine collapse occur, the turbines would not reach the road. Therefore the safety risk using the setback variance of 1.1x would be similar to that of 1.5x. The turbines would collapse on privately owned participating owner farm land.

The traffic study information provided by Mr. Smith as identified elsewhere in this document also confirms that the roads in question are lightly travelled.

The distance between turbines exceeds 1000' in every instance. There are essentially no topographical differences between the turbine locations. Previous geotechnical reviews of the entire project site indicate similar conditions across the site. The turbines will be erected on land that is primarily used for agricultural purposes.

6. The proposed adjustment will minimize impacts to environmental resources (e.g., wetlands or identified EPDs).

Response: There is no impact to wetlands or other environmental resources. This was confirmed in our most recent wetlands study performed in March of this year and submitted to the State Department of Lands. This study is available for your review should you so desire. The proposed administrative setback actually reduces the impacts to environmental resources. Less farm land will be removed from production. Less habitat area will be disturbed and as stated previously less water will be used to control dust.

We ask that you pursue our request for an administrative adjustment to the setback requirement along county roads, included within the existing project boundary, with Wasco County at your earliest convenience.

Thank you for your support in this matter. Please contact me should you have questions or require further clarification of this request.

Best regards,



Steven A. Ostrowski, Jr.

Cc: File

Steven Ostrowski

From: Arthur Smith <arthurs@co.wasco.or.us>
Sent: Thursday, April 21, 2016 2:37 PM
To: Steven Ostrowski
Cc: Angie Brewer
Subject: Setback variance - Summit Ridge Wind Farm

Steve,

Thank you for meeting with me and discussing the proposed setback variance for the Summit Ridge wind farm project. I really appreciate all the information you provided.

With regards to Wasco County LUDO, Section 19.030 (D)(1)(c)(3)(c)(1) and acting as the designated road authority for Wasco County, I am consenting to the requested setback variance of 1.1. This variance will not unduly impair safety on the county roads in the project area and it will not unduly burden any county infrastructure.

If you have any questions, please feel free to contact me. Thanks.

Arthur

--
Arthur Smith, Director
Wasco County Public Works
541-506-2645

Attachment D: Certificate Holder Responses to Additional Information Requests



Oregon

Kate Brown, Governor



OREGON
DEPARTMENT OF
ENERGY

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May 26, 2016

Steven A. Ostrowski, Jr.
LotusWorks-Summit Ridge I, LLC
9611 NE 117th Avenue
Suite 2840
Vancouver, WA 98662-2403

Sent via email: SOstrowski@energysi.org

RE: Summit Ridge Wind Farm Request for Amendment #2; Additional Information Request

Dear Mr. Ostrowski:

The Oregon Department of Energy (department) is in the process of reviewing the Summit Ridge Wind Farm Request for Amendment (RFA) #2 to the Site Certificate, including a supplemental request for an administrative adjustment to authorize a lesser setback from non-project boundaries (pursuant to the Wasco County Land Use and Development Ordinance). The department has determined that additional information is necessary in order for the department to complete its evaluation of the RFA and prepare the proposed order. An information request table accompanies this letter. The department may request further information during development of the proposed order.

Please provide the requested information in a single consolidated file, as red-line edits to the RFA document, no later than the end of the day on June 26, 2016. If you anticipate that you will need more time to complete the responses, or if you have any questions, please do not hesitate to call or email.

Sincerely,

Katie Clifford
Energy Facility Siting Analyst
Katie.clifford@state.or.us
(503) 302-0267

cc via e-mail distribution:

Todd Cornett, Oregon Department of Energy
Virginia Gustafson, Oregon Department of Energy
Max Woods, Oregon Department of Energy
Renee France, Oregon Department of Justice

Summit Ridge Wind Farm Request for Amendment (RFA) #2 - Additional Information Request (AIR)

AIR Number	RFA Page(s)	Additional Information Request	Comment
1	6, 12, 13, 14, 17, 52	Clarify the minimum ground clearance for the blade tips under the requested 3.0 MW turbine option.	<p>Pages 6, 13, 14, 17, and 52 of the RFA refer to a blade tip clearance of 18 meters above ground, whereas page 12 refers to a clearance of 17 meters.</p> <p>Rule: OAR 345-021-0010(1)(b)(A)</p>
2	12 & 13, and page 2 of Attachment 2	Clarify the overall height (ground-to-blade tip) of the turbines under the requested 3.0 MW turbine option.	<p>Page 12 of the RFA refers to a 151 meter overall height. This is inconsistent with the reference on Page 13 of the RFA and page 2 of Attachment 2, which refer to a ground-to-tip distance of 150 meters.</p> <p>Rule: OAR 345-021-0010(1)(b)(A)</p>
3	63	Provide a list of the projects for which Mr. Ostrowski oversaw the development and construction while at LotusWorks and upon which the certificate holder relies to demonstrate compliance with the Council's Organizational Expertise Standard.	<p>Page 63 states, "Prior to Summit Ridge Wind Holdings, LLC, Mr. Ostrowski led the Construction Management group of LotusWorks. At LotusWorks Mr. Ostrowski oversaw the development and construction of over 2000 MW's of energy projects including 1000 MW's of wind projects in the Pacific Northwest." More thorough explanation is needed to establish how this statement supports the certificate holder's conclusion of compliance with the Organizational Expertise Standard.</p> <p>Rule: OAR 345-021-0010(1)(d)(A) and OAR 345-022-0010</p>
4	General	In the description of the facility, provide the number of acres that would be temporarily disturbed as well as the number of acres that would be occupied by permanent facility structures and roads under the 3.0 MW turbine option.	<p>OAR 345-021-0010(1)(c)(B) requires a description of areas of temporary disturbance and permanent disturbance. The RFA does not include this required information for the 3.0 MW turbine option.</p> <p>Rule: OAR 345-021-0010(1)(c)(B)</p>

Summit Ridge Wind Farm Request for Amendment (RFA) #2 - Additional Information Request (AIR)

AIR Number	RFA Page(s)	Additional Information Request	Comment
5	Attachment 2	Provide higher resolution versions of Figures 1 through 6 of Attachment 2.	<p>It is difficult to determine, based on looking at the figures, where differences in visibility between the two turbine options assessed in Attachment 2 would occur. For example, in Figures 3 and 6 there are two designations on the legend that are not readily visible within the map itself: "New Areas Where Proposed Turbines Now Likely Visible," and "Areas Where Proposed Turbines No Longer Visible."</p> <p>The Council must find that the design, construction, and operation of a facility, taking into account mitigation, are not likely to result in a significant adverse impact to scenic resources and values identified as significant or important in management plans (OAR 345-022-0080), important recreational opportunities (OAR 345-022-0100), and the protected areas listed in OAR 345-022-0040. Higher resolution figures in the Summit Ridge Wind Farm-Evaluation of Visual Changes memorandum (Attachment 2 to the RFA) will assist the department in evaluating the potential visual impacts of the 3.0 MW turbine option on these resources.</p> <p>Rule: OAR 345-021-0010(1)(l), OAR 345-021-0010(1)(r), OAR 345-021-0010(1)(t), OAR 345-022-0040, OAR 345-022-0080, OAR 345-022-0100</p>



Oregon

Kate Brown, Governor



OREGON
DEPARTMENT OF
ENERGY

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July 6, 2016

Steven A. Ostrowski, Jr.
LotusWorks-Summit Ridge I, LLC
9611 NE 117th Avenue
Suite 2840
Vancouver, WA 98662-2403

Sent via email: SOstrowski@energysi.org

RE: Summit Ridge Wind Farm Request for Amendment #2; Additional Information Request

Dear Mr. Ostrowski:

The Oregon Department of Energy (department) is in the process of reviewing the Summit Ridge Wind Farm Request for Amendment (RFA) #2 to the Site Certificate, including a supplemental request for an administrative adjustment to authorize a lesser setback from non-project boundaries (pursuant to the Wasco County Land Use and Development Ordinance). The department requested additional information on May 26, 2016 and received the requested information on June 3, 2016. The department has determined that further information is necessary in order for the department to complete its evaluation of the RFA and finish preparing the proposed order. An information request table accompanies this letter.

Please provide the requested information in a single consolidated file no later than the end of the day on July 20, 2016. If you anticipate that you will need more time to complete the responses, or if you have any questions, please do not hesitate to call or email.

Sincerely,

Katie Clifford
Energy Facility Siting Analyst
Katie.clifford@state.or.us
(503) 302-0267

cc via e-mail distribution:

Todd Cornett, Oregon Department of Energy
Max Woods, Oregon Department of Energy

Summit Ridge Wind Farm Request for Amendment (RFA) #2 - Additional Information Request (AIR)

AIR Number*	RFA Page(s)	Additional Information Request	Comment
6	p. 26	Provide confirmation that all facility structures, as amended, with the exception of the proposed transmission line, would be located a minimum of 200 feet from the property line of adjacent land used for perennial or annual crops.	<p>RFA #2 states, "EFSC previously found that Summit Ridge complied with the Land Use Standard...No changes have been made that would warrant additional review or reconsideration of the prior finding." However, additional evidence is requested to confirm that the facility, as amended, would be in compliance with Wasco County's setback requirements. Please confirm that all facility structures, as amended, with the exception of the proposed transmission line, would comply with WCLUDO 3.210(F)(1)(a).</p> <p>Rule(s): OAR 345-022-0030(2)(b)(A) and WCLUDO 3.210(F)(1)(a) Setbacks, Property Line</p>
7	p. 26	Provide confirmation that the facility foundations and permanent structures, as amended, with the exception of the proposed access roads and transmission line, would be located at least 100 feet away from seasonal or permanent waterways.	<p>RFA #2 states, "EFSC previously found that Summit Ridge complied with the Land Use Standard...No changes have been made that would warrant additional review or reconsideration of the prior finding." However, additional evidence is requested to confirm that the facility, as amended, would be in compliance with Wasco County's setback requirements. Please confirm that the locations of facility foundations and permanent structures as proposed under RFA #2 would comply with WCLUDO 3.210(F)(1)(b)(1).</p> <p>Rule(s): OAR 345-022-0030(2)(b)(A) and WCLUDO 3.210(F)(1)(b)(1) Setbacks, Waterways</p>

Summit Ridge Wind Farm Request for Amendment (RFA) #2 - Additional Information Request (AIR)

AIR Number*	RFA Page(s)	Additional Information Request	Comment
8	p. 26	Using the most current Flood Insurance Rate Map available for Wasco County, provide confirmation that no facility components, as amended, would be located within the 100-year floodplain.	<p>RFA #2 states, “EFSC previously found that Summit Ridge complied with the Land Use Standard...No changes have been made that would warrant additional review or reconsideration of the prior finding.” However, additional evidence is requested to confirm compliance with Wasco County’s setback requirements. Please provide confirmation that no facility components would be located within the 100-year floodplain, and the sources that were reviewed to make this confirmation.</p> <p>Rule(s): OAR 345-022-0030(2)(b)(A) and WCLUDO 3.210(F)(1)(b)(2) Setbacks, Waterways</p>
9	p. 26	Provide confirmation that the facility, as amended, would not include development within 50 feet of the centerline of an irrigation ditch that continues past the subject parcel to provide water to other property owners.	<p>RFA #2 states, “EFSC previously found that Summit Ridge complied with the Land Use Standard...No changes have been made that would warrant additional review or reconsideration of the prior finding.” However, additional evidence is requested to confirm compliance with Wasco County’s setback requirements. Please confirm that the facility, as amended, would comply with WCLUDO 3.210(F)(1)(c).</p> <p>Rule(s): OAR 345-022-0030(2)(b)(A) and WCLUDO 3.210(F)(1)(c) Setbacks, Irrigation Ditches</p>

Summit Ridge Wind Farm Request for Amendment (RFA) #2 - Additional Information Request (AIR)

AIR Number*	RFA Page(s)	Additional Information Request	Comment
10	p. 26	Provide evidence (e.g., description, maps/figures) demonstrating that the facility components, as amended, would be located to avoid impacts to wetlands and waterways.	<p>RFA #2 states, “EFSC previously found that Summit Ridge complied with the Land Use Standard...No changes have been made that would warrant additional review or reconsideration of the prior finding.” In the April 22, 2016 Revised Request for Administrative Adjustment, the certificate holder stated that, “There is no impact to wetlands.” However, additional evidence is requested to confirm compliance with Wasco County’s setback requirements. Please provide evidence demonstrating that the energy facility components, as amended, would be sited to minimize or avoid impacts to wetlands and waterways.</p> <p>Rule(s): OAR 345-022-0030(2)(b)(A) and WCLUDO 19.030(D)(1)(c)(3)(c) Setbacks, Criterion 6</p>

11	p. 29	<p>Provide a more detailed analysis of the impacts (under the proposed 3.0 MW turbine option as compared to the approved 2.7 MW turbine facility) to Cottonwood Canyon State Park and each protected area within the analysis area shown in the table entitled “Protected Areas Within 20 Miles of the Facility” in the <i>Final Order</i>.</p>	<p>RFA #2 states, “EFSC previously found that Summit Ridge complied with the Protected Area Standard. These requirements were previously reviewed with Wasco County. To provide the Council additional clarification on the matter we have included a third party independent review performed by David Evans and Associates (Attachment 2). We believe this independent review confirms that LotusWorks-Summit Ridge I, LLC meets the intent of the standard and EFSC should find Summit Ridge in compliance with the Protected Area Standard.” Attachment 2 states that, “Figures 3 [sic] illustrates the change in visibility for Protected Areas. The results indicate that visibility for Alternative C would remain about the same or slightly less than Alternative B.” However, with the exception of a brief analysis of impacts to the Deschutes River, the analysis fails to include a discussion of the specific impacts to each protected area within the analysis area shown in the table entitled “Protected Areas Within 20 Miles of the Facility” in the <i>Final Order</i>. In addition, compliance with WCLUDO 19.030(C)(4) requires a finding that 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) (Protected Areas) of that criterion. The one protected area that is not addressed by the Council’s Protected Area Standard is Cottonwood Canyon State Park. The assessment should therefore also include an analysis of impacts to Cottonwood Canyon State Park in order to evaluate compliance with WCLUDO 19.030(C)(4).</p> <p>Rule(s): OAR 345-022-0040 and WCLUDO 19.030(C)(4) Visual Impact</p>
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Summit Ridge Wind Farm Request for Amendment (RFA) #2 - Additional Information Request (AIR)

AIR Number*	RFA Page(s)	Additional Information Request	Comment
12	p. 30	<p>Provide a more detailed analysis of the impacts (under the proposed 3.0 MW turbine option as compared to the approved 2.7 MW turbine facility) to the following scenic resources identified by the applicable resource plans within the analysis area: Columbia River Gorge National Scenic Area (CRGNSA), the White River Canyon, resources in the John Day River Canyon, the Mt. Hood National Forest, Oregon National Historic Trail, the Journey Through Time Scenic Byway, Wasco County Resources, and Sherman County Resources.</p>	<p>RFA #2 states, “EFSC previously found that Summit Ridge complied with the Scenic Resources Standard. These requirements were previously reviewed with Wasco County. To provide the Council additional clarification on the matter we have included a third party independent review performed by David Evans and Associates (Attachment 2). We believe this independent review confirms that LotusWorks-Summit Ridge I, LLC meets the intent of the standard and EFSC should find Summit Ridge in compliance with the Scenic Resources Standard.” Attachment 2 states that, “Figure 6 illustrates the change in visibility for Scenic and Aesthetic Values. The results indicate that visibility for Alternative C would remain about the same or slightly less than Alternative B for the same reasons explained for Protected Areas. Specifically, the greatest concentration of net difference - that is, red or blue shading – would occur within the Deschutes River corridor.” However, the analysis fails to include a discussion of the specific impacts to the following additional scenic resources identified by the applicable resource plans within the analysis area: CRGNSA, the White River Canyon, resources in the John Day River Canyon, Mt. Hood National Forest, Oregon National Historic Trail, the Journey Through Time Scenic Byway, Wasco County Resources, and Sherman County Resources.</p> <p>Rule(s): OAR 345-022-0080</p>

Summit Ridge Wind Farm Request for Amendment (RFA) #2 - Additional Information Request (AIR)

AIR Number*	RFA Page(s)	Additional Information Request	Comment
13	pp. 42-44 and 54; and p. 4 of the April 22, 2016 Revised Request for Administrative Adjustment	Provide confirmation that the project would not require 50 cubic yards or more of material to be removed, filled, or altered within any “waters of the state.”	<p>Under ORS 469.503(3) and under the Council's General Standard of Review (OAR 345-022-0000), the Council must determine whether the proposed facility complies with "all other Oregon statutes and administrative rules identified in the Project Order, as amended, as applicable to the issuance of a site certificate for the proposed facility," including the Oregon Removal-Fill Law. The Oregon Removal-Fill Law (ORS 196.800 through .990) and DSL regulations (OAR 141-085-0005 through 141-085-0090) require a Removal-Fill Permit if 50 cubic yards or more of material is removed, filled, or altered within any “waters of the state” at the proposed site. The requested information would enable a determination of whether or not a Removal-Fill Permit would be required. In the April 22, 2016 Revised Request for Administrative Adjustment, the certificate holder stated that “there is no impact to wetlands;” however, RFA #2 does not provide sufficient evidence to demonstrate that the project would not require 50 cubic yards or more of material to be removed, filled, or altered within any waters of the state.</p> <p>Rule(s): OAR 345-022-0000</p>

Summit Ridge Wind Farm Request for Amendment (RFA) #2 - Additional Information Request (AIR)

AIR Number*	RFA Page(s)	Additional Information Request	Comment
14	p. 60	Provide confirmation that the Air Contaminant Discharge Permit required to operate the temporary batch plant would be obtained by the certificate holder and not by a third-party.	<p>ASC, Exhibit B states, “A temporary batch plant will be set up to prepare concrete for the project. It will be on a graveled 2-acre site, located within the site boundary, as shown on Figure C-2.” ASC, Exhibit E states that an “Air Contaminant Discharge Permit will be required to authorize operation of sources of air contaminants, such as those from the proposed batch plant.” ASC, Exhibit E further states that, “The Applicant will not rely on any third-party state or local third-party permit approval.” However, ASC, Exhibit E states that, “Washdown will be done by the contractor and will occur at a contractor-owned batch plant, either located in a proposed staging area or offsite at a contractor-owned facility.” RFA #2 does not request changes related to the batch plant but states that, “The applicant will not rely on any third-party permits or approvals to accomplish the project.” The requested information is needed to provide the information required by OAR 345-021-0010(1)(a)(B) and to ensure compliance with the Organizational Expertise Standard.</p> <p>Rules: OAR 345-021-0010(1)(a)(B) and OAR 345-022-0010(3)</p>
15	n/a	Provide a copy of Figure 1 of the Habitat Mitigation Plan (HMP; as revised October 22, 2014).	The revised HMP refers to a Figure 1 but does not appear to include Figure 1 as part of the file.
*AIRs 1-5 were issued on May 26, 2016			



Summit Ridge Wind, LLC

9811 NE 117th Avenue
Suite 2840
Vancouver, WA 98662-2403

360.737.8692

June 3, 2016

Ms. Katie Clifford
Energy Facility Siting Analyst
OREGON DEPARTMENT OF ENERGY
625 Marion St. NE
Salem OR 97301-3737

Subject: Response to ODOE Additional Information Request #1 dated May 26, 2016

Reference: Summit Ridge Wind Farm, Wasco County, OR

Dear Ms. Clifford:

This letter and accompanying attachments serve as our consolidated response to your request for additional information dated May 26, 2016. We are responding to each of the five requests. Unfortunately two items are the result of our providing inconsistent information. We apologize for these errors and any inconvenience they may have caused.

AIR Number 1

The correct minimum ground clearance for the blade tips under the requested 3.0 MW turbine from the ground is 18 meters. A corrected copy of page 12 of our Request for Amendment #2 is included as an attachment to this letter.

AIR Number 2

The correct overall height (ground-to-blade tip) of the turbines under the requested 3.0 MW turbine option is 150 meters. A corrected copy of page 12 of our Request for Amendment #2 is included as an attachment to this letter.

AIR Number 3

The following is a list of wind projects where Mr. Ostrowski as President of LotusWorks CM division was responsible for overseeing the development and construction:

- **White Creek Wind Project – Roosevelt Washington**
LotusWorks was the project manager and provided staff for the 205MW wind project. Responsibilities included pre construction management and construction management services, budget development, schedule, cash flow, training closeout and owner interface were also provided. LotusWorks also provided site inspectors, accounting services and support staff to the project.



- **Harvest Wind Project – Roosevelt Washington**
LotusWorks was the project manager and provided staff for the 2100MW wind project. Responsibilities included pre construction management and construction management services, budget development, schedule, cash flow, training closeout and owner interface were also provided. LotusWorks also provided site inspectors, accounting services and support staff to the project.
- **Wild Horse Wind Project – Ellensburg Washington**
LotusWorks was project manager and provided staff for a 250MW wind project. Construction Management, project closeout and owner interface services were also provided.
- **Elkhorn Wind Project – La Grande Oregon**
LotusWorks Project and site management for a 100MW wind project. Responsibilities included turbine erection and managing all contractors responsible for construction of the BOP, including the roads, electrical collection systems and foundations. LotusWorks also had responsibility for cost and schedule and project the necessary site inspectors and support staff to the project.
- **Summit Power Group at White Creek Wind**
LotusWorks provided asset management on an 89 turbine wind farm and supported the ownership group in the operation and maintenance of the wind project.
- **Summit Ridge – Wasco County Oregon**
LotusWorks acquired and developed a 200 MW wind farm in Wasco County Oregon. Site Certificate was obtained. Project was subsequently acquired by Mr. Ostrowski.

An additional example of Mr. Ostrowski's expertise relative to the development and construction of wind farms is the **Mehoopany Wind farm located in Eaton Township Pennsylvania**. Mr. Ostrowski served as an expert witness in a legal dispute between the installation contractor and owner involving the development and construction of a 140MW wind farm.

A red-lined copy of pages 63 and 64 are included as attachments to this letter.

AIR Number 4

We would expect the area of disturbance for the 3 MW turbines to be very similar to the area previously identified for the approved 72 turbine layout. This would be especially true of temporary disturbance. Our conservative estimate for our temporary disturbance is 100 acres. This is temporary only and does not include the areas that will be permanently disturbed that will be used during construction.

While there would be fewer turbines using the three MW turbines, the turbines are spread over essentially the same area. We would expect our final permanent lay-out to consume about 83 acres.

Both amounts will be confirmed upon completion of our final design of the wind farm.



AIR Number 5

In response to your request for higher resolution we have taken Figures 1-6 and divided each into six segments and provided a drawing for each segment. Drawing numbers will be Figure 1, sheet 1 of 6, sheet, 2 of 6 and so on. We believe this satisfies your request for additional resolution.

We trust the information above satisfies all requests of AIR #1. Please advise if you believe that is not the case.

Sincerely,



Steven A. Qatrowski, Jr.

Attachments

Cc: File



Attachment #1

Redlines of Pages, 12, 63 & 64 of RAD #2



approximately 194 MW. The facility will be located on private land, approximately 17 miles southeast of The Dalles, Oregon. As currently permitted the facility consists of:

- 72 turbines with a maximum facility output of 194.4 MWs. Each turbine will be limited to a hub height no greater than 91 meters, a blade tip height no greater than 152 meters or a blade tip clearance not less than 23 meters above the ground.
- Substation with an approximately seven mile transmission line interconnecting to a new Bonneville Power Authority (BPA) on the Big Eddy – Maupin 230kV transmission line
- Operations and Maintenance (O&M) facility of approximately 10,000 square feet
- The project site boundary encompasses approximately 25,000 acres on privately owned land subject to long term wind leases with the landowners
- The Site Certificate was issued August 19, 2011 with Amendment #1 issued August 7, 2015 and has a current requirement to start construction by August 19, 2016 and complete construction activity by August 19, 2019

LotusWorks-Summit Ridge I, LLC is requesting that the Siting Council approve the following changes to the existing site certificate:

- An two year extension of The Site Certificate was issued August 19, 2011 with a resulting requirement to start construction by August 19, 2016 and complete construction activity by August 19, 2019
- The addition of a 3.0 MW turbine option that, if selected to be implemented, would reduce the total MW's of the facility to 192MWs. This turbine selection would also reduce the total number of turbines to 64 with each turbine having:
 - 84 meter hub height
 - 132 meter rotor diameter
 - 187 meter ground clearance
 - 1504 meter overall height

OAR 345-027-0060 (1)(c) *A detailed description of the proposed change and the certificate holder's analysis of the proposed change under the criteria of OAR 345-027-0050(1).*

Response: A detailed description of the proposed change and the certificate holder's analysis of the proposed change under the criteria of OAR 345-027-0050(1)

The following changes are proposed for the Summit Ridge wind farm:

- The site certificate is extended for another two years thereby establishing a new construction start date of August 19, 2018.
- Likewise the completion date for construction is extended an additional two years so that construction must be complete within three years from the proposed new construction start date, August 19, 2021
- The siting corridor acreage of the project would remain at approximately 11,000 acres
- That an additional turbine option be approved that would meet the following parameters



Attachment 1 - Exhibit D – Organization, Managerial and Technical Expertise

OAR 345-021-0010(1)(d) Information about the organizational expertise of the applicant to construct and operate the proposed facility, providing evidence to support a finding by the Council as required by OAR 345-022-0010, including:

(A) The applicant's previous experience, if any, in constructing and operating similar facilities.

Response: Summit Ridge Wind Holdings, LLC as a new company has no prior direct experience as an entity building projects such as Summit Ridge. However the management team of Summit Ridge Wind Holdings has the combined experience of delivering more than 10,000 MWS of wind project combined experience. Steve Ostrowski, the member manager of Summit Ridge Wind Holdings was the President of LotusWorks-Summit Ridge I, LLC since the projects inception.

(8) The qualifications of the applicant's personnel who will be responsible for constructing and operating the facility, to the extent that the identities of such personnel are known when the application is submitted.

Response: Steven Ostrowski - Mr. Ostrowski brings nearly four decades of experience in heavy industry with the vast majority of that time focused in the energy industry. Over the course of his career Mr. Ostrowski has participated in the development and construction of over 10,000 MW's of energy projects across the US. The first 15 years of Mr. Ostrowski's career was spent in the nuclear industry where he served in various capacities including Project Manager for both the mechanical and Instrumentation and Controls Installation contracts. The next ten years was spent primarily developing and constructing co-gen facilities, both as peaking and base load facilities and retrofitting control systems for utility sized coal fired power plants. Prior to Summit Ridge Wind Holdings, LLC, Mr. Ostrowski led the Construction Management group of LotusWorks. At LotusWorks Mr. Ostrowski oversaw the development and construction of over 2000 MW's of energy projects including 1000 MW's of wind projects in the Pacific Northwest. In addition Mr. Ostrowski has lead the development effort for the LotusWorks-Summit Ridge I Wind Farm located in Wasco County, Oregon. Mr. Ostrowski received a Bachelor of Science Degree in Business Management from Elmhurst College in Elmhurst, Illinois and holds an Electrical General Administrator's License in the State of Washington.

The following is a list of wind projects where Mr. Ostrowski as President of LotusWorks CM division was responsible for overseeing the development and construction:

- White Creek Wind Project – Roosevelt Washington
LotusWorks was the project manager and provided staff for the 205MW wind project.
Responsibilities included pre construction management and construction management services.



budget development, schedule, cash flow, training closeout and owner interface were also provided. LotusWorks also provided site inspectors, accounting services and support staff to the project.

- Harvest Wind Project – Roosevelt Washington

LotusWorks was the project manager and provided staff for the 2100MW wind project. Responsibilities included pre construction management and construction management services, budget development, schedule, cash flow, training closeout and owner interface were also provided. LotusWorks also provided site inspectors, accounting services and support staff to the project.

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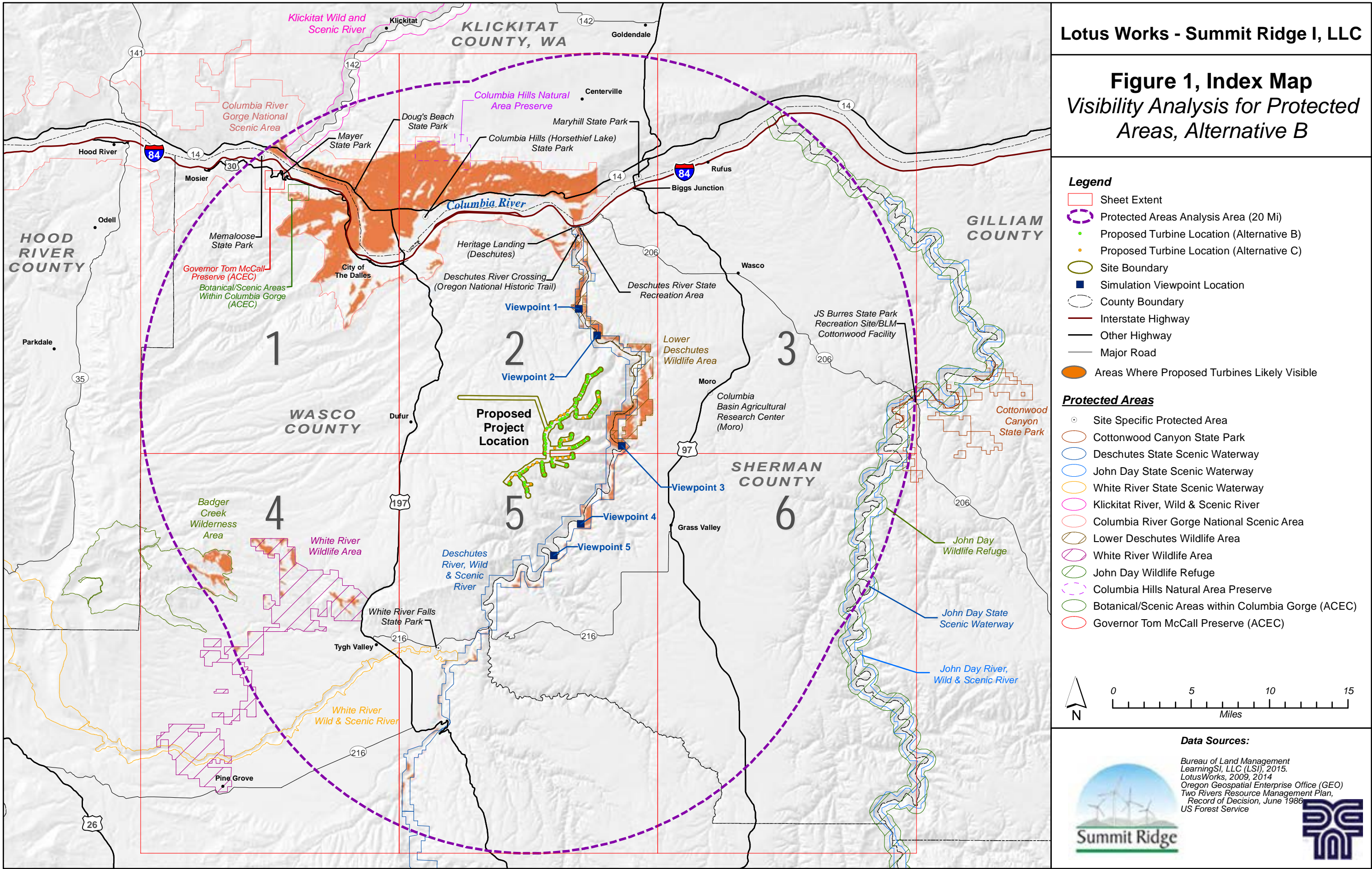
Scott Nelson (Independent Contractor) - Mr. Nelson has approximately twenty-three years of development, utility negotiations, construction, financing, and operations experience. He has been a part of over 5,000 MW's of successfully constructed wind and solar projects throughout the world. Mr. Nelson negotiated multiple frame agreements with wind turbine manufacturers, including but not limited to GE, Vestas, & Repower as well as negotiated international frame agreement with Vestas for

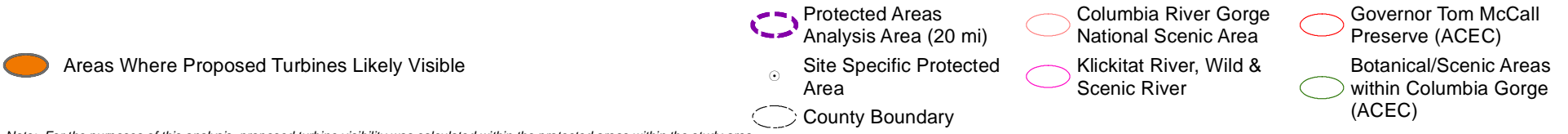
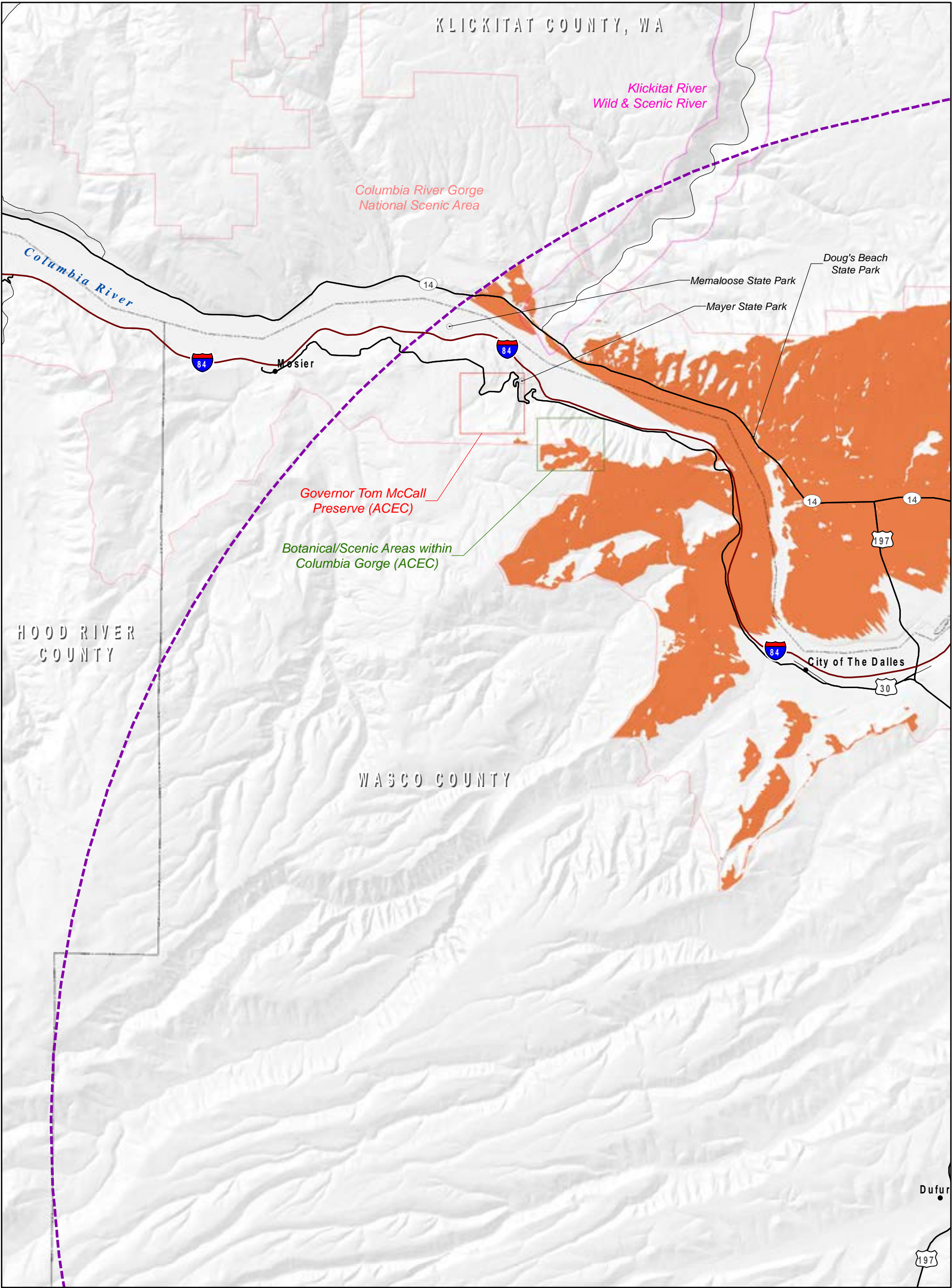


Attachment #2

Expanded Drawings Figures 1, 2, 3, 4, 5 & 6 w/ 6 sheets per figure

Figure 1, Index Map
Visibility Analysis for Protected
Areas, Alternative B





Note: For the purposes of this analysis, proposed turbine visibility was calculated within the protected areas within the study area.



Data Sources:
Bureau of Land Management
LearningSI, LLC (LSI), 2015.
LotusWorks, 2009, 2014
Oregon Geospatial Enterprise Office (GEO)
Two Rivers Resource Management Plan,
Record of Decision, June 1986
US Forest Service

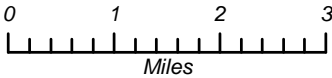
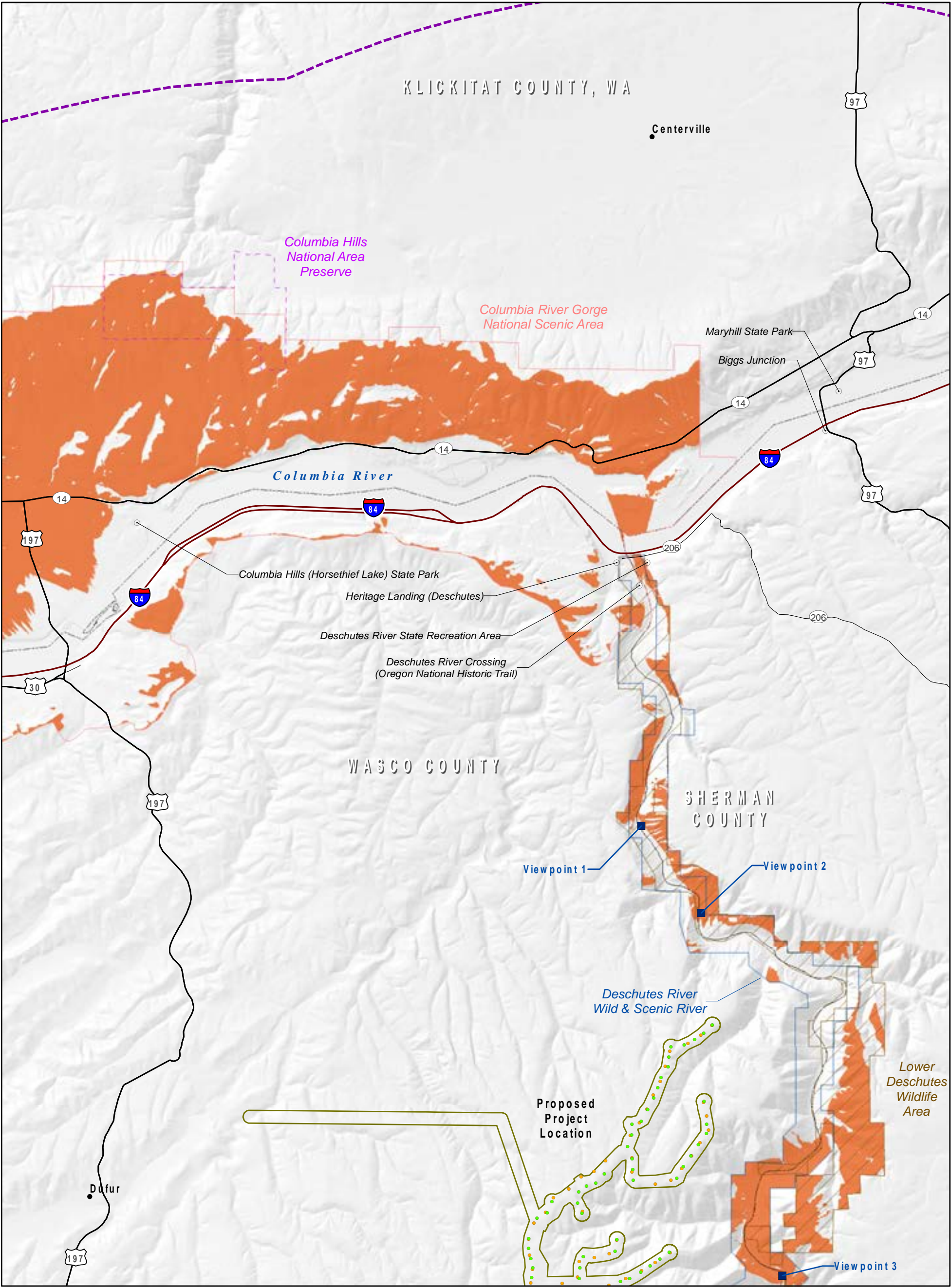
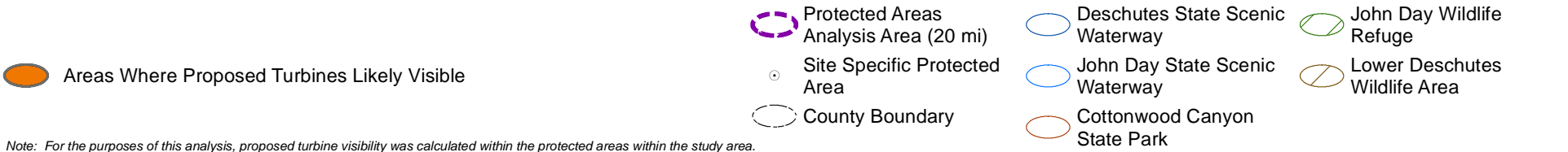
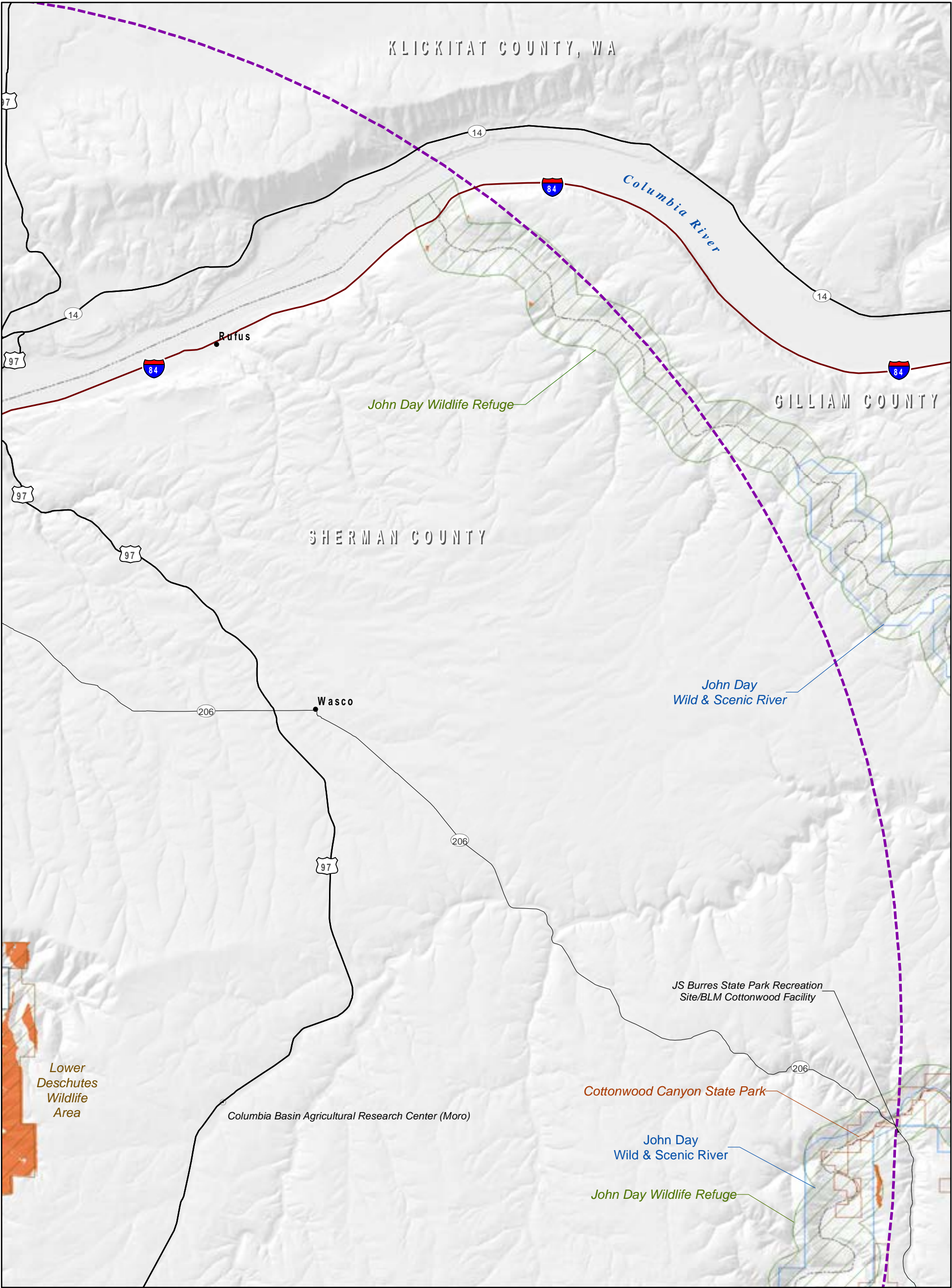
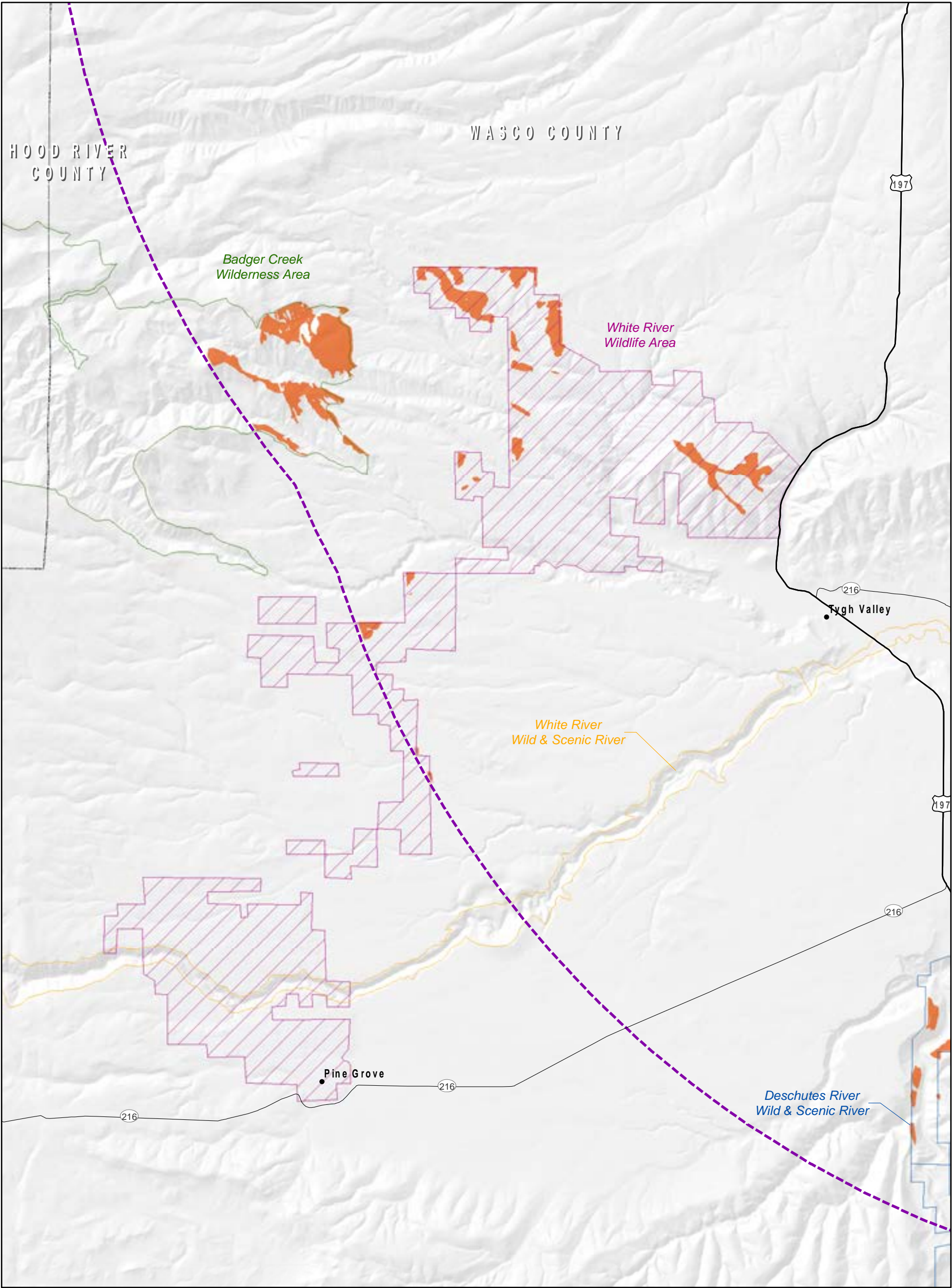









Figure 1, Sheet 1 of 6
*Comparison of Visibility Analyses
for Protected Areas, Alternative B*







-  Areas Where Proposed Turbines Likely Visible
-  Protected Areas Analysis Area (20 mi)
-  County Boundary
-  Badger Creek Wilderness
-  White River Wildlife Area
-  Deschutes State Scenic Waterway
-  White River State Scenic Waterway

Note: For the purposes of this analysis, proposed turbine visibility was calculated within the protected areas within the study area.



Data Sources:
Bureau of Land Management
LearningSI, LLC (LSI), 2015.
LotusWorks, 2009, 2014
Oregon Geospatial Enterprise Office (GEO)
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Record of Decision, June 1986
US Forest Service

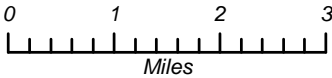
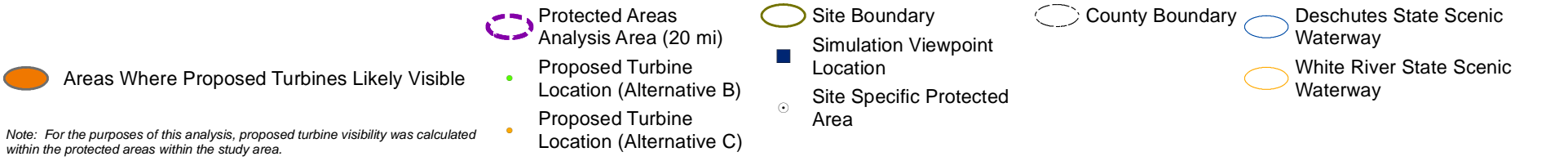
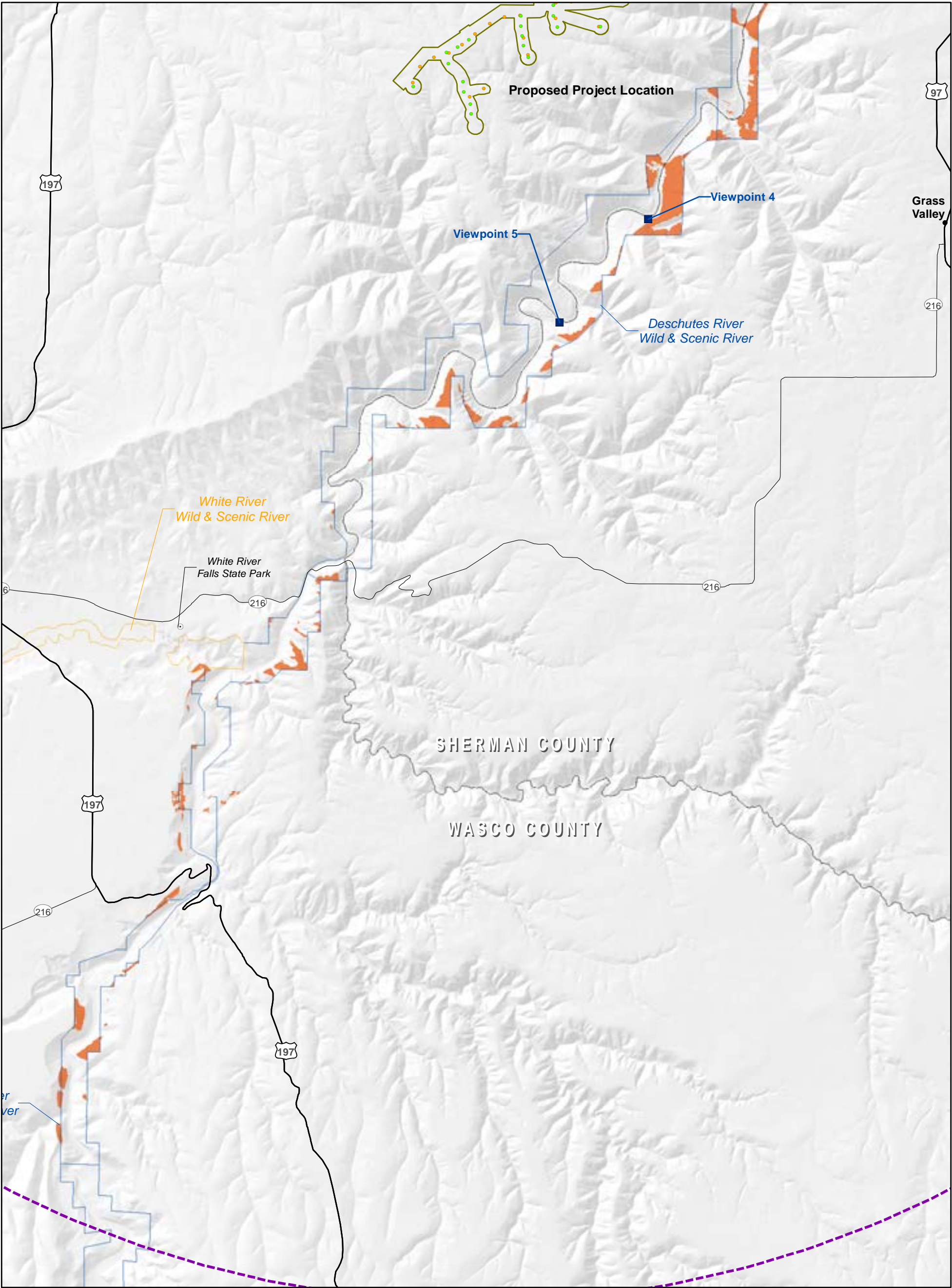


Figure 1, Sheet 4 of 6
*Comparison of Visibility Analyses
for Protected Areas, Alternative B*



Data Sources:
Bureau of Land Management
LearningSI, LLC (LSI), 2015.
LotusWorks, 2009, 2014
Oregon Geospatial Enterprise Office (GEO)
Two Rivers Resource Management Plan,
Record of Decision, June 1986
US Forest Service

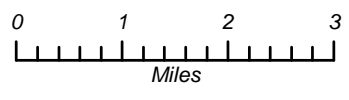
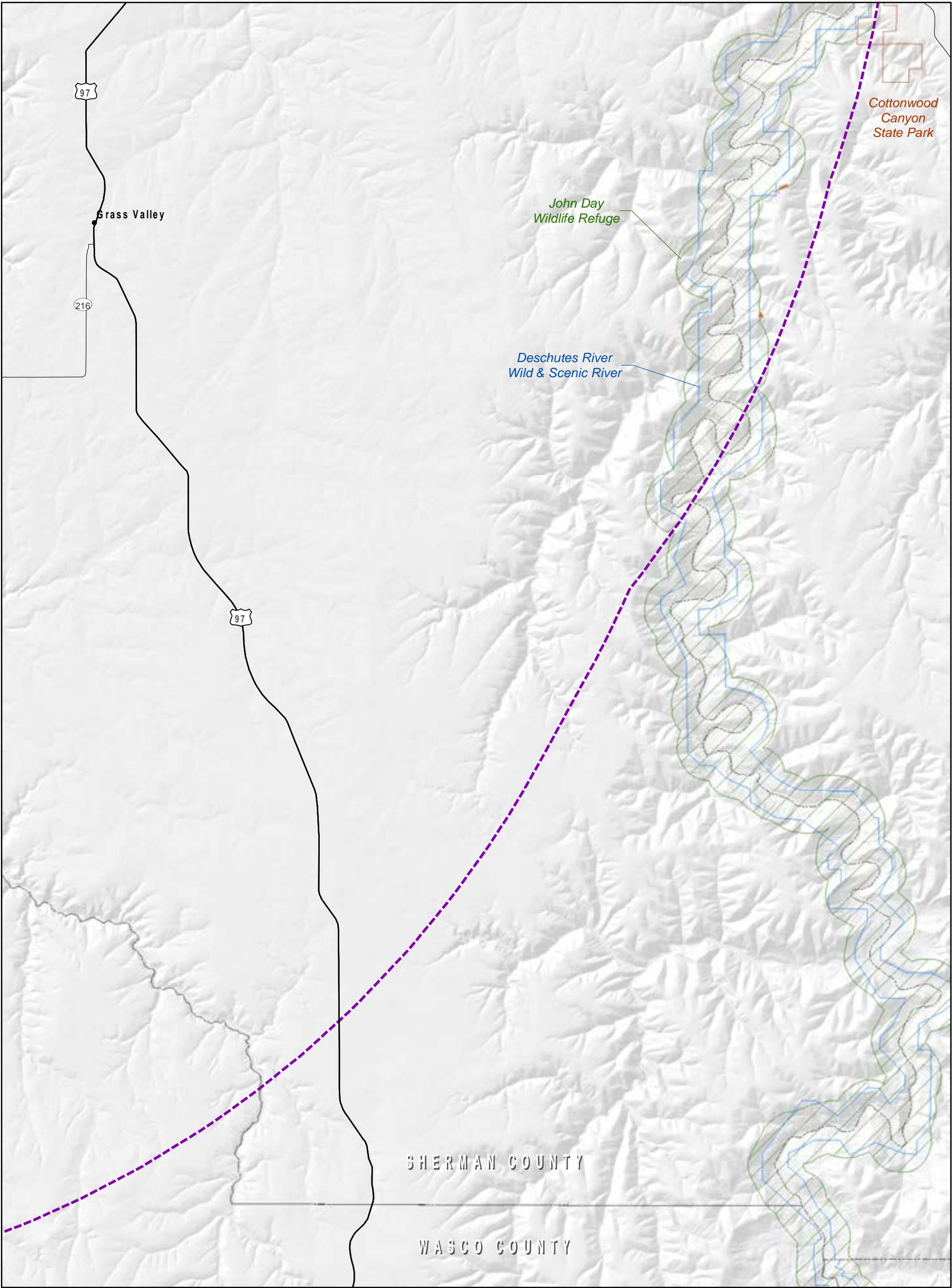


Figure 1, Sheet 5 of 6
*Comparison of Visibility Analyses
for Protected Areas, Alternative B*



Areas Where Proposed Turbines Likely Visible

Protected Areas Analysis Area (20 mi)
County Boundary

John Day State Scenic Waterway
Cottonwood Canyon State Park

John Day Wildlife Refuge

Note: For the purposes of this analysis, proposed turbine visibility was calculated within the protected areas within the study area.

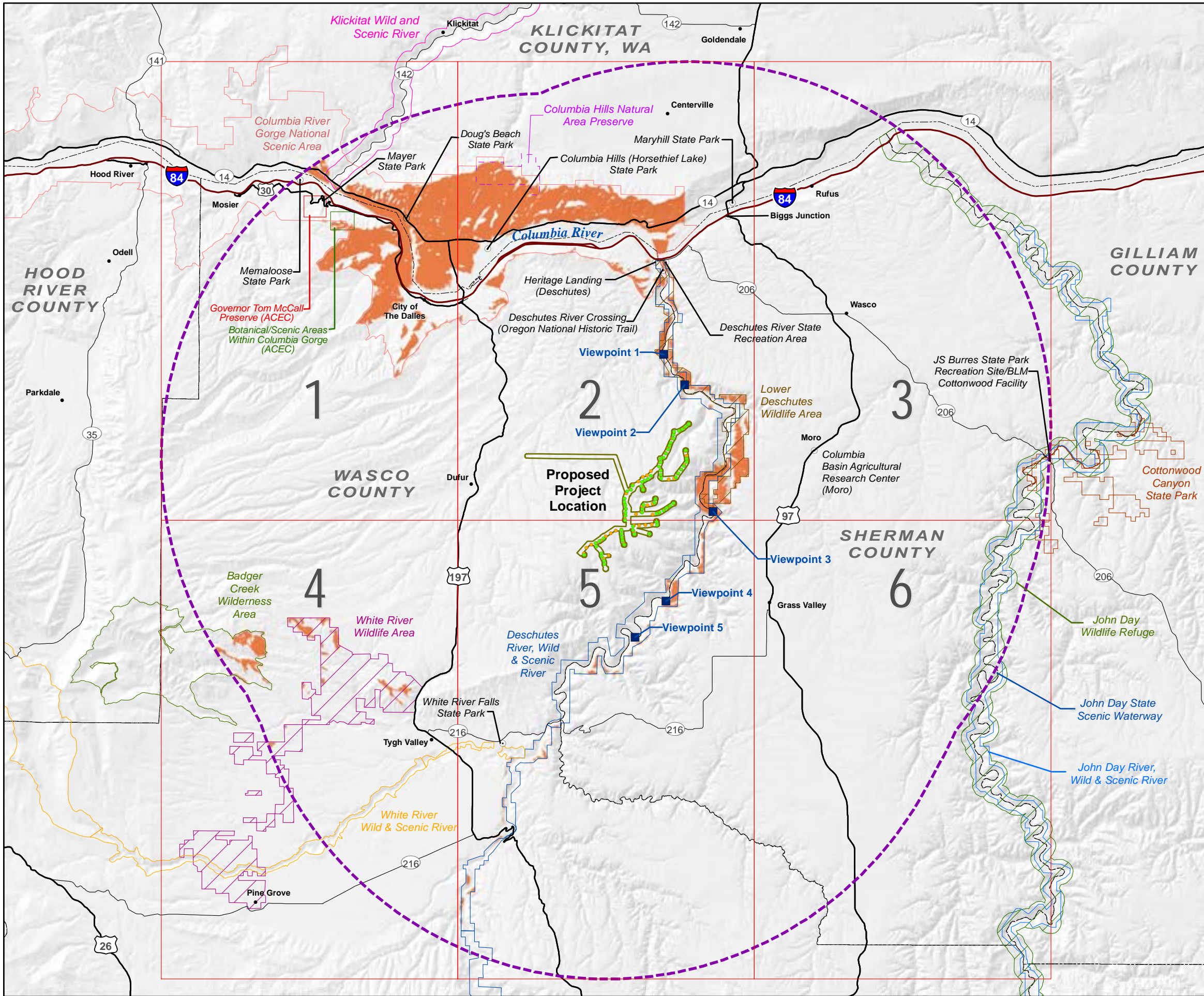


Data Sources:
Bureau of Land Management
LearningSI, LLC (LSI), 2015.
LotusWorks, 2009, 2014
Oregon Geospatial Enterprise Office (GEO)
Two Rivers Resource Management Plan,
Record of Decision, June 1986
US Forest Service



Figure 1, Sheet 6 of 6
*Comparison of Visibility Analyses
for Protected Areas, Alternative B*

Figure 2, Index Map
Visibility Analysis for Protected
Areas, Alternative C

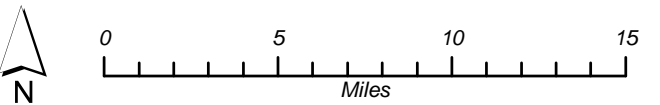


Legend

- Sheet Extent
- Protected Areas Analysis Area (20 Mi)
- Proposed Turbine Location (Alternative B)
- Proposed Turbine Location (Alternative C)
- Site Boundary
- Simulation Viewpoint Location
- County Boundary
- Interstate Highway
- Other Highway
- Major Road
- Areas Where Proposed Turbines Likely Visible

Protected Areas

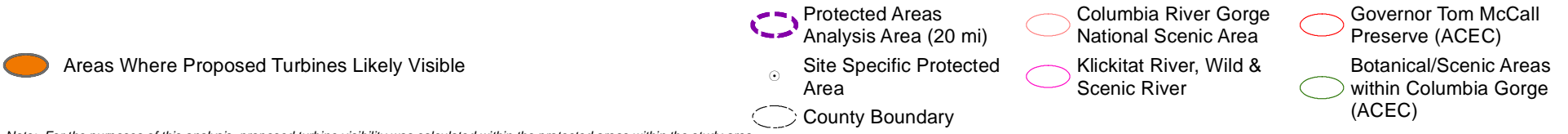
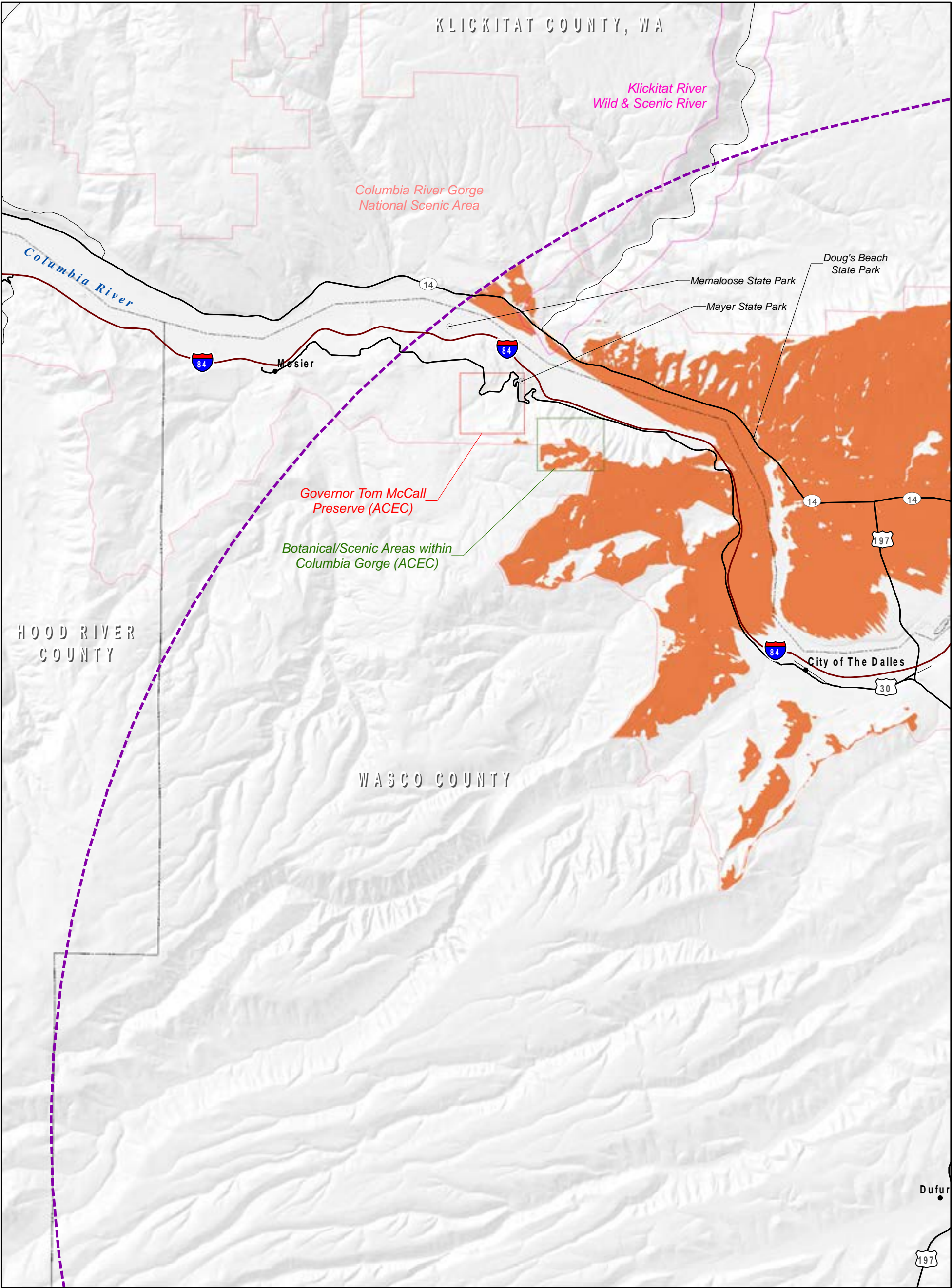
- Site Specific Protected Area
- Cottonwood Canyon State Park
- Deschutes State Scenic Waterway
- John Day State Scenic Waterway
- White River State Scenic Waterway
- Klickitat River, Wild & Scenic River
- Columbia River Gorge National Scenic Area
- Lower Deschutes Wildlife Area
- White River Wildlife Area
- John Day Wildlife Refuge
- Columbia Hills Natural Area Preserve
- Botanical/Scenic Areas within Columbia Gorge (ACEC)
- Governor Tom McCall Preserve (ACEC)



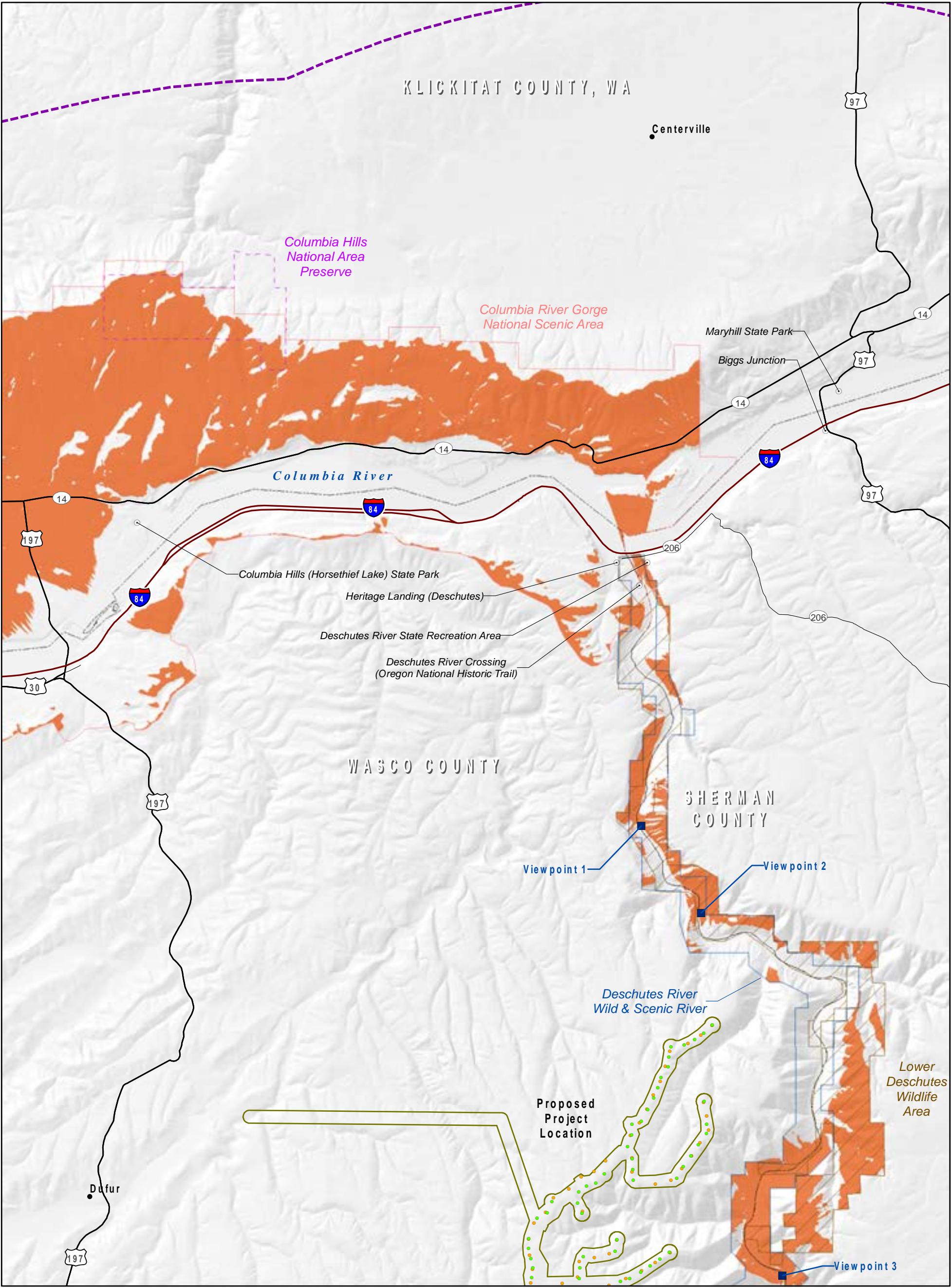
Data Sources:

- Bureau of Land Management
- LearningSI, LLC (LSI), 2015.
- LotusWorks, 2009, 2014
- Oregon Geospatial Enterprise Office (GEO)
- Two Rivers Resource Management Plan,
- Record of Decision, June 1986
- US Forest Service

Summit Ridge



Note: For the purposes of this analysis, proposed turbine visibility was calculated within the protected areas within the study area.



Data Sources:
Bureau of Land Management
LearningSI, LLC (LSI), 2015.
LotusWorks, 2009, 2014
Oregon Geospatial Enterprise Office (GEO)
Two Rivers Resource Management Plan,
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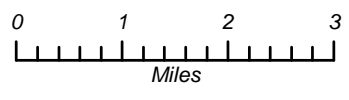
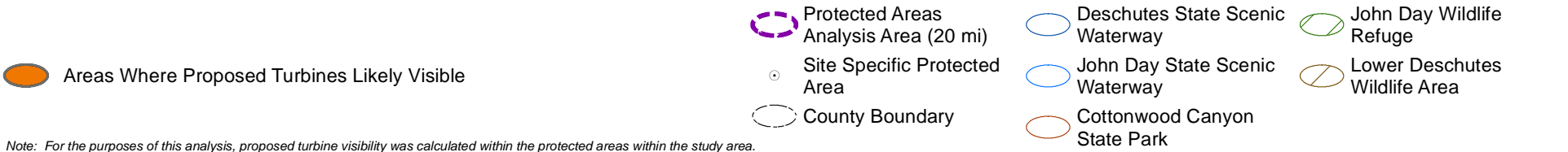
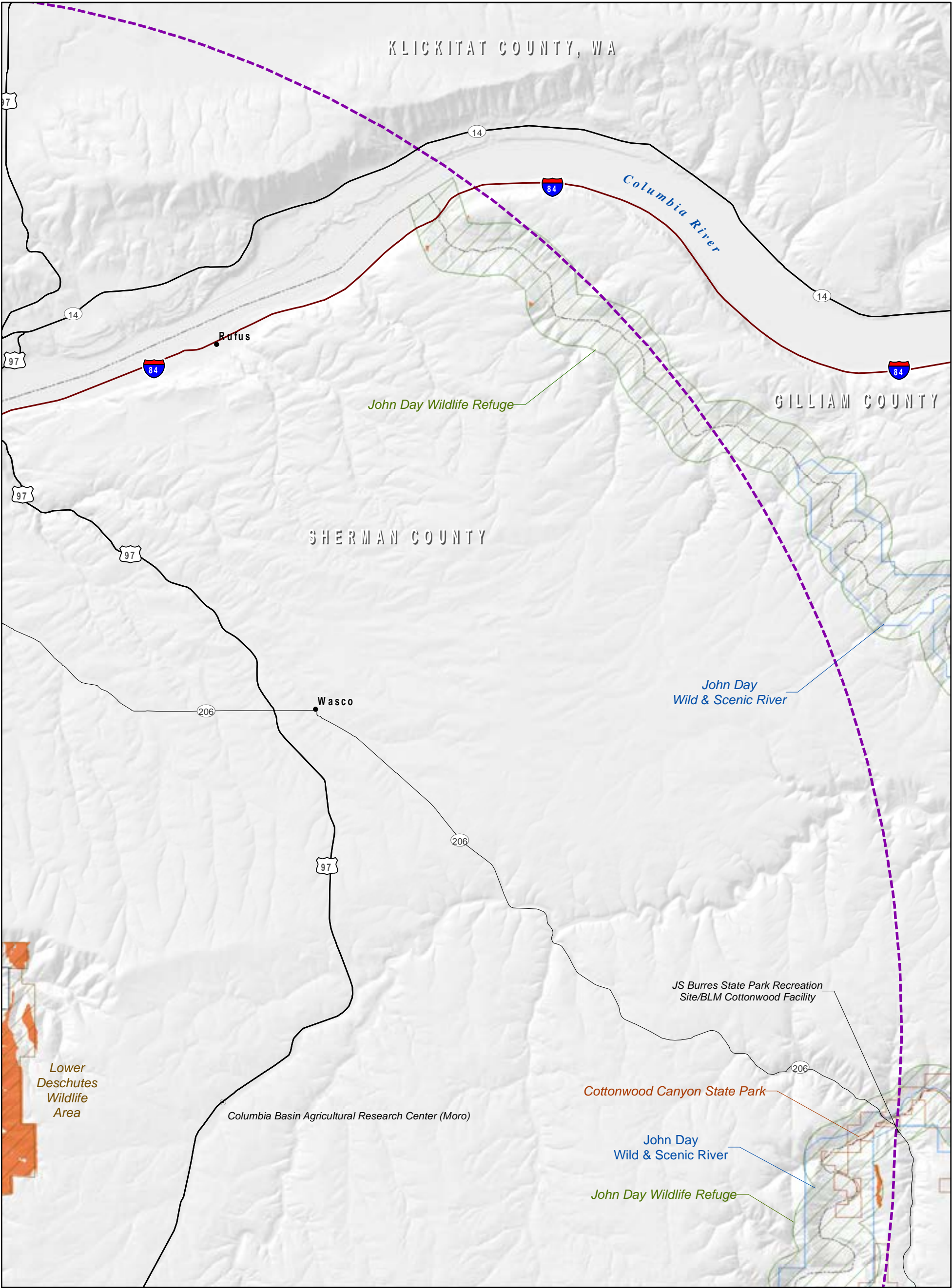


Figure 2, Sheet 2 of 6
*Comparison of Visibility Analyses
for Protected Areas, Alternative C*



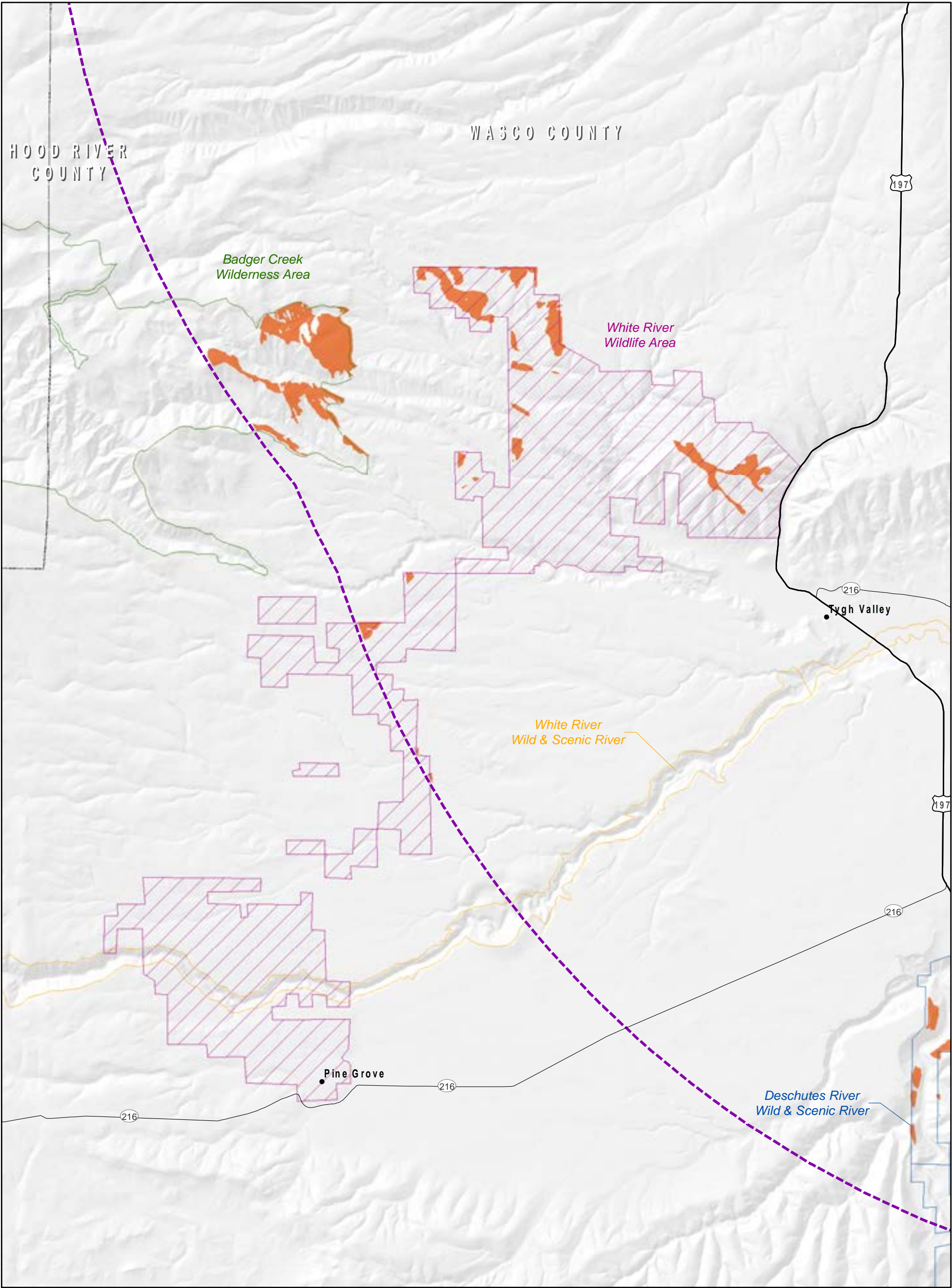
Note: For the purposes of this analysis, proposed turbine visibility was calculated within the protected areas within the study area.










Data Sources:
Bureau of Land Management
LearningSI, LLC (LSI), 2015.
LotusWorks, 2009, 2014
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Figure 2, Sheet 3 of 6
*Comparison of Visibility Analyses
for Protected Areas, Alternative C*



-  Areas Where Proposed Turbines Likely Visible
-  Protected Areas Analysis Area (20 mi)
-  County Boundary
-  Badger Creek Wilderness
-  White River Wildlife Area
-  Deschutes State Scenic Waterway
-  White River State Scenic Waterway

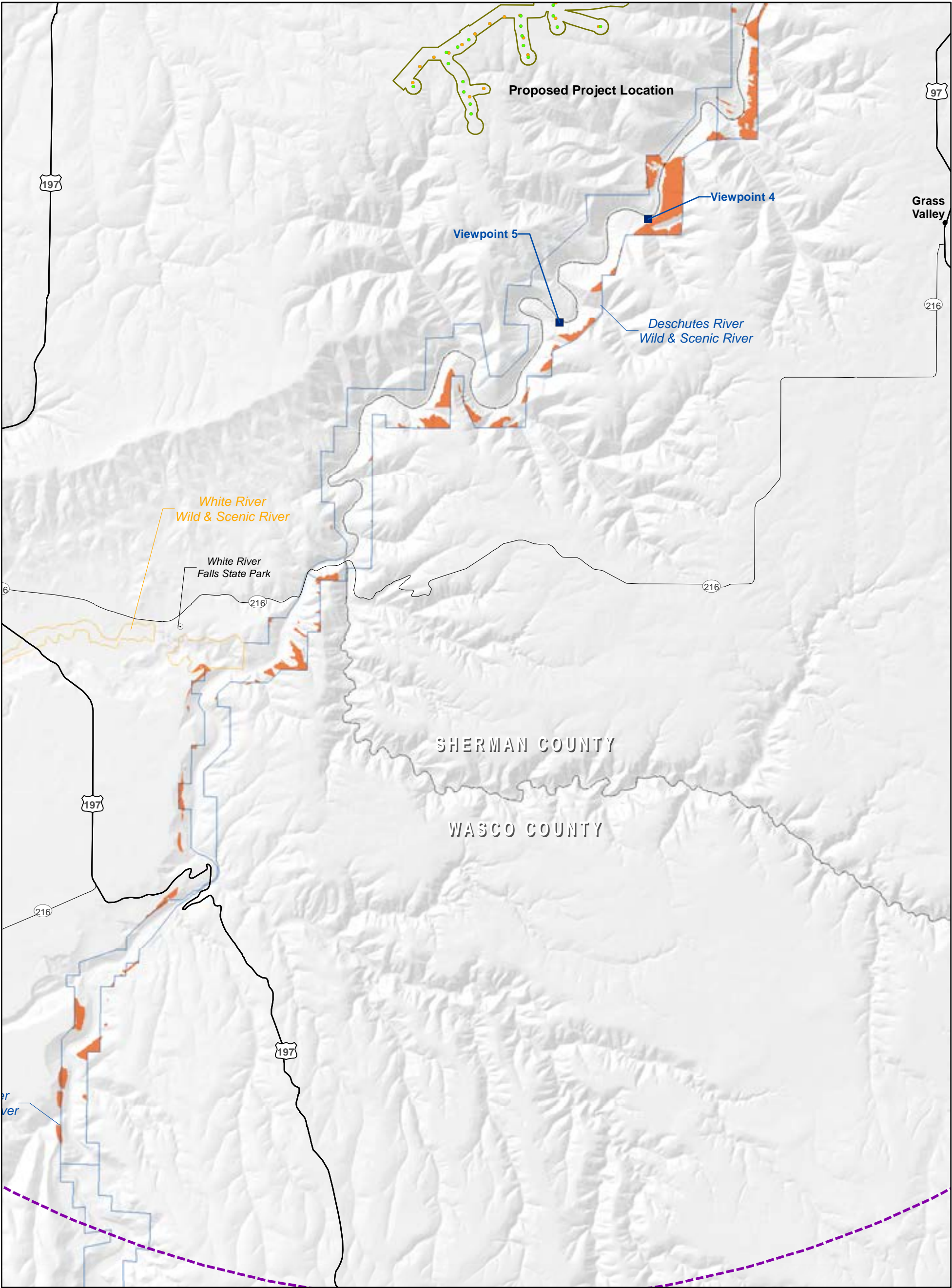
Note: For the purposes of this analysis, proposed turbine visibility was calculated within the protected areas within the study area.

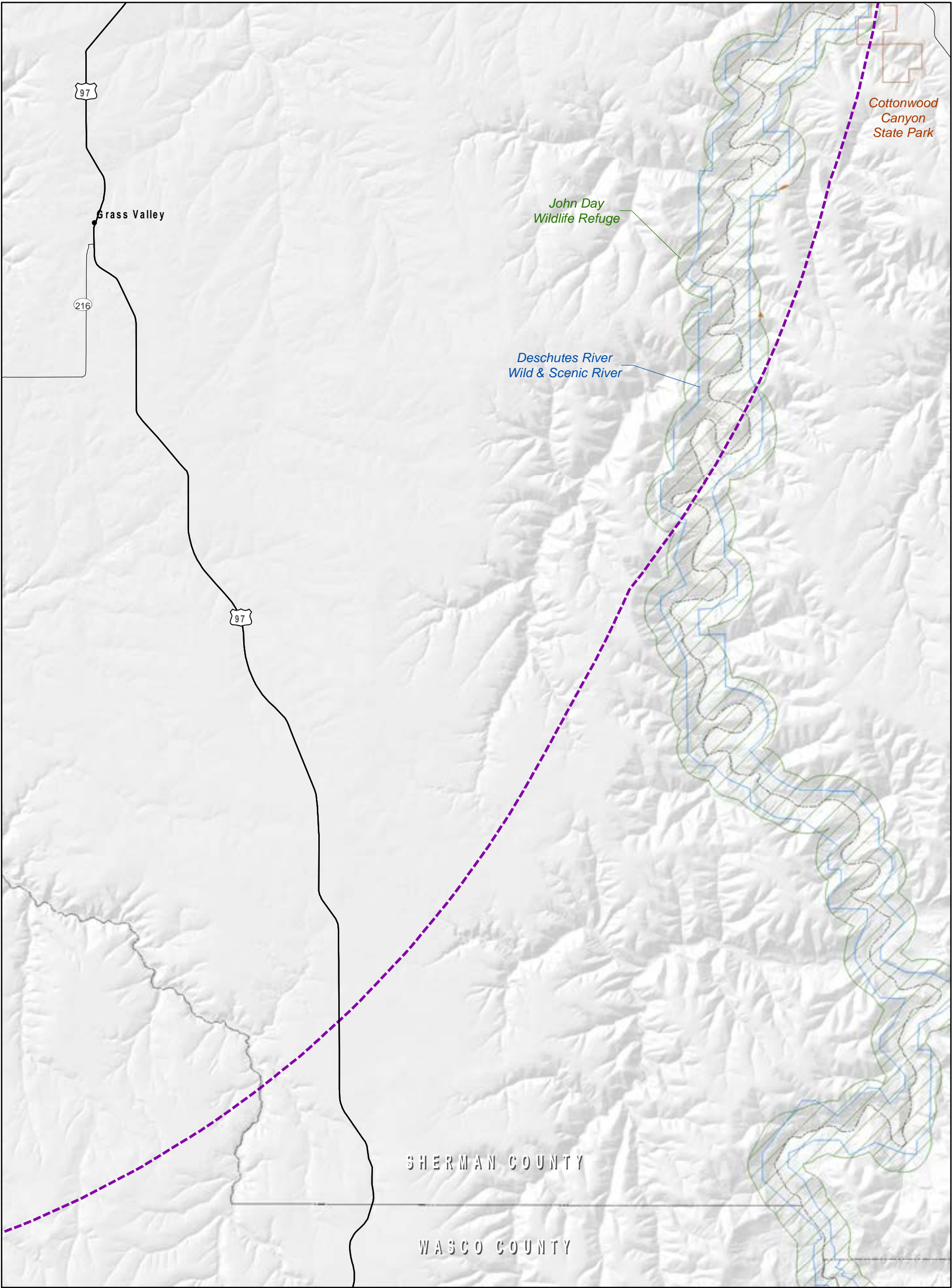


Data Sources:
Bureau of Land Management
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LotusWorks, 2009, 2014
Oregon Geospatial Enterprise Office (GEO)
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US Forest Service



Figure 2, Sheet 4 of 6
*Comparison of Visibility Analyses
for Protected Areas, Alternative C*





Areas Where Proposed Turbines Likely Visible

Protected Areas Analysis Area (20 mi)
County Boundary

John Day State Scenic Waterway
Cottonwood Canyon State Park

John Day Wildlife Refuge

Note: For the purposes of this analysis, proposed turbine visibility was calculated within the protected areas within the study area.

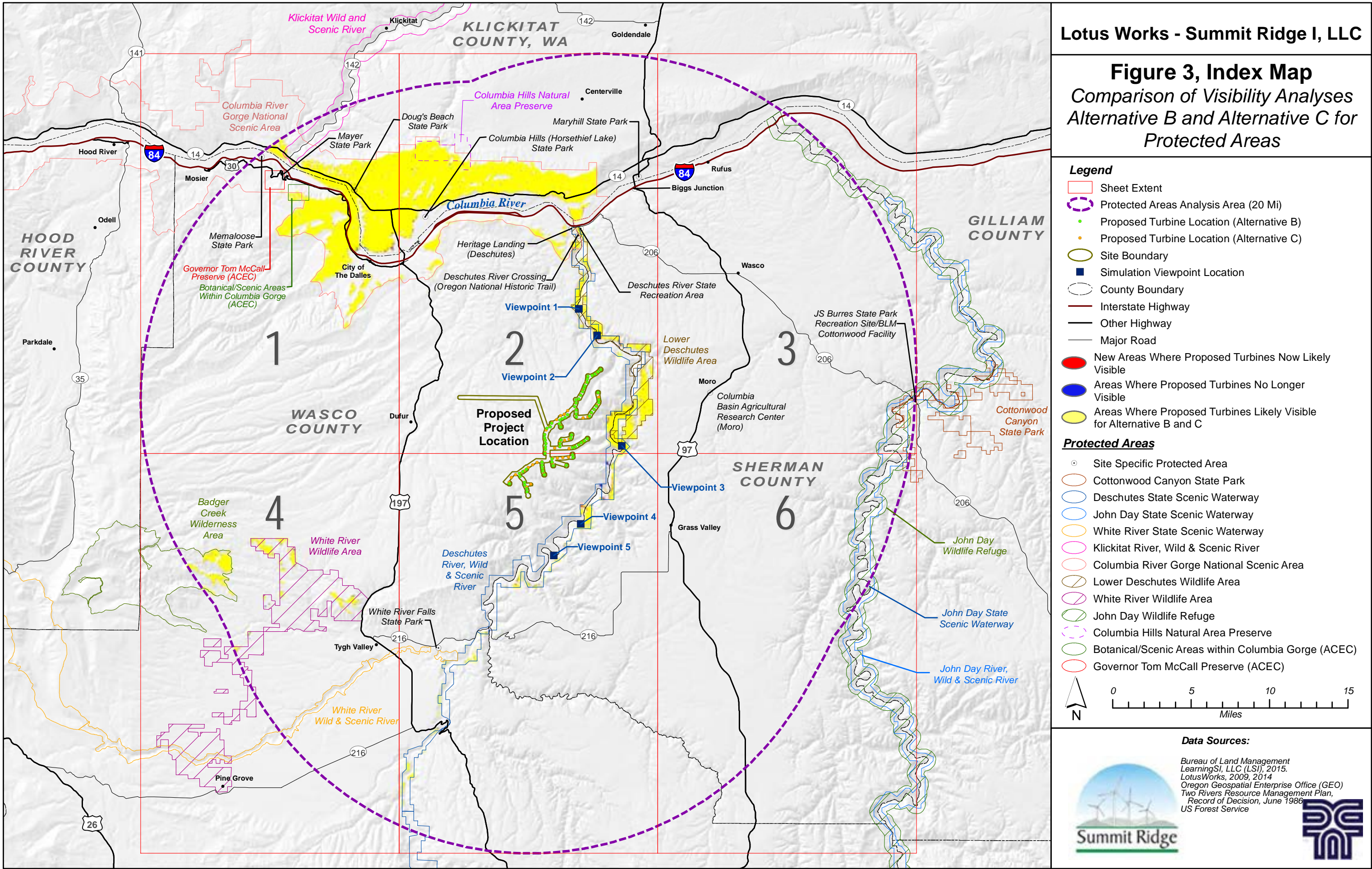


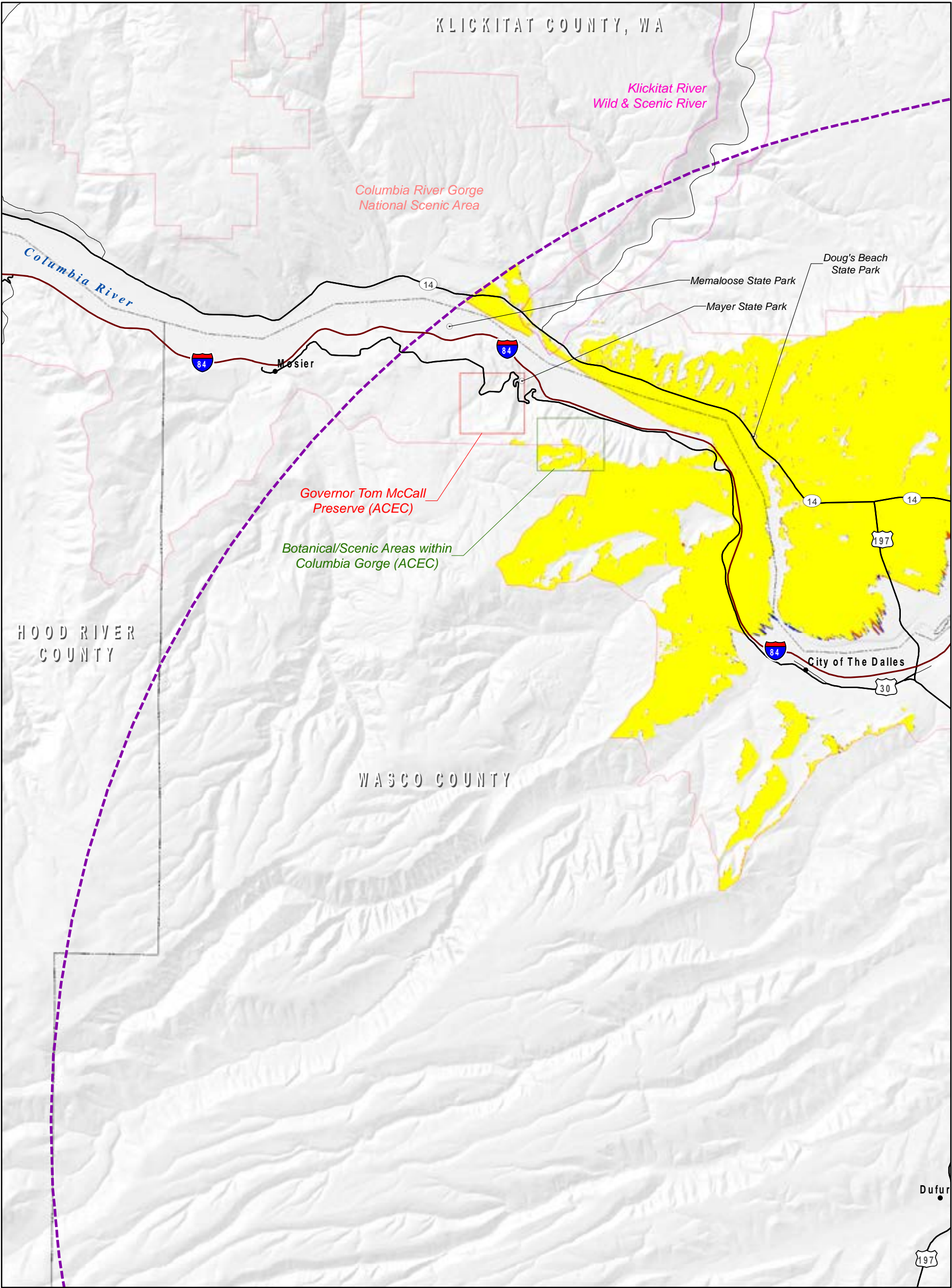
Data Sources:
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Figure 2, Sheet 6 of 6
*Comparison of Visibility Analyses
for Protected Areas, Alternative C*

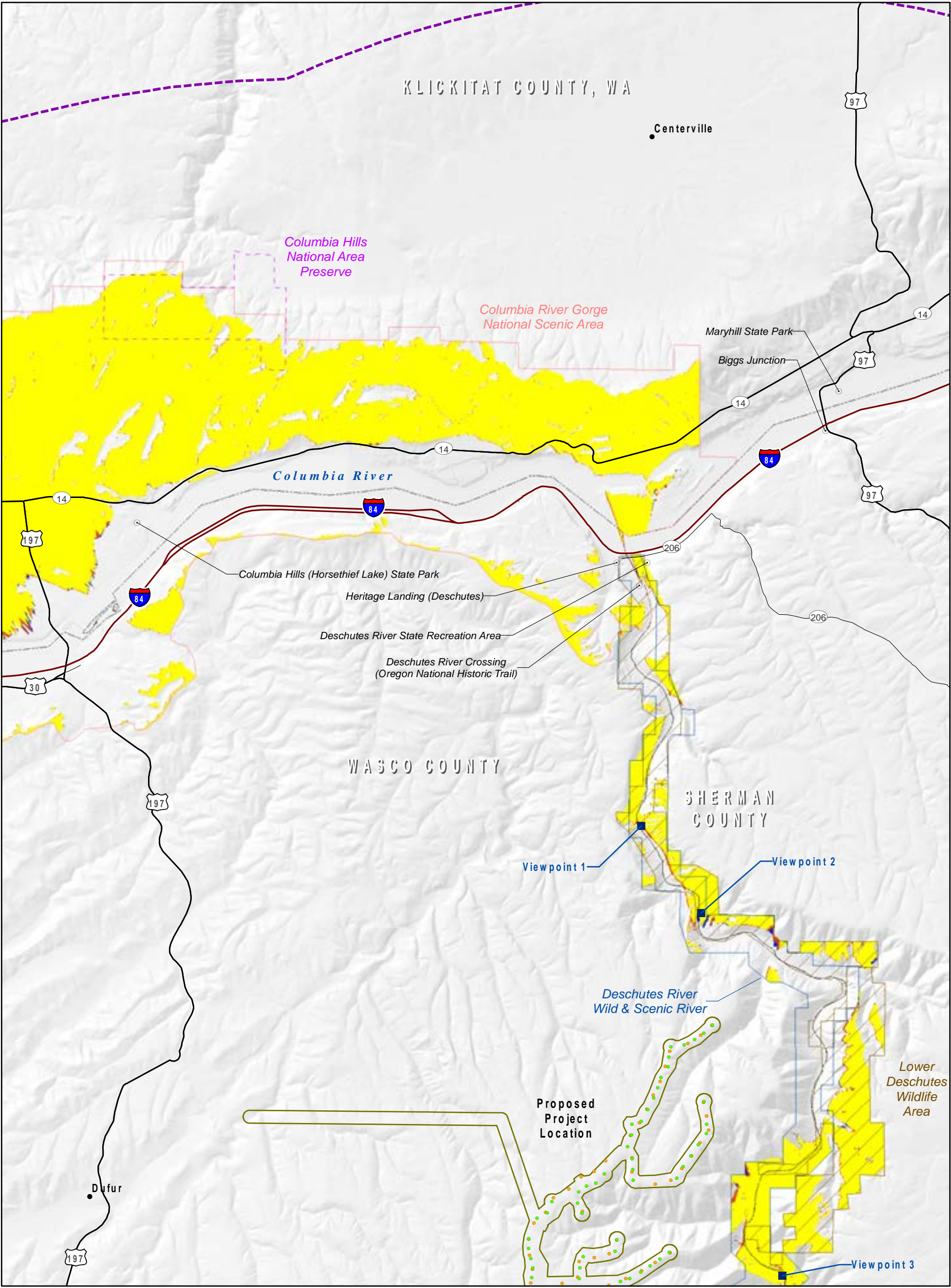
Figure 3, Index Map
Comparison of Visibility Analyses
Alternative B and Alternative C for
Protected Areas





- New Areas Where Proposed Turbines Now Likely Visible
- Areas Where Proposed Turbines No Longer Visible
- Areas Where Proposed Turbines Likely Visible for Alternatives B and C
- Protected Areas Analysis Area (20 mi)
- Site Specific Protected Area
- County Boundary
- Columbia River Gorge National Scenic Area
- Klickitat River, Wild & Scenic River
- Governor Tom McCall Preserve (ACEC)
- Botanical/Scenic Areas within Columbia Gorge (ACEC)

Note: For the purposes of this analysis, proposed turbine visibility was calculated within the protected areas within the study area.



New Areas Where Proposed Turbines Now Likely Visible

Areas Where Proposed Turbines No Longer Visible

Areas Where Proposed Turbines Likely Visible for Alternatives B and C

Protected Areas Analysis Area (20 mi)

Proposed Turbine Location (Alternative B)

Proposed Turbine Location (Alternative C)

Site Boundary

Site Specific Protected Area

Simulation Viewpoint Location

Columbia Hills Natural Area Preserve

Columbia River Gorge National Scenic Area

Deschutes State Scenic Waterway

Lower Deschutes Wildlife Area

Note: For the purposes of this analysis, proposed turbine visibility was calculated within the protected areas within the study area.



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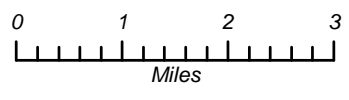
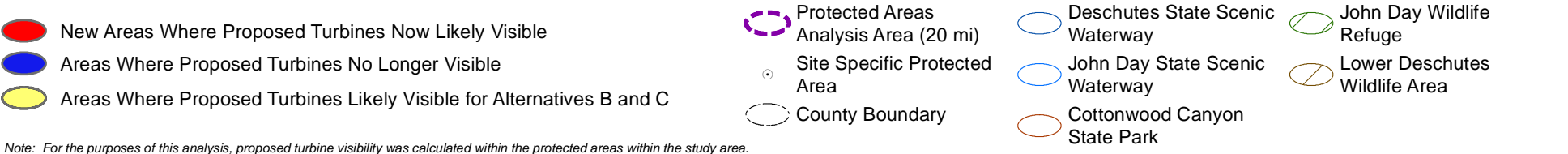
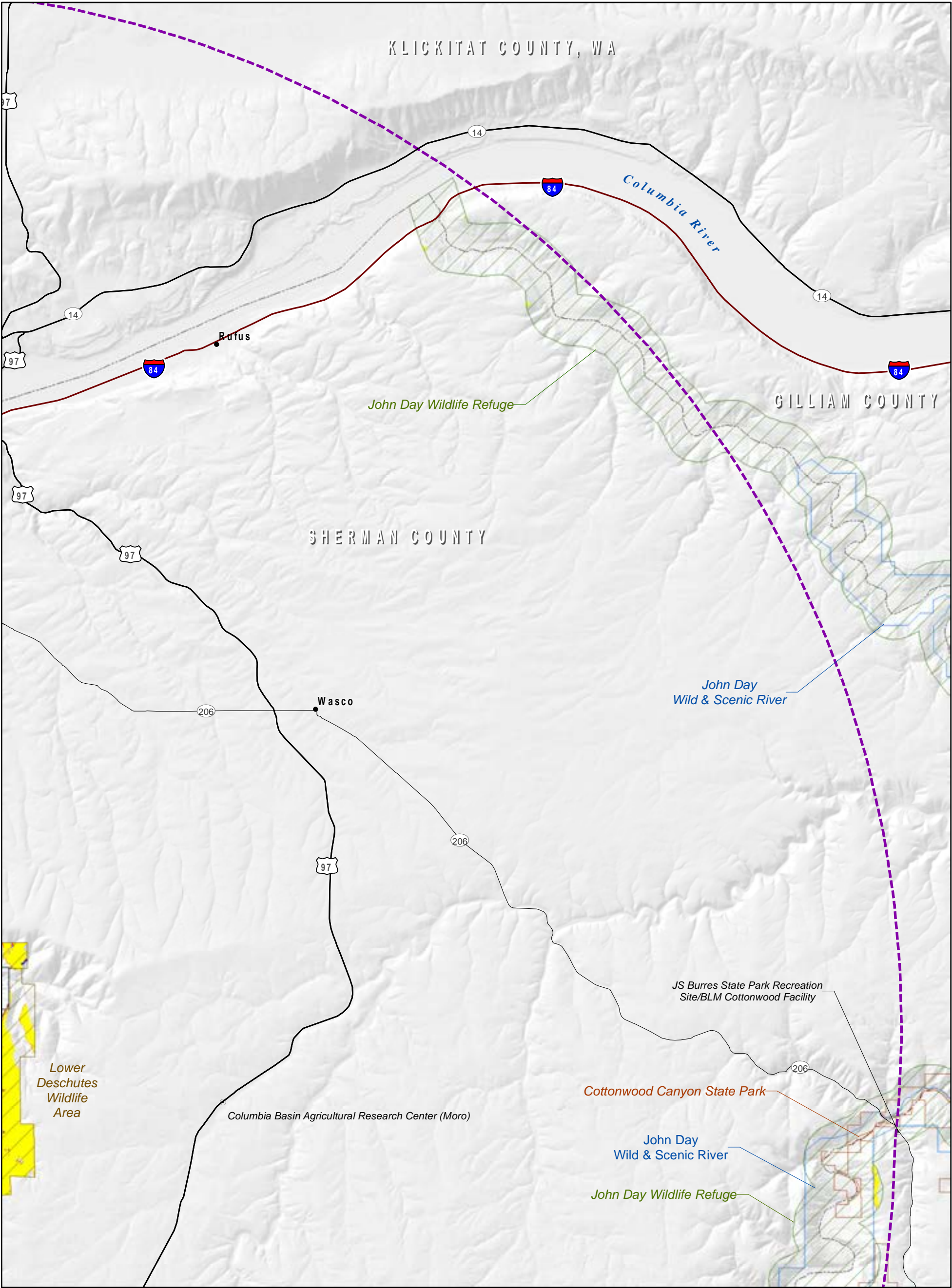
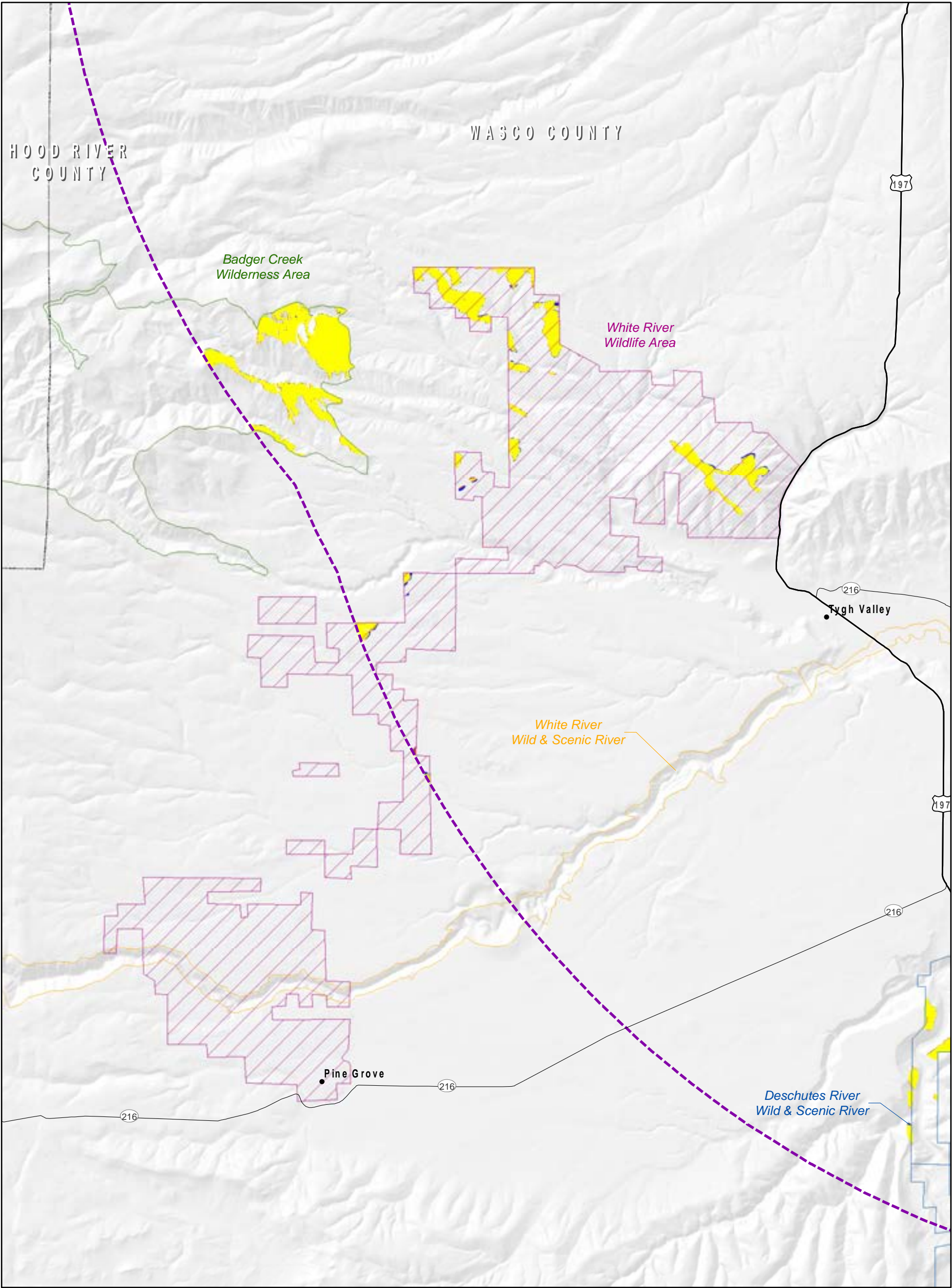












Figure 3, Sheet 2 of 6
Comparison of Visibility Analyses
Alternative B and Alternative C
for Protected Areas





- | | | | |
|--|--|---|---|
|  New Areas Where Proposed Turbines Now Likely Visible |  Protected Areas Analysis Area (20 mi) |  Badger Creek Wilderness |  White River Wildlife Area |
|  Areas Where Proposed Turbines No Longer Visible |  Site Specific Protected Area |  Deschutes State Scenic Waterway | |
|  Areas Where Proposed Turbines Likely Visible for Alternatives B and C |  County Boundary |  White River State Scenic Waterway | |

Note: For the purposes of this analysis, proposed turbine visibility was calculated within the protected areas within the study area.



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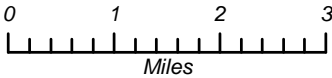
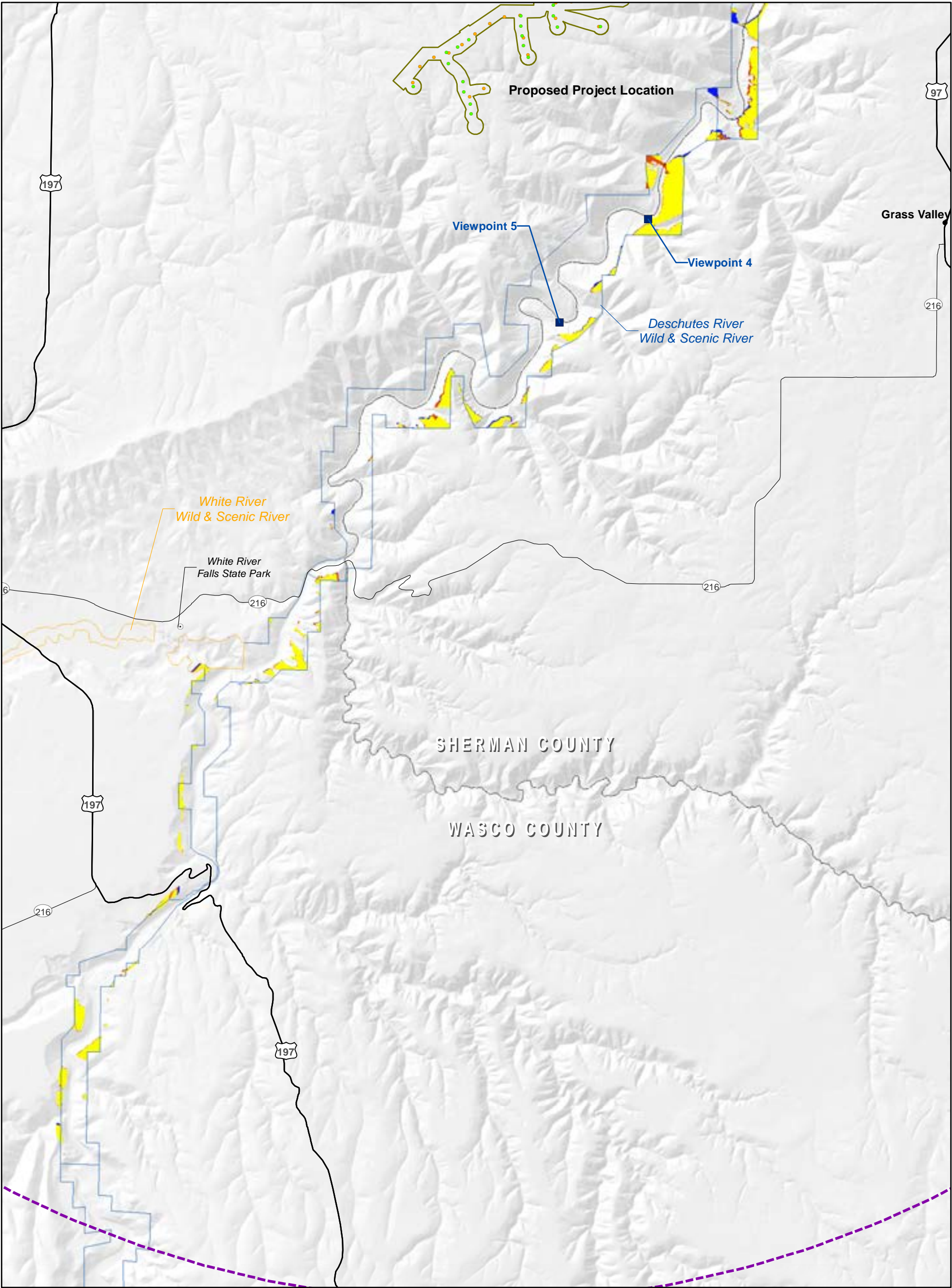


Figure 3, Sheet 4 of 6
Comparison of Visibility Analyses
Alternative B and Alternative C
for Protected Areas



- New Areas Where Proposed Turbines Now Likely Visible

Areas Where Proposed Turbines No Longer Visible

Areas Where Proposed Turbines Likely Visible for Alternatives B and C
- Protected Areas Analysis Area (20 mi)

Proposed Turbine Location (Alternative B)

Proposed Turbine Location (Alternative C)
- Site Boundary

Site Specific Protected Area

Simulation Viewpoint Location
- Deschutes State Scenic Waterway

White River State Scenic Waterway

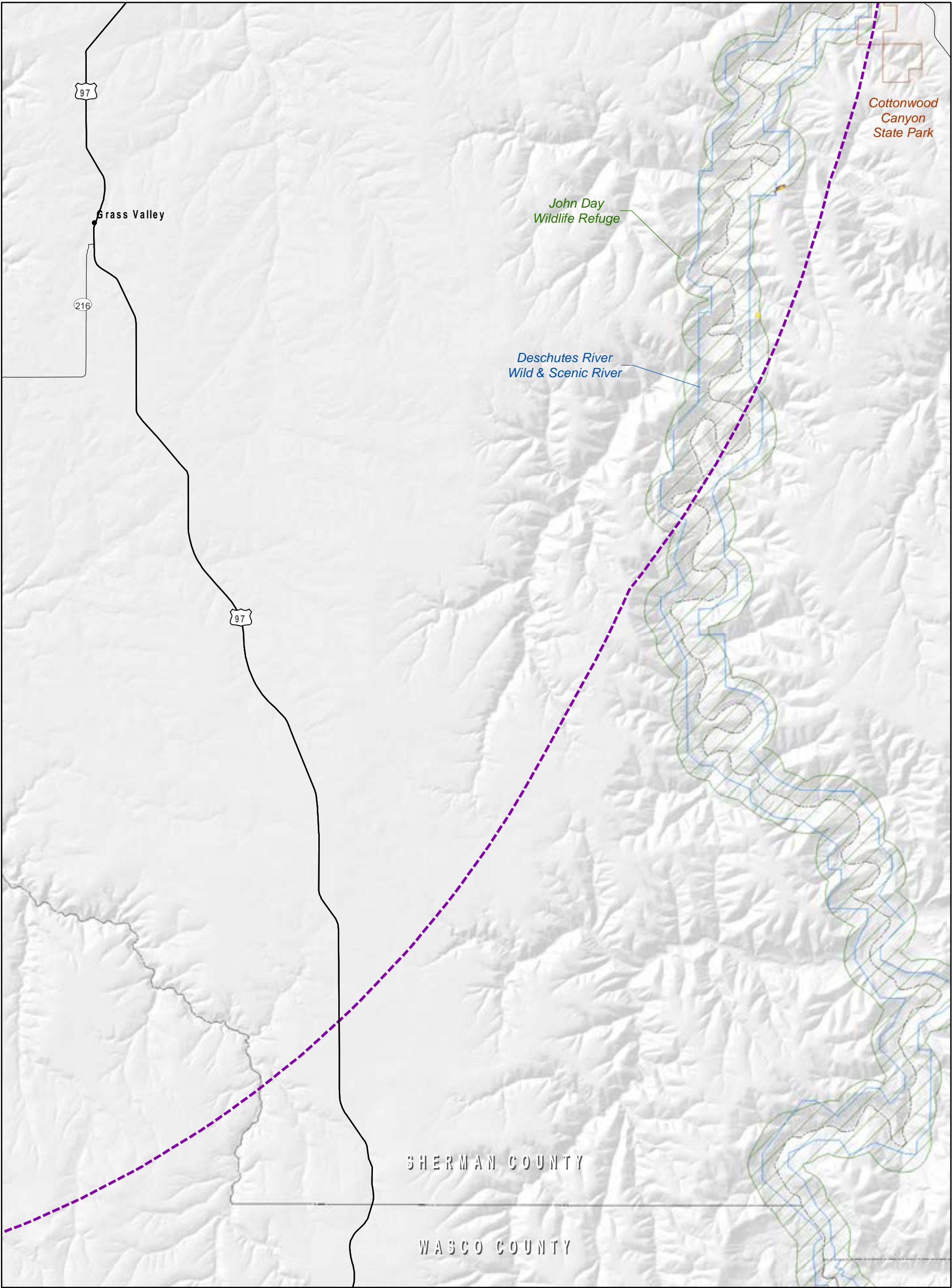
Note: For the purposes of this analysis, proposed turbine visibility was calculated within the protected areas within the study area.



Data Sources:
Bureau of Land Management
LearningSI, LLC (LSI), 2015.
LotusWorks, 2009, 2014
Oregon Geospatial Enterprise Office (GEO)
Two Rivers Resource Management Plan,
Record of Decision, June 1986
US Forest Service



Figure 3, Sheet 5 of 6
*Comparison of Visibility Analyses
Alternative B and Alternative C
for Protected Areas*



- New Areas Where Proposed Turbines Now Likely Visible
- Areas Where Proposed Turbines No Longer Visible
- Areas Where Proposed Turbines Likely Visible for Alternatives B and C
- Protected Areas Analysis Area (20 mi)
- County Boundary
- John Day State Scenic Waterway
- Cottonwood Canyon State Park
- John Day Wildlife Refuge

Note: For the purposes of this analysis, proposed turbine visibility was calculated within the protected areas within the study area.

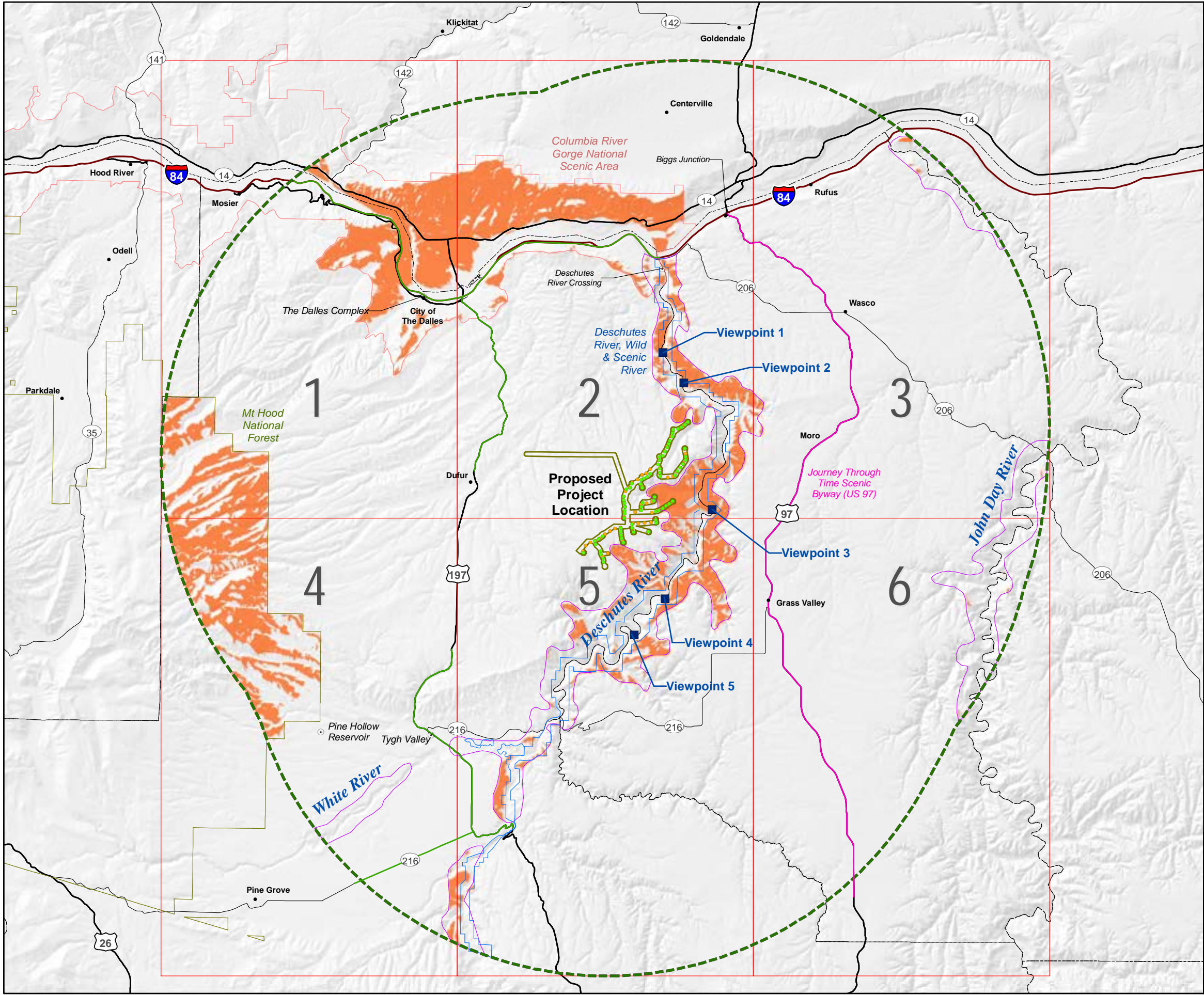


Data Sources:
Bureau of Land Management
LearningSI, LLC (LSI), 2015.
LotusWorks, 2009, 2014
Oregon Geospatial Enterprise Office (GEO)
Two Rivers Resource Management Plan,
Record of Decision, June 1986
US Forest Service



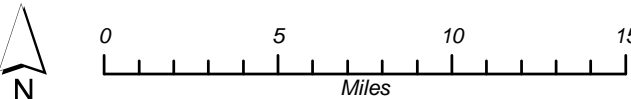
Figure 3, Sheet 6 of 6
*Comparison of Visibility Analyses
Alternative B and Alternative C
for Protected Areas*

Figure 4, Index Map
Visibility Analysis for
Scenic and Aesthetic Value
Areas, Alternative B



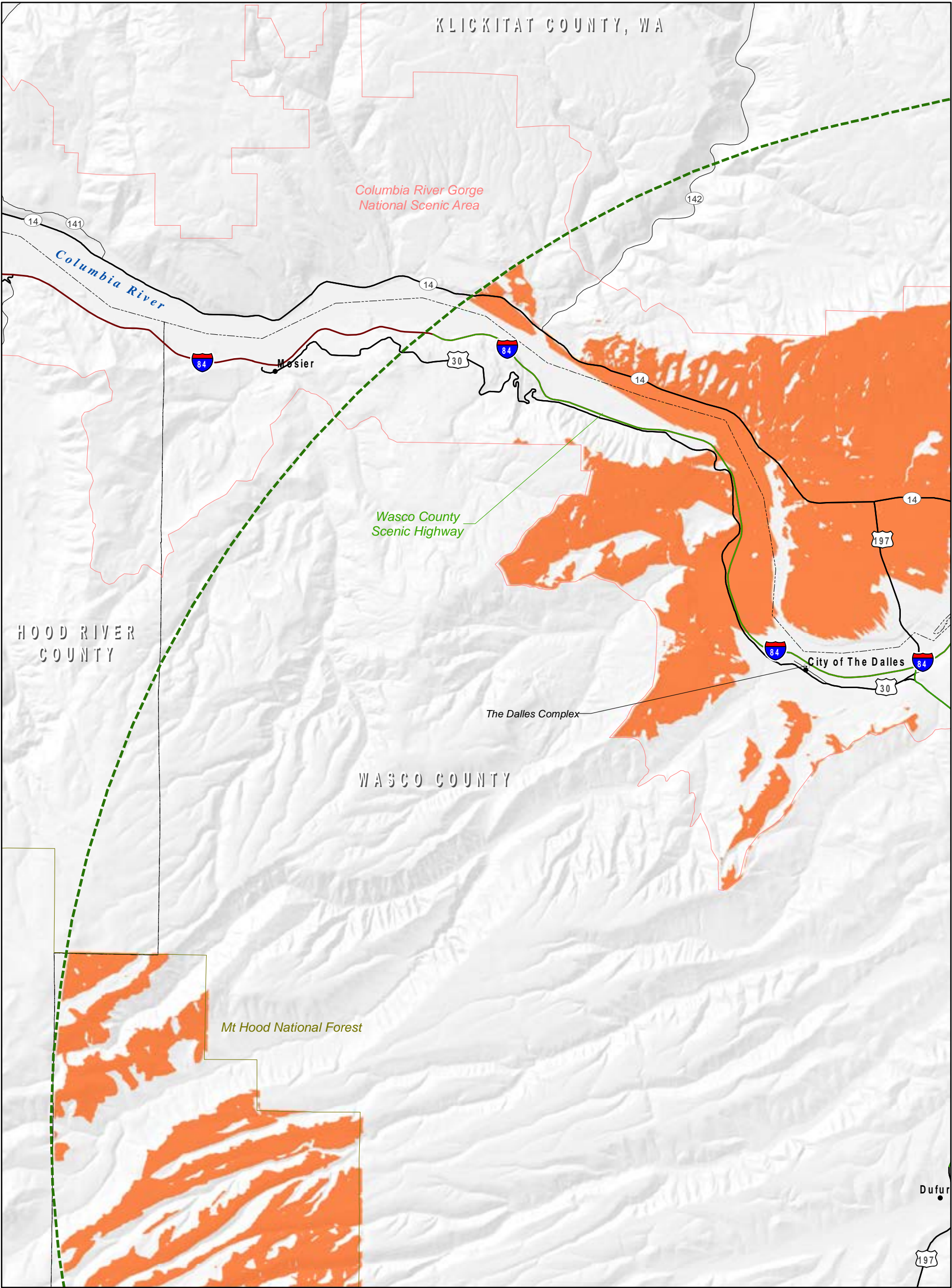
- Legend**
- Sheet Extent
 - Scenic and Aesthetic Values Analysis Area (20 mi)
 - Proposed Turbine Location (Alternative B)
 - Proposed Turbine Location (Alternative C)
 - Site Boundary
 - Simulation Viewpoint Location
 - County Boundary
 - Interstate Highway
 - Other Highway
 - Major Road
 - Areas Where Proposed Turbines Likely Visible

- Scenic Areas**
- Site Specific Scenic Areas
 - Wasco County Scenic Highway
 - Journey Through Time Scenic Byway (US 97)
 - Federal Wild and Scenic Rivers
 - BLM Area of High Visual Quality
 - Mt. Hood National Forest
 - Columbia River Gorge National Scenic Area



Data Sources:
Bureau of Land Management
LearningSI, LLC (LSI), 2015.
LotusWorks, 2009, 2014
Oregon Geospatial Enterprise Office (GEO)
Two Rivers Resource Management Plan,
Record of Decision, June 1986
US Forest Service





Areas Where Proposed Turbines Likely Visible

Note: For the purposes of this analysis, proposed turbine visibility was calculated within the scenic and aesthetically valued areas within the analysis area.

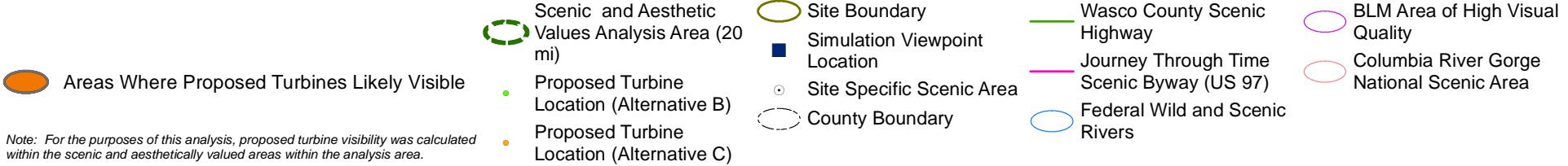
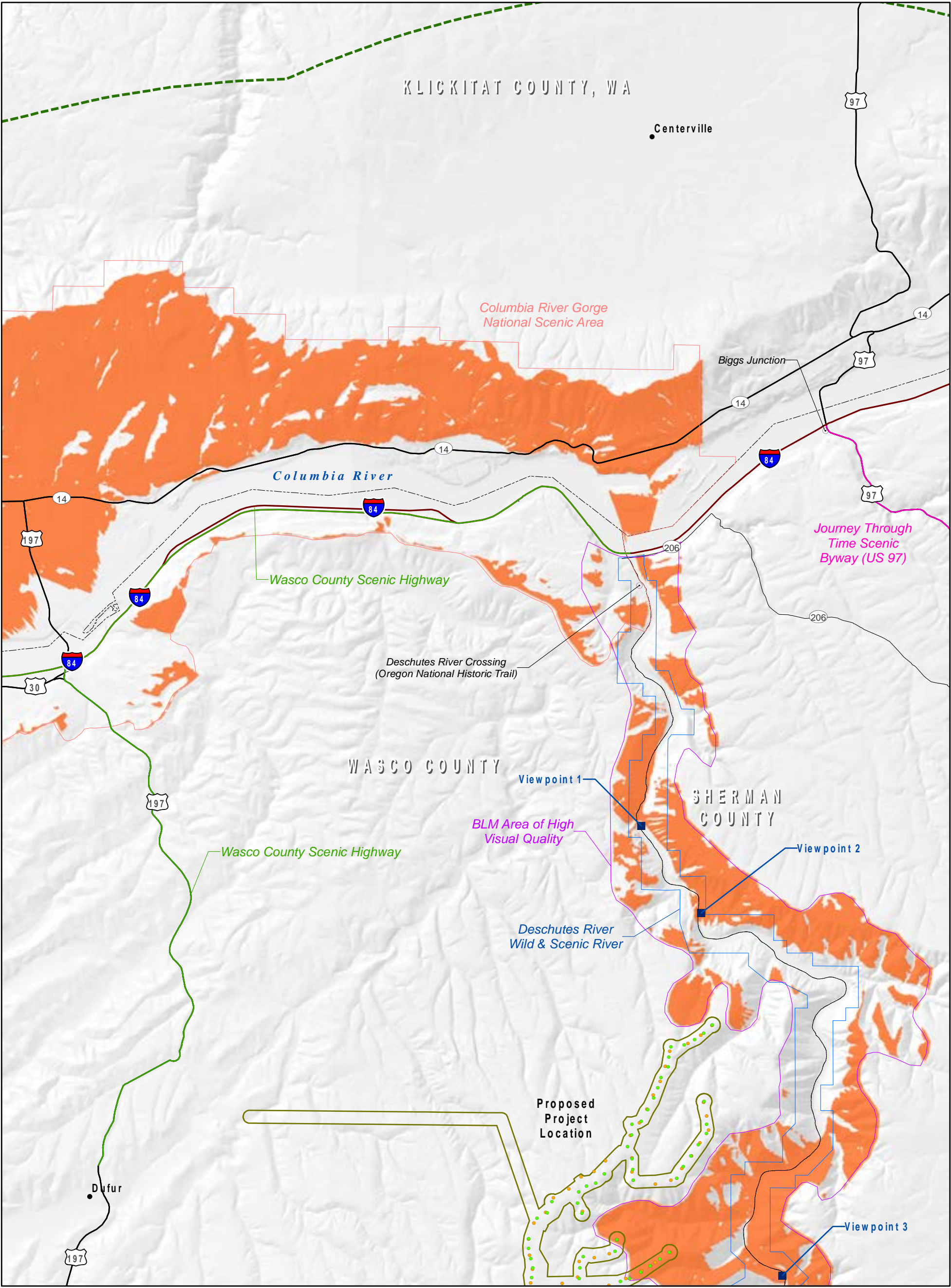
- Scenic and Aesthetic Values Analysis Area (20 mi)
- Site Specific Scenic Area
- County Boundary
- Wasco County Scenic Highway
- Mt. Hood National Forest
- Columbia River Gorge National Scenic Area

Data Sources:
Bureau of Land Management
LearningSI, LLC (LSI), 2015.
LotusWorks, 2009, 2014
Oregon Geospatial Enterprise Office (GEO)
Two Rivers Resource Management Plan,
Record of Decision, June 1986
US Forest Service



Figure 4, Sheet 1 of 6
*Comparison of Visibility Analyses
for Scenic and Aesthetic Values,
Alternative B*





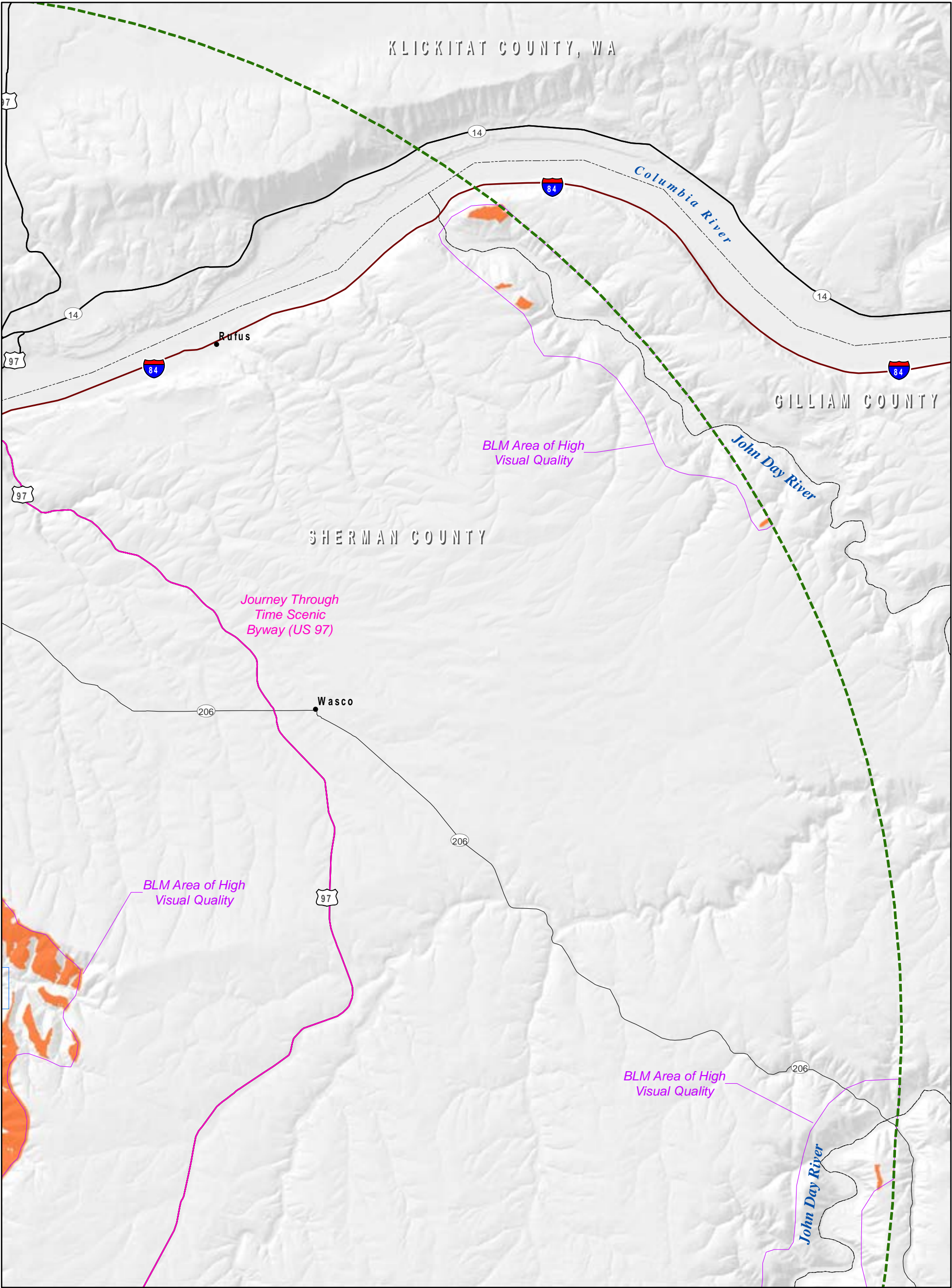
Note: For the purposes of this analysis, proposed turbine visibility was calculated within the scenic and aesthetically valued areas within the analysis area.

Data Sources:
Bureau of Land Management
LearningSI, LLC (LSI), 2015.
LotusWorks, 2009, 2014
Oregon Geospatial Enterprise Office (GEO)
Two Rivers Resource Management Plan,
Record of Decision, June 1986
US Forest Service



Figure 4, Sheet 2 of 6
Comparison of Visibility Analyses
for Scenic and Aesthetic Values,
Alternative B





Areas Where Proposed Turbines Likely Visible

Note: For the purposes of this analysis, proposed turbine visibility was calculated within the scenic and aesthetically valued areas within the analysis area.

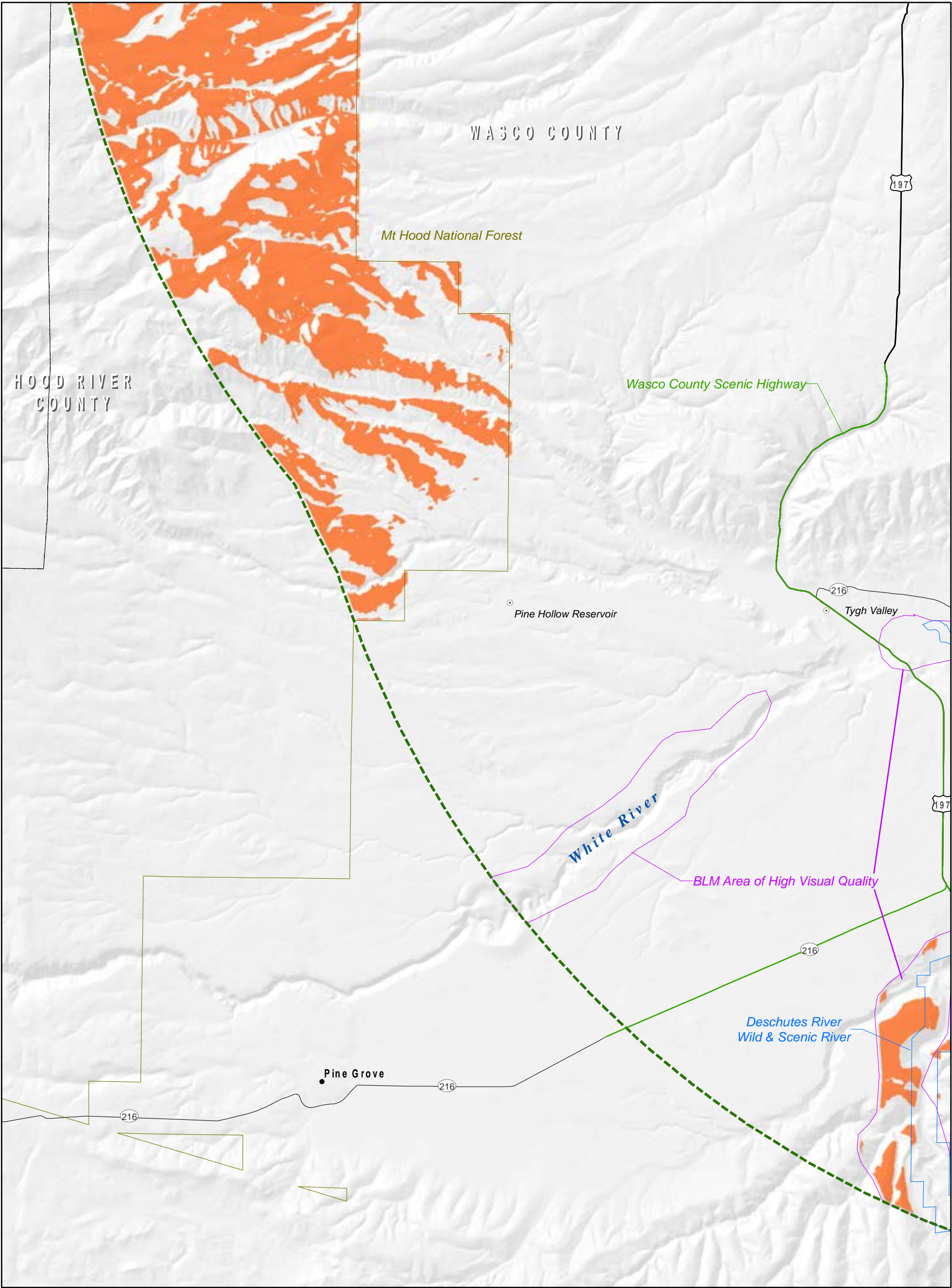
- Scenic and Aesthetic Values Analysis Area (20 mi)
- County Boundary
- Journey Through Time Scenic Byway (US 97)
- Federal Wild and Scenic Rivers
- BLM Area of High Visual Quality





Data Sources:
Bureau of Land Management
LearningSI, LLC (LSI), 2015.
LotusWorks, 2009, 2014
Oregon Geospatial Enterprise Office (GEO)
Two Rivers Resource Management Plan,
Record of Decision, June 1986
US Forest Service





Figure 4, Sheet 3 of 6
*Comparison of Visibility Analyses
for Scenic and Aesthetic Values,
Alternative B*





 Areas Where Proposed Turbines Likely Visible


 Scenic and Aesthetic Values Analysis Area (20 mi)


 Wasco County Scenic Highway

 BLM Area of High Visual Quality

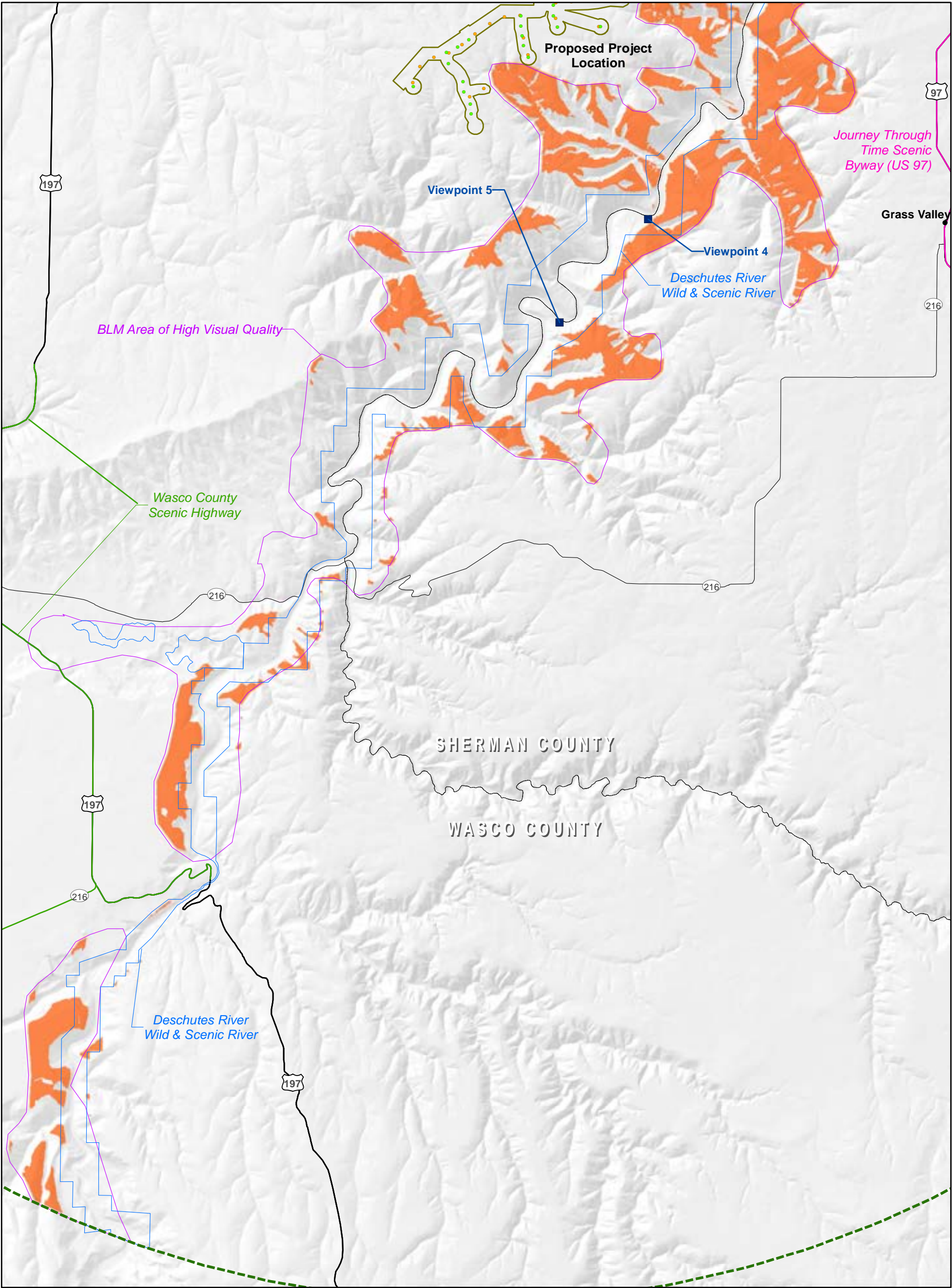
 Site Specific Scenic Area

 Federal Wild and Scenic Rivers

 Mt. Hood National Forest

 County Boundary

Note: For the purposes of this analysis, proposed turbine visibility was calculated within the scenic and aesthetically valued areas within the analysis area.



Areas Where Proposed Turbines Likely Visible

Note: For the purposes of this analysis, proposed turbine visibility was calculated within the scenic and aesthetically valued areas within the analysis area.

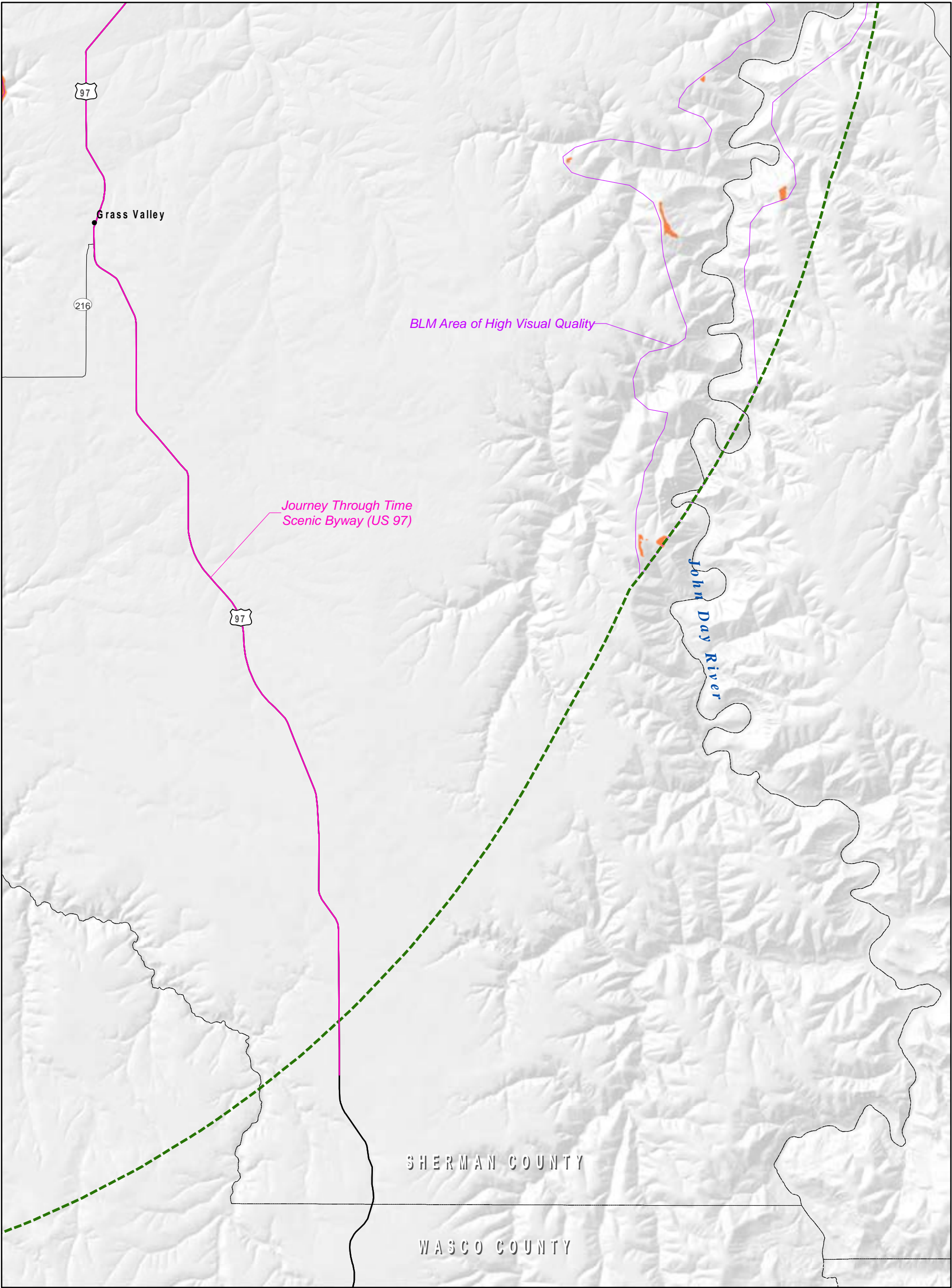
- | | | |
|---|-------------------------------|---|
| Scenic and Aesthetic Values Analysis Area (20 mi) | Site Boundary | Journey Through Time Scenic Byway (US 97) |
| Proposed Turbine Location (Alternative B) | Simulation Viewpoint Location | Federal Wild and Scenic Rivers |
| Proposed Turbine Location (Alternative C) | County Boundary | BLM Area of High Visual Quality |
| | Wasco County Scenic Highway | |








Data Sources:
Bureau of Land Management
LearningSI, LLC (LSI), 2015.
LotusWorks, 2009, 2014
Oregon Geospatial Enterprise Office (GEO)
Two Rivers Resource Management Plan,
Record of Decision, June 1986
US Forest Service



Figure 4, Sheet 5 of 6
*Comparison of Visibility Analyses
for Scenic and Aesthetic Values,
Alternative B*



-  Areas Where Proposed Turbines Likely Visible
-  Scenic and Aesthetic Values Analysis Area (20 mi)
-  Journey Through Time Scenic Byway (US 97)
-  BLM Area of High Visual Quality
-  County Boundary

Note: For the purposes of this analysis, proposed turbine visibility was calculated within the scenic and aesthetically valued areas within the analysis area.



Data Sources:
Bureau of Land Management
LearningSI, LLC (LSI), 2015.
LotusWorks, 2009, 2014
Oregon Geospatial Enterprise Office (GEO)
Two Rivers Resource Management Plan,
Record of Decision, June 1986
US Forest Service

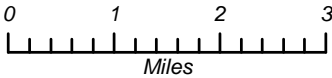
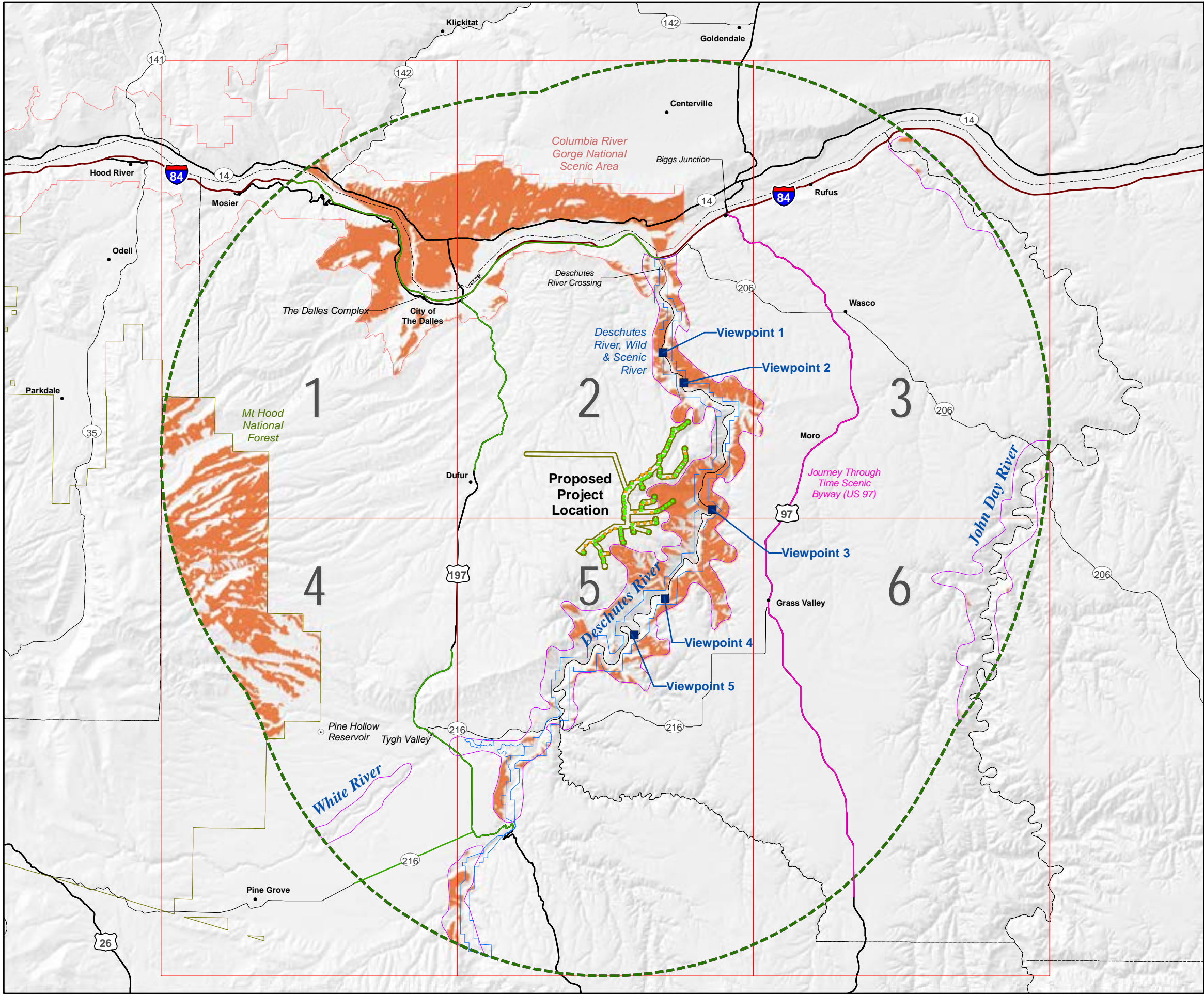


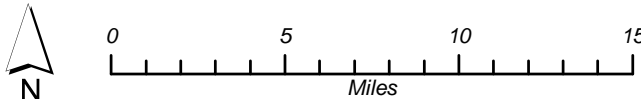
Figure 4, Sheet 6 of 6
*Comparison of Visibility Analyses
for Scenic and Aesthetic Values,
Alternative B*

Figure 5, Index Map
Visibility Analysis for
Scenic and Aesthetic Value
Areas, Alternative C



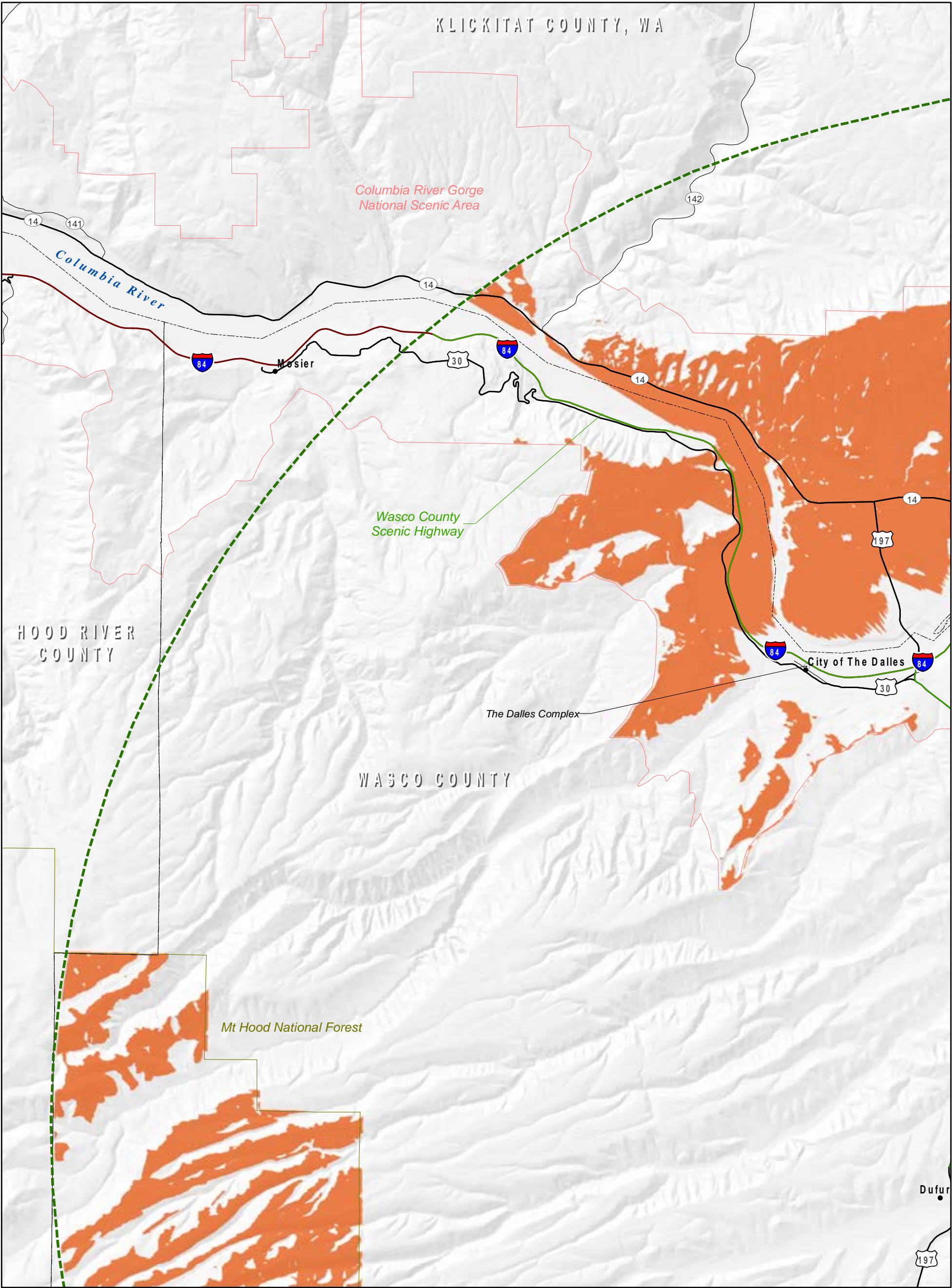
- Legend**
- Sheet Extent
 - Scenic and Aesthetic Values Analysis Area (20 mi)
 - Proposed Turbine Location (Alternative B)
 - Proposed Turbine Location (Alternative C)
 - Site Boundary
 - Simulation Viewpoint Location
 - County Boundary
 - Interstate Highway
 - Other Highway
 - Major Road
 - Areas Where Proposed Turbines Likely Visible

- Scenic Areas**
- Site Specific Scenic Areas
 - Wasco County Scenic Highway
 - Journey Through Time Scenic Byway (US 97)
 - Federal Wild and Scenic Rivers
 - BLM Area of High Visual Quality
 - Mt. Hood National Forest
 - Columbia River Gorge National Scenic Area



Data Sources:
Bureau of Land Management
LearningSI, LLC (LSI), 2015.
LotusWorks, 2009, 2014
Oregon Geospatial Enterprise Office (GEO)
Two Rivers Resource Management Plan,
Record of Decision, June 1986
US Forest Service





Areas Where Proposed Turbines Likely Visible

Note: For the purposes of this analysis, proposed turbine visibility was calculated within the scenic and aesthetically valued areas within the analysis area.

- Scenic and Aesthetic Values Analysis Area (20 mi)
- Site Specific Scenic Area
- County Boundary
- Wasco County Scenic Highway
- Mt. Hood National Forest
- Columbia River Gorge National Scenic Area

Data Sources:
Bureau of Land Management
LearningSI, LLC (LSI), 2015.
LotusWorks, 2009, 2014
Oregon Geospatial Enterprise Office (GEO)
Two Rivers Resource Management Plan,
Record of Decision, June 1986
US Forest Service

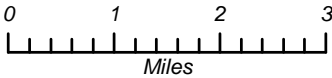
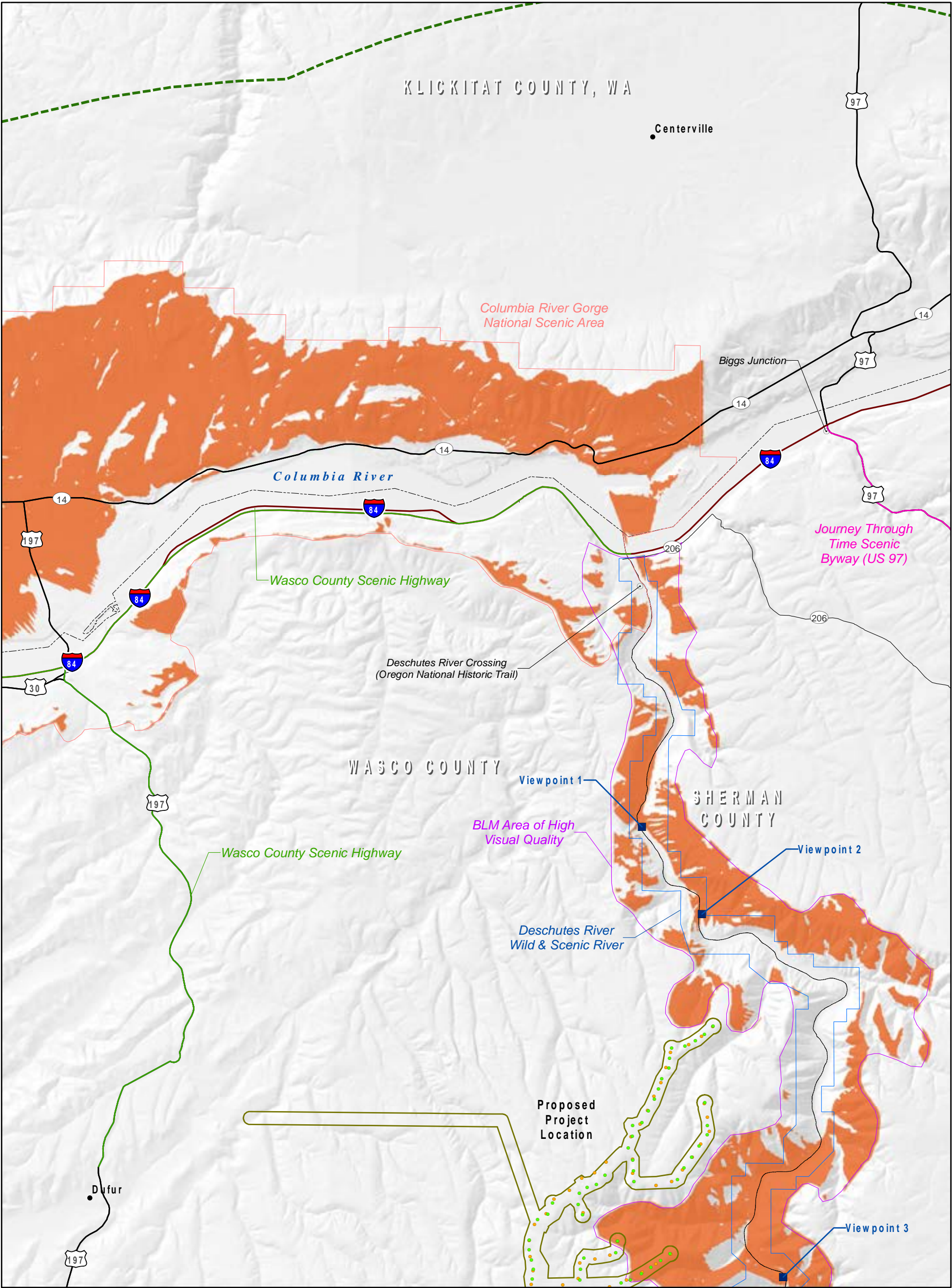















Figure 5, Sheet 1 of 6
*Comparison of Visibility Analyses
for Scenic and Aesthetic Values,
Alternative C*





-  Areas Where Proposed Turbines Likely Visible
-  Scenic and Aesthetic Values Analysis Area (20 mi)
-  Proposed Turbine Location (Alternative B)
-  Proposed Turbine Location (Alternative C)
-  Site Boundary
-  Simulation Viewpoint Location
-  Site Specific Scenic Area
-  County Boundary
-  Wasco County Scenic Highway
-  Journey Through Time Scenic Byway (US 97)
-  Federal Wild and Scenic Rivers
-  BLM Area of High Visual Quality
-  Columbia River Gorge National Scenic Area

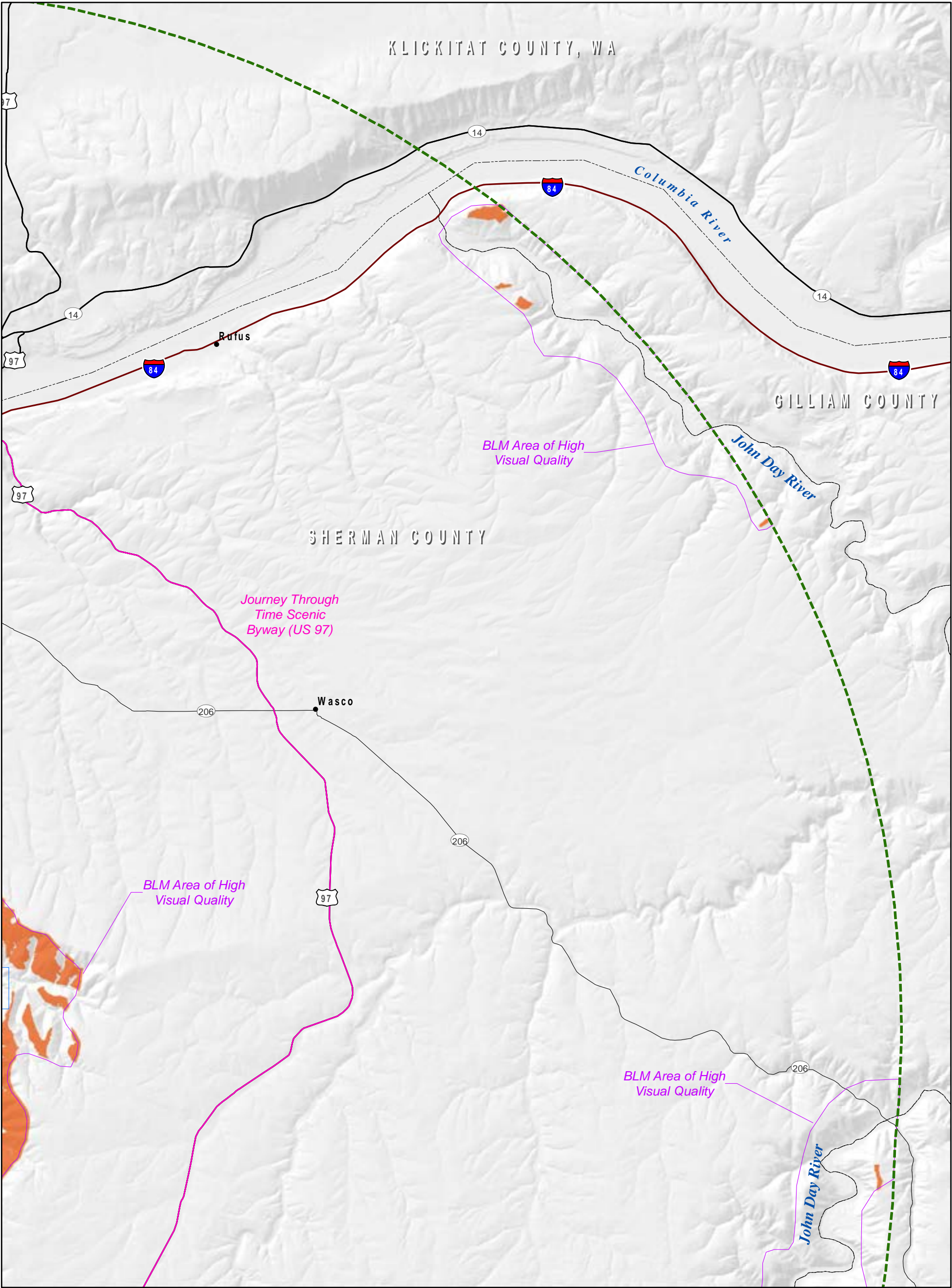
Note: For the purposes of this analysis, proposed turbine visibility was calculated within the scenic and aesthetically valued areas within the analysis area.

Data Sources:
Bureau of Land Management
LearningSI, LLC (LSI), 2015.
LotusWorks, 2009, 2014
Oregon Geospatial Enterprise Office (GEO)
Two Rivers Resource Management Plan,
Record of Decision, June 1986
US Forest Service



Figure 5, Sheet 2 of 6
Comparison of Visibility Analyses
for Scenic and Aesthetic Values,
Alternative C





Areas Where Proposed Turbines Likely Visible

Note: For the purposes of this analysis, proposed turbine visibility was calculated within the scenic and aesthetically valued areas within the analysis area.

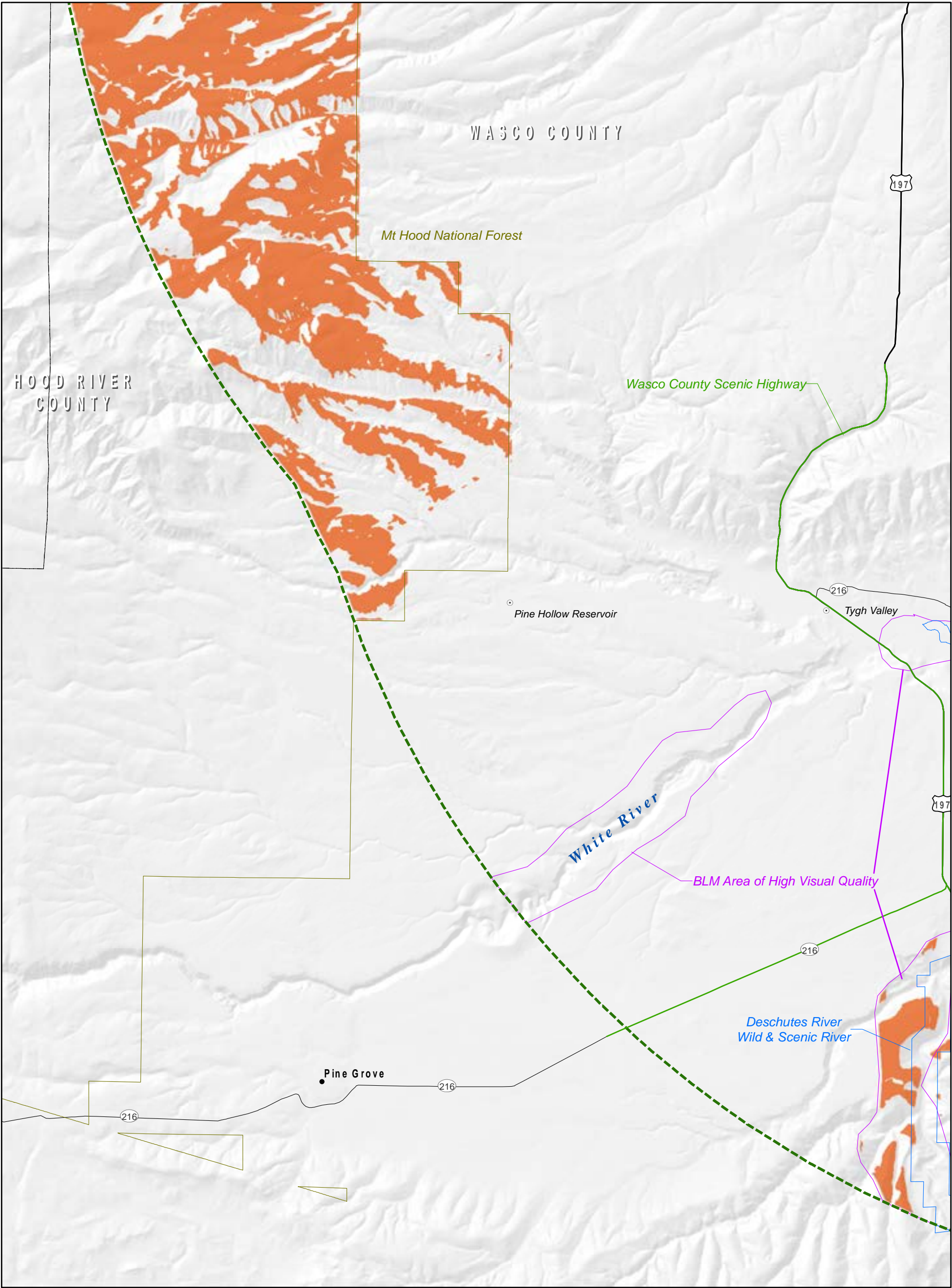
- Scenic and Aesthetic Values Analysis Area (20 mi)
- County Boundary
- Journey Through Time Scenic Byway (US 97)
- Federal Wild and Scenic Rivers
- BLM Area of High Visual Quality





Data Sources:
Bureau of Land Management
LearningSI, LLC (LSI), 2015.
LotusWorks, 2009, 2014
Oregon Geospatial Enterprise Office (GEO)
Two Rivers Resource Management Plan,
Record of Decision, June 1986
US Forest Service





Figure 5, Sheet 3 of 6
*Comparison of Visibility Analyses
for Scenic and Aesthetic Values,
Alternative C*





 Areas Where Proposed Turbines Likely Visible


 Scenic and Aesthetic Values Analysis Area (20 mi)


 Wasco County Scenic Highway

 BLM Area of High Visual Quality

 Site Specific Scenic Area

 Federal Wild and Scenic Rivers

 Mt. Hood National Forest

 County Boundary

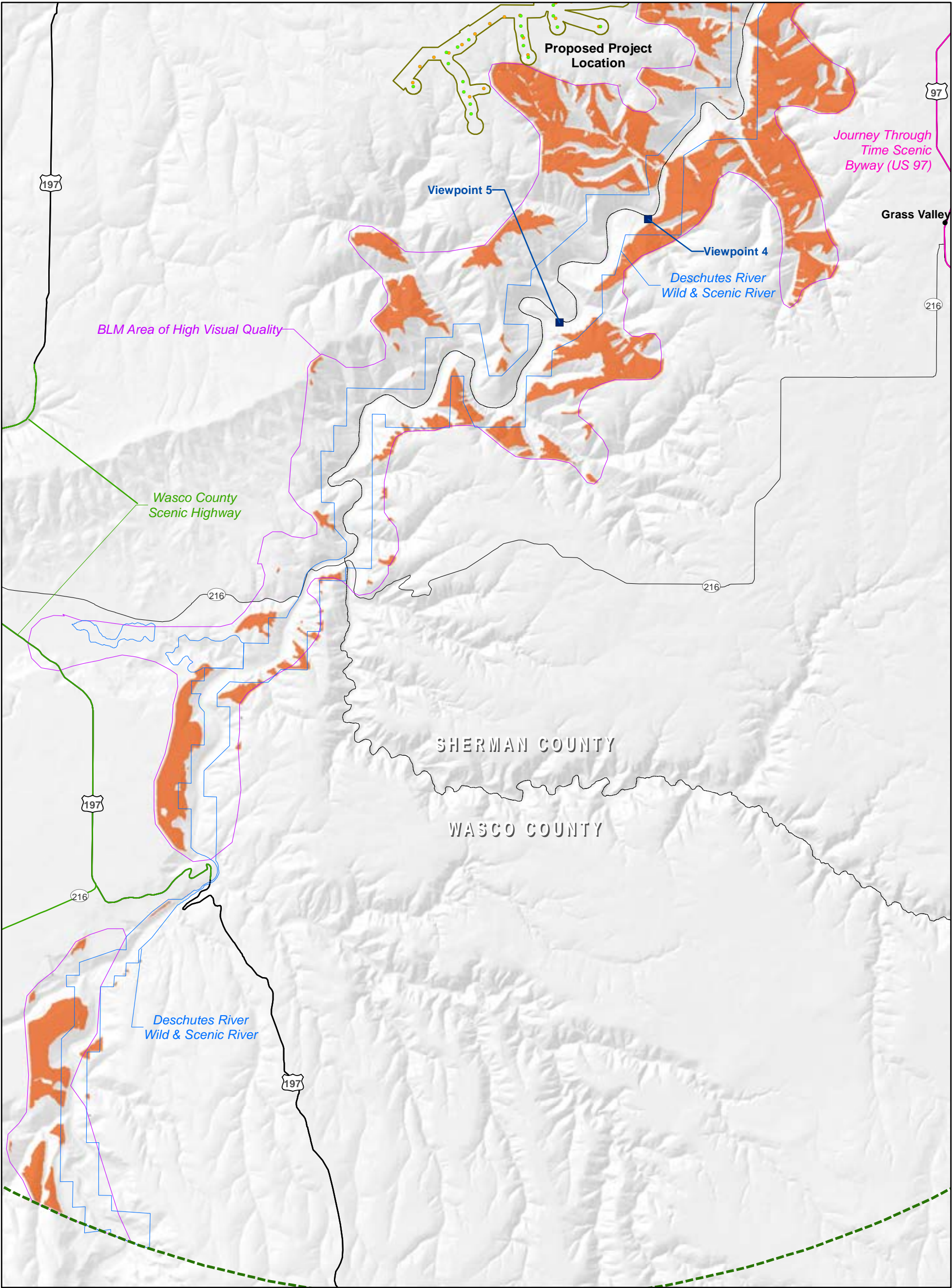
Note: For the purposes of this analysis, proposed turbine visibility was calculated within the scenic and aesthetically valued areas within the analysis area.



Data Sources:
Bureau of Land Management
LearningSI, LLC (LSI), 2015.
LotusWorks, 2009, 2014
Oregon Geospatial Enterprise Office (GEO)
Two Rivers Resource Management Plan,
Record of Decision, June 1986
US Forest Service



Figure 5, Sheet 4 of 6
*Comparison of Visibility Analyses
for Scenic and Aesthetic Values,
Alternative C*



Areas Where Proposed Turbines Likely Visible

Note: For the purposes of this analysis, proposed turbine visibility was calculated within the scenic and aesthetically valued areas within the analysis area.

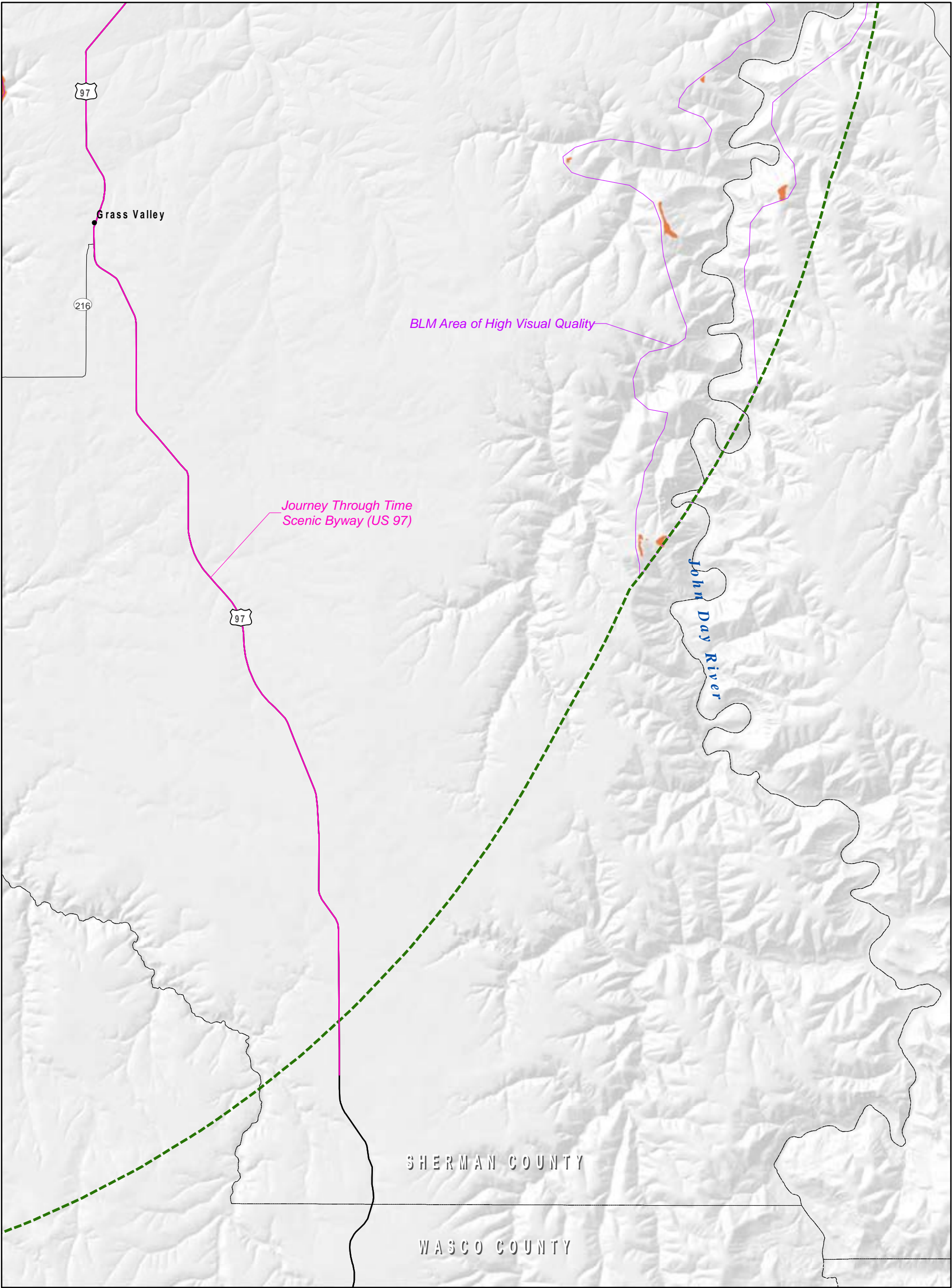
- | | | |
|---|-------------------------------|---|
| Scenic and Aesthetic Values Analysis Area (20 mi) | Site Boundary | Journey Through Time Scenic Byway (US 97) |
| Proposed Turbine Location (Alternative B) | Simulation Viewpoint Location | Federal Wild and Scenic Rivers |
| Proposed Turbine Location (Alternative C) | County Boundary | BLM Area of High Visual Quality |
| | Wasco County Scenic Highway | |



Data Sources:
Bureau of Land Management
LearningSI, LLC (LSI), 2015.
LotusWorks, 2009, 2014
Oregon Geospatial Enterprise Office (GEO)
Two Rivers Resource Management Plan,
Record of Decision, June 1986
US Forest Service



Figure 5, Sheet 5 of 6
*Comparison of Visibility Analyses
for Scenic and Aesthetic Values,
Alternative C*



Areas Where Proposed Turbines Likely Visible

Note: For the purposes of this analysis, proposed turbine visibility was calculated within the scenic and aesthetically valued areas within the analysis area.

- Scenic and Aesthetic Values Analysis Area (20 mi)
- Journey Through Time Scenic Byway (US 97)
- BLM Area of High Visual Quality
- County Boundary

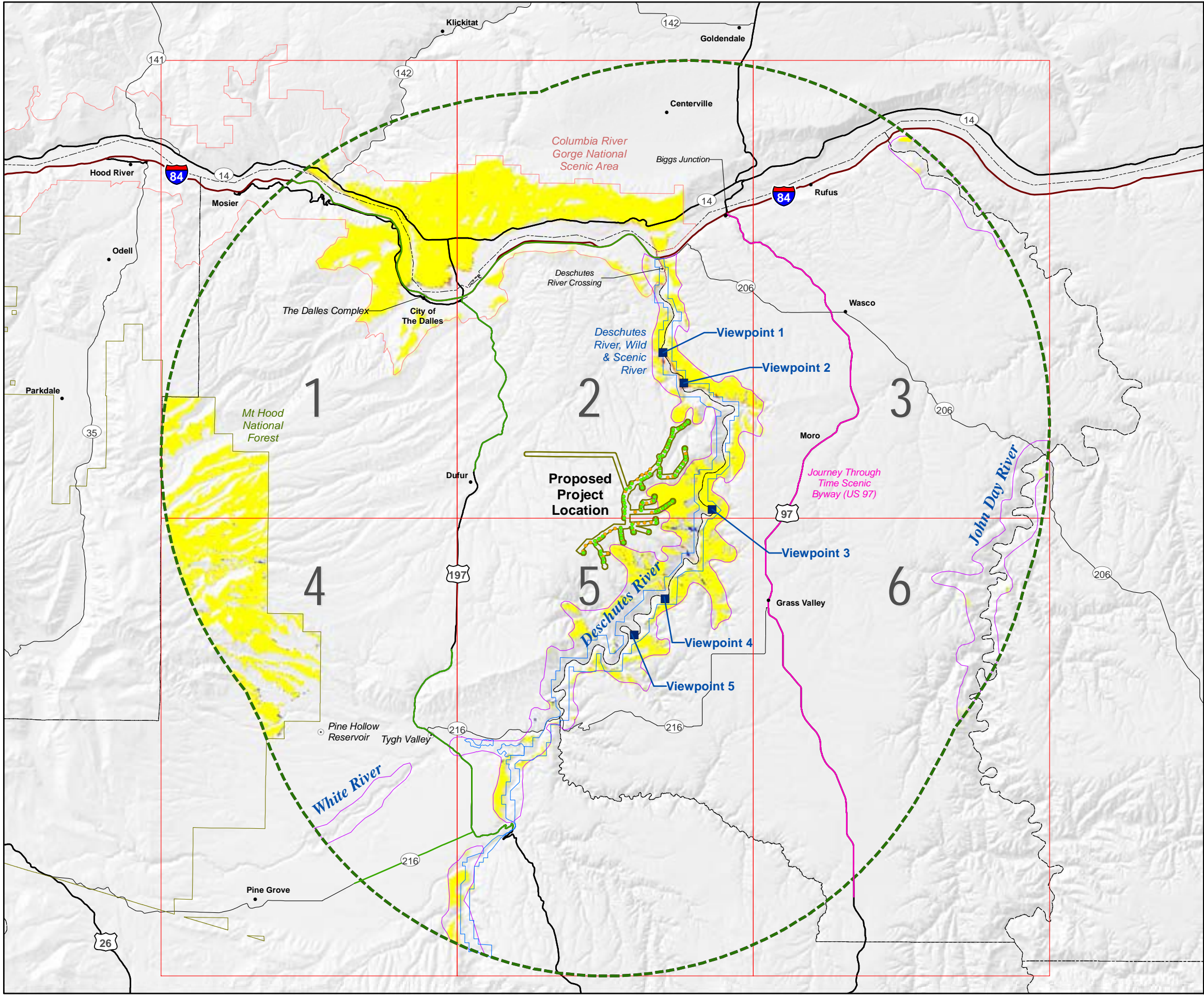


Data Sources:
Bureau of Land Management
LearningSI, LLC (LSI), 2015.
LotusWorks, 2009, 2014
Oregon Geospatial Enterprise Office (GEO)
Two Rivers Resource Management Plan,
Record of Decision, June 1986
US Forest Service



Figure 5, Sheet 6 of 6
Comparison of Visibility Analyses
for Scenic and Aesthetic Values,
Alternative C

Figure 6, Index Map
*Comparison of Visibility Analyses
Alternative B and Alternative C for
Scenic and Aesthetic Value Areas*

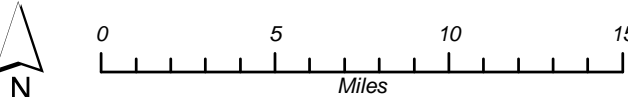


Legend

- Sheet Extent
- Scenic and Aesthetic Values Analysis Area (20 mi)
- Proposed Turbine Location (Alternative B)
- Proposed Turbine Location (Alternative C)
- Site Boundary
- Simulation Viewpoint Location
- County Boundary
- Interstate Highway
- Other Highway
- Major Road
- New Areas Where Proposed Turbines Now Likely Visible
- Areas Where Proposed Turbines No Longer Visible
- Areas Where Proposed Turbines Likely Visible for Alternative B and C

Scenic Areas

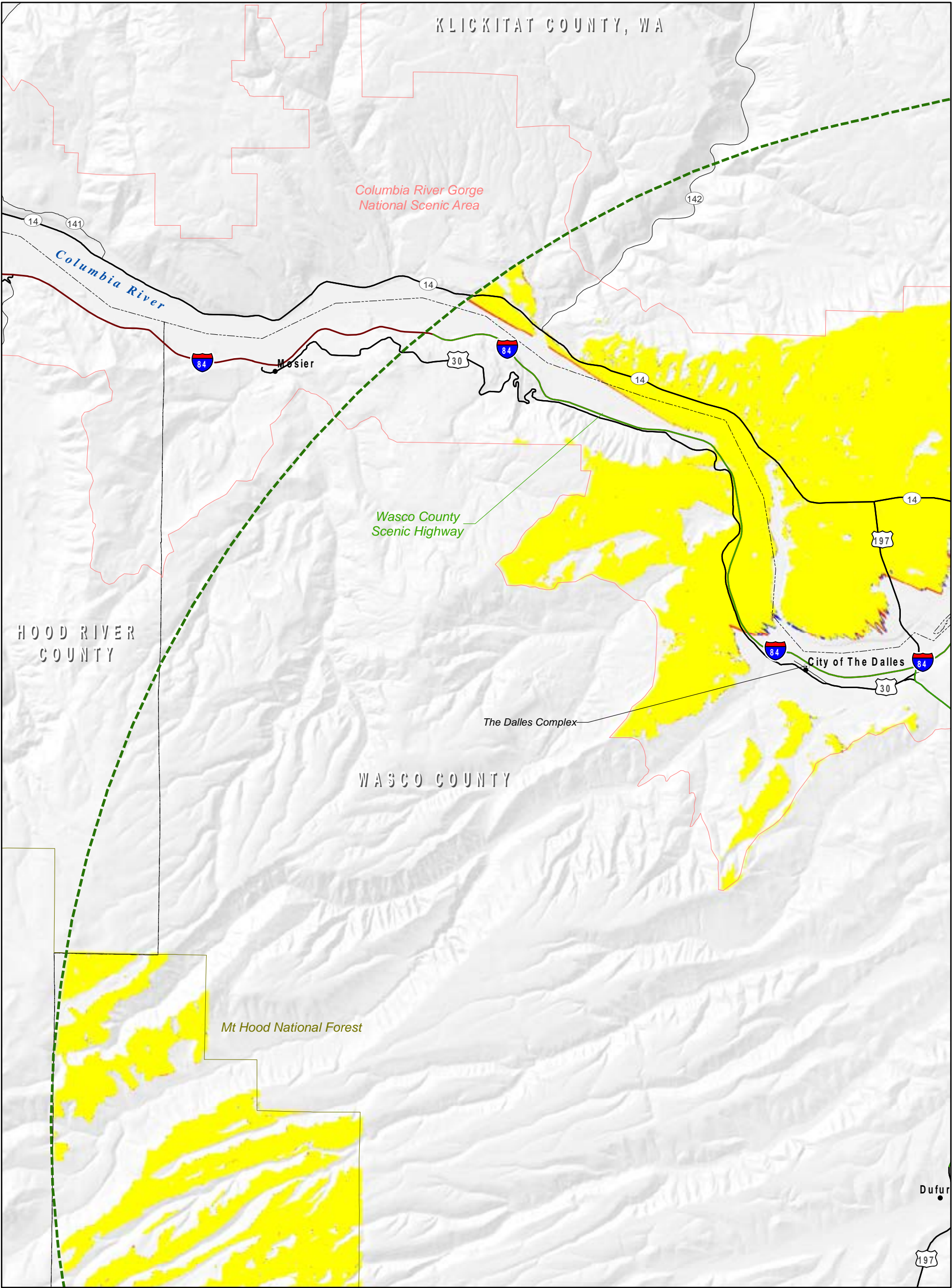
- Site Specific Scenic Areas
- Wasco County Scenic Highway
- Journey Through Time Scenic Byway (US 97)
- Federal Wild and Scenic Rivers
- BLM Area of High Visual Quality
- Mt. Hood National Forest
- Columbia River Gorge National Scenic Area



Data Sources:

Bureau of Land Management
LearningSI, LLC (LSI), 2015.
LotusWorks, 2009, 2014
Oregon Geospatial Enterprise Office (GEO)
Two Rivers Resource Management Plan,
Record of Decision, June 1986
US Forest Service





- New Areas Where Proposed Turbines Now Likely Visible
- Areas Where Proposed Turbines No Longer Visible
- Areas Where Proposed Turbines Likely Visible for Alternatives B and C

Note: For the purposes of this analysis, proposed turbine visibility was calculated within the scenic and aesthetically valued areas within the analysis area.

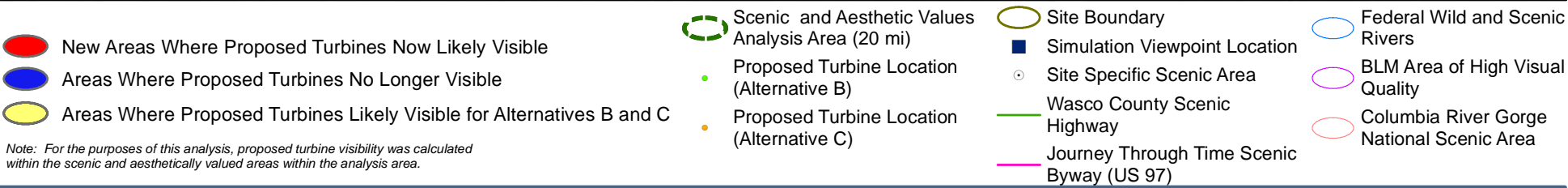
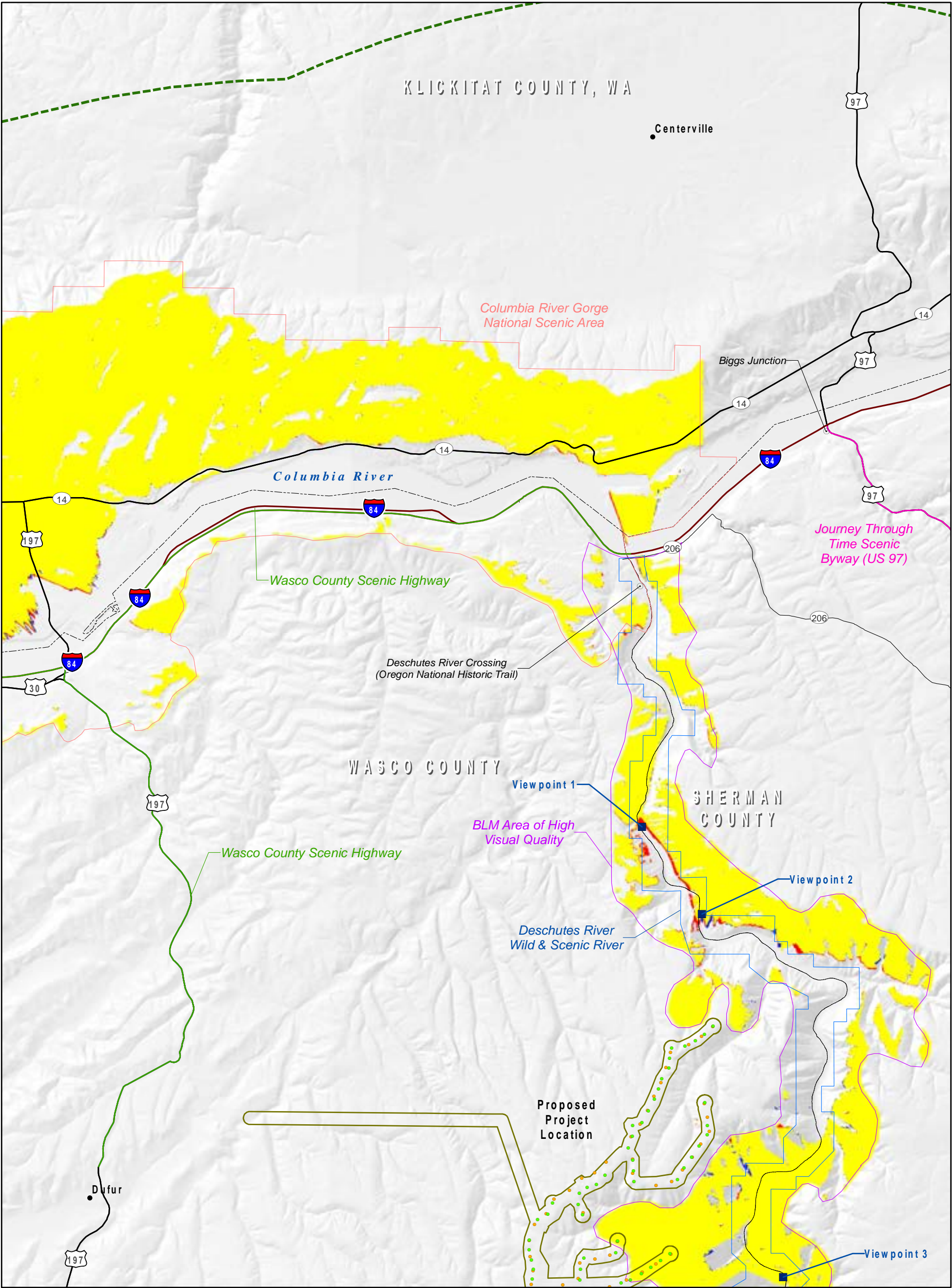
- Scenic and Aesthetic Values Analysis Area (20 mi)
- Site Specific Scenic Area
- County Boundary
- Wasco County Scenic Highway
- Mt. Hood National Forest
- Columbia River Gorge National Scenic Area



Data Sources:
Bureau of Land Management
LearningSI, LLC (LSI), 2015.
LotusWorks, 2009, 2014
Oregon Geospatial Enterprise Office (GEO)
Two Rivers Resource Management Plan,
Record of Decision, June 1986
US Forest Service



Figure 6, Sheet 1 of 6
Comparison of Visibility Analyses
Alternative B and Alternative C
for Scenic and Aesthetic Values



Data Sources:
Bureau of Land Management
LearningSI, LLC (LSI), 2015.
LotusWorks, 2009, 2014
Oregon Geospatial Enterprise Office (GEO)
Two Rivers Resource Management Plan,
Record of Decision, June 1986
US Forest Service

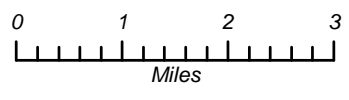
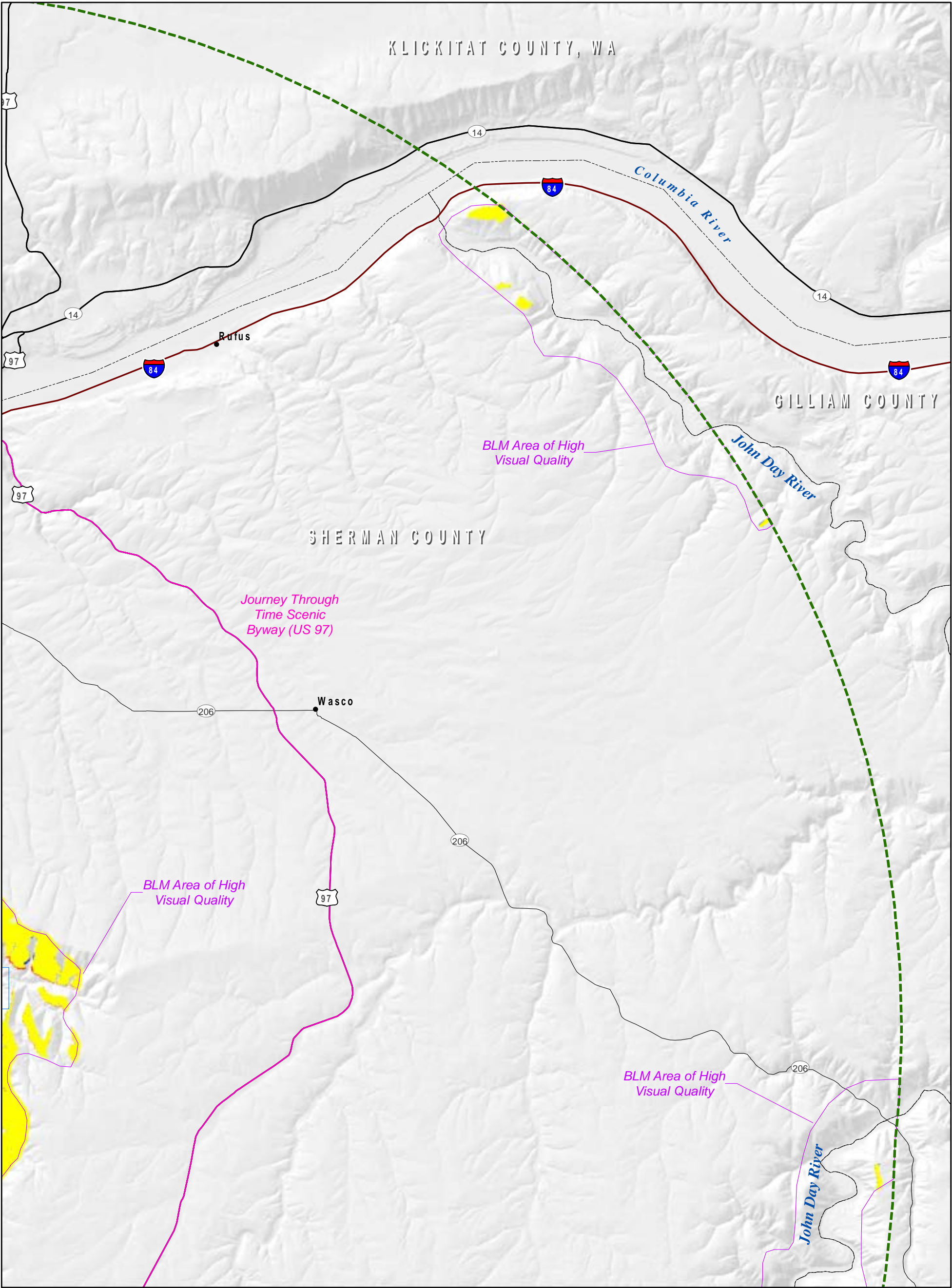










Figure 6, Sheet 2 of 6
Comparison of Visibility Analyses
Alternative B and Alternative C
for Scenic and Aesthetic Values



-  New Areas Where Proposed Turbines Now Likely Visible
-  Areas Where Proposed Turbines No Longer Visible
-  Areas Where Proposed Turbines Likely Visible for Alternatives B and C

Note: For the purposes of this analysis, proposed turbine visibility was calculated within the scenic and aesthetically valued areas within the analysis area.

-  Scenic and Aesthetic Values Analysis Area (20 mi)
-  County Boundary

-  Journey Through Time Scenic Byway (US 97)
-  Federal Wild and Scenic Rivers
-  BLM Area of High Visual Quality

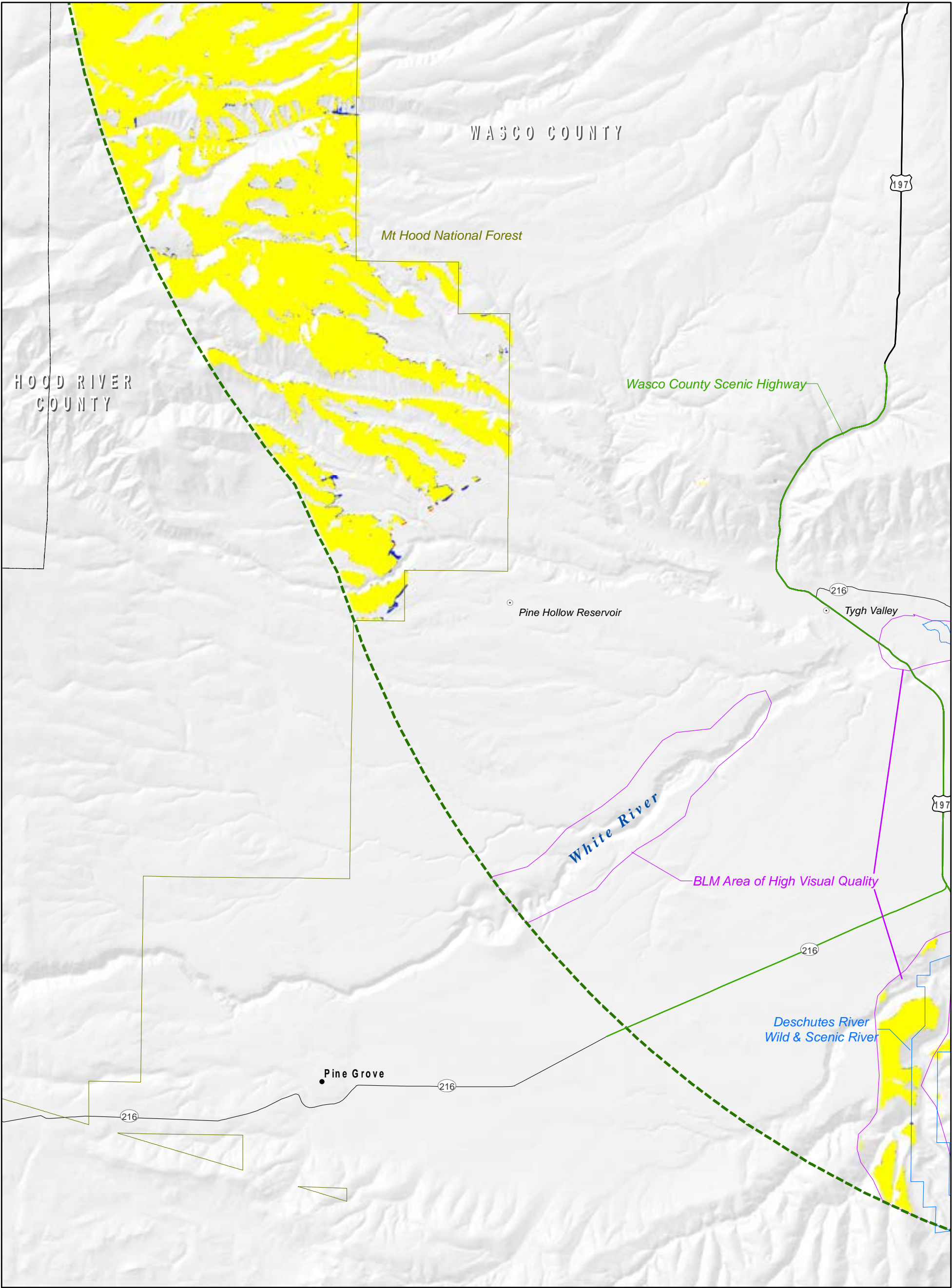


Data Sources:

Bureau of Land Management
LearningSI, LLC (LSI), 2015.
LotusWorks, 2009, 2014
Oregon Geospatial Enterprise Office (GEO)
Two Rivers Resource Management Plan,
Record of Decision, June 1986
US Forest Service



Figure 6, Sheet 3 of 6
Comparison of Visibility Analyses
Alternative B and Alternative C
for Scenic and Aesthetic Values



- New Areas Where Proposed Turbines Now Likely Visible
- Areas Where Proposed Turbines No Longer Visible
- Areas Where Proposed Turbines Likely Visible for Alternatives B and C

Note: For the purposes of this analysis, proposed turbine visibility was calculated within the scenic and aesthetically valued areas within the analysis area.

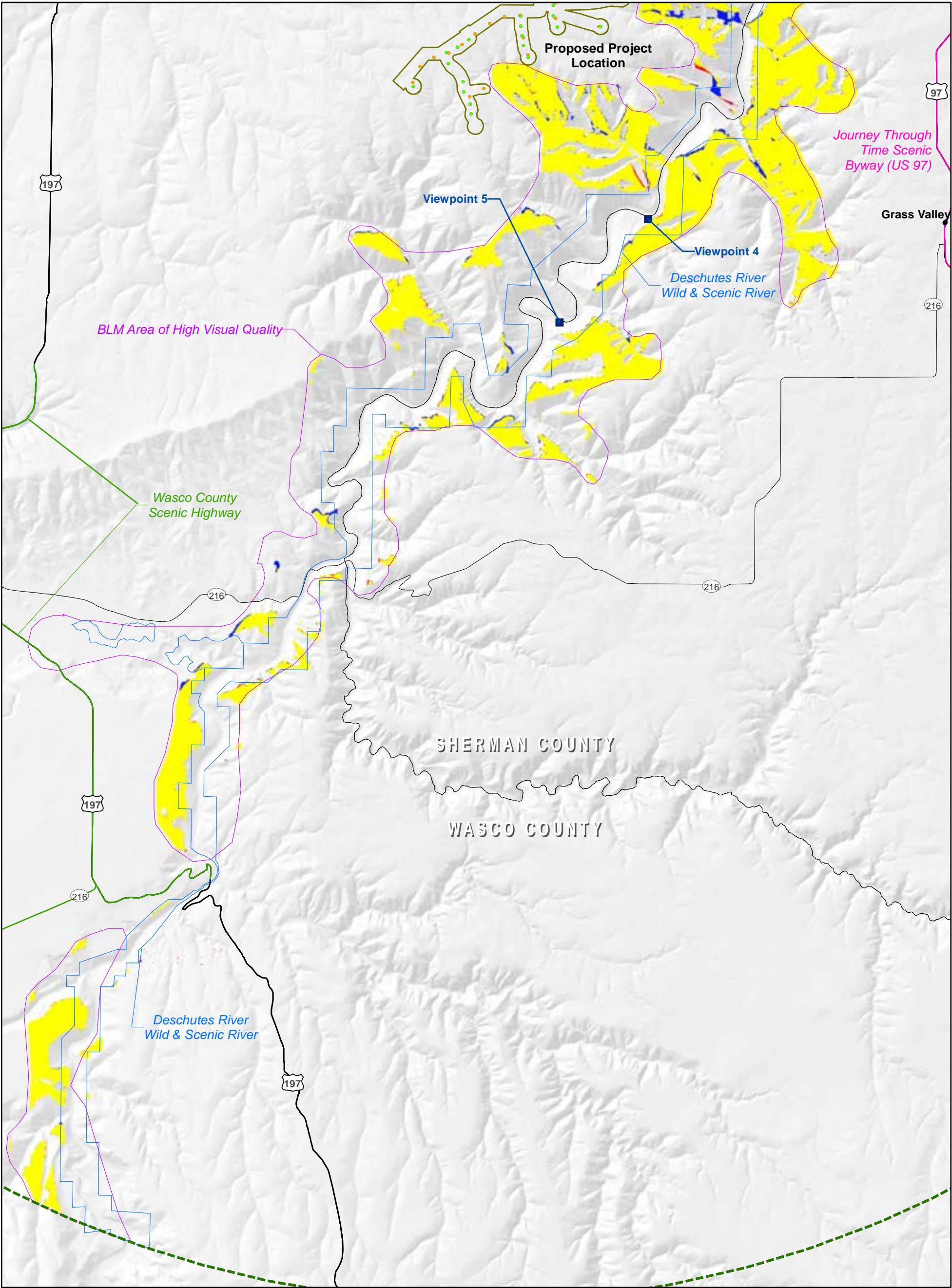
- Scenic and Aesthetic Values Analysis Area (20 mi)
- Site Specific Scenic Area
- County Boundary
- Wasco County Scenic Highway
- Federal Wild and Scenic Rivers
- BLM Area of High Visual Quality
- Mt. Hood National Forest



Data Sources:
Bureau of Land Management
LearningSI, LLC (LSI), 2015.
LotusWorks, 2009, 2014
Oregon Geospatial Enterprise Office (GEO)
Two Rivers Resource Management Plan,
Record of Decision, June 1986
US Forest Service



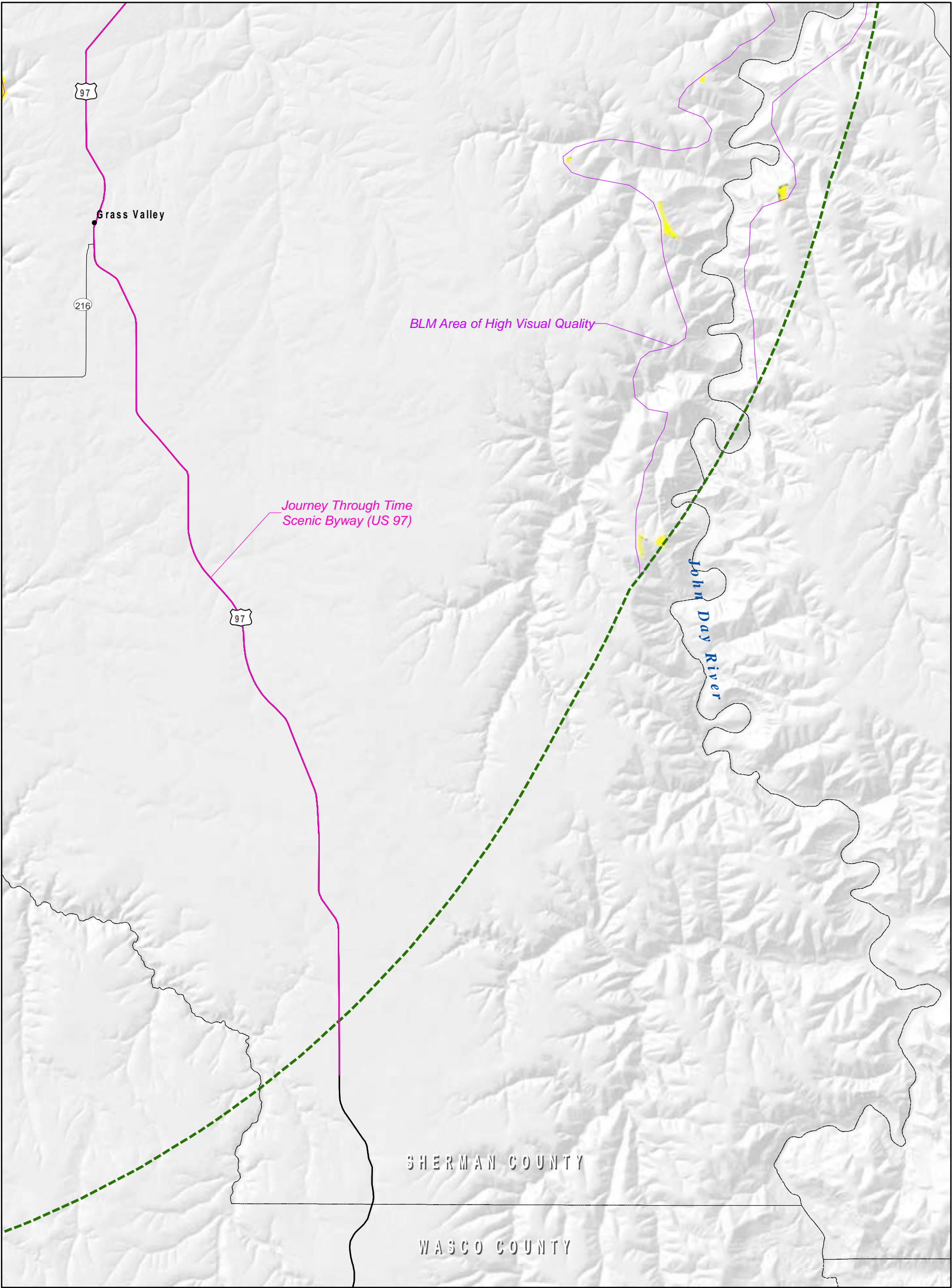
Figure 6, Sheet 4 of 6
*Comparison of Visibility Analyses
Alternative B and Alternative C
for Scenic and Aesthetic Values*



Data Sources:
Bureau of Land Management
LearningSI, LLC (LSI), 2015.
LotusWorks, 2009, 2014
Oregon Geospatial Enterprise Office (GEO)
Two Rivers Resource Management Plan,
Record of Decision, June 1986
US Forest Service



Figure 6, Sheet 5 of 6
*Comparison of Visibility Analyses
Alternative B and Alternative C
for Scenic and Aesthetic Values*



- New Areas Where Proposed Turbines Now Likely Visible
- Areas Where Proposed Turbines No Longer Visible
- Areas Where Proposed Turbines Likely Visible for Alternatives B and C
- Scenic and Aesthetic Values Analysis Area (20 mi)
- County Boundary
- Journey Through Time Scenic Byway (US 97)
- BLM Area of High Visual Quality

Note: For the purposes of this analysis, proposed turbine visibility was calculated within the scenic and aesthetically valued areas within the analysis area.



Data Sources:
Bureau of Land Management
LearningSI, LLC (LSI), 2015.
LotusWorks, 2009, 2014
Oregon Geospatial Enterprise Office (GEO)
Two Rivers Resource Management Plan,
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Figure 6, Sheet 6 of 6
*Comparison of Visibility Analyses
Alternative B and Alternative C
for Scenic and Aesthetic Values*



LotusWorks – Summit Ridge I, LLC

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Suite 2840
Vancouver, WA 98662-2403

360.737.9692

May 09, 2016

Ms. Katie Clifford
Energy Facility Siting Analyst
Oregon Department of Energy
625 Marlon Street NE
Salem, OR 97301

Subject: Response to Oregon Department of Fish and Wildlife letter of April 25, 2016

Reference: Summit Ridge Wind – Request for Amendment #2

Ms. Clifford,

In their April 25, 2016 letter, ODFW recommends six actions to be incorporated into Amendment #2 of the Summit Ridge Site Certificate. These recommendations deal with the performance of raptor nest surveys; use of current raptor survey protocols; use of pre-emergent herbicide to target annual grasses; coordination with adjacent Columbia Plateau Ecoregion wind farms on avian fatality monitoring; curtailment of construction activities from December 1st to April 15th and a revision to our Habitat Mitigation Plan to reflect Habitat Category 2 mitigation goals. The purpose of this letter is to demonstrate to the Department of Energy how we have or will comply with ODFW's recommendations.

Raptor Nest Surveys and Raptor Survey Protocols – We have performed additional raptor nest surveys in 2015 and 2016. The 2015 survey results have been provided to the Department of Energy. We anticipate the 2016 survey results to be provided to the Department of Energy next month. Attached is a string of emails between Northwest Wildlife (our consultant), the Department of Energy, and Jeremy Thompson of the Department of Fish and Wildlife. In his May 2, 2016 email (attached) response Mr. Thompson identifies that the 2015/2016 raptor survey satisfies ODFW's request for pre-construction raptor surveys. Since these raptor surveys were accepted by ODFW we conclude the protocol used is also acceptable.

Use of Pre-Emergent Herbicide to Target Annual Grasses - Our current weed control plan states the following:

21 Control of cheatgrass during the fall establishment period is essential in order to reduce
22 competition with seeded plants. As a general strategy, the herbicide **Plenco**® may be applied
23 during the fall prior to fall rains, as a pre-emergent cheatgrass treatment; however, this should
24 only be done where seed application will be by no-till drill such that the desirable grass seed
25 will have minimal contact with the herbicide.
26



Although Cheatgrass is typically the most common species of concern, we will modify our plan to say "cheatgrass and other non-native annual grasses."

Coordination with Adjacent Columbia Plateau Ecoregion Wind Farms on Avian Fatality Monitoring – We will work with adjacent Columbia Plateau wind farm to coordinate Avian Fatality Monitoring studies after our initial year of post-construction surveys.

Curtailment of construction activities from December 1st to April 15th – This requirement is already a condition of Amendment #1 to the Summit Ridge Site Certificate. We refer you to paragraph 10.12 and 10.15 of Amendment #1 of the Summit Ridge Site Certificate.

Revision to our Habitat Mitigation Plan to Reflect Habitat Category 2 Mitigation Goals – This requirement is also addressed in Amendment #1 of the Summit Ridge Site Certificate. We refer to paragraphs 10.4. Also included for your information is our as amended Habitat Mitigation Plan dated October 21, 2014 which was submitted in response to RAI #1 of the Amendment #1 permit extension process. The site boundary has not changed in Amendment #2 so there would be no additional changes to the plan to accommodate additional mitigation needs.

We believe with the submission of this response we have addressed all of ODFW's recommendations and that our Summit Ridge project is compliant in all regards to ODFW's recommendations.

Please contact me should you have any additional questions or require further clarification.

Best regards,

A handwritten signature in black ink, appearing to read "Steven A. Ostrowski, Jr.", is written over a horizontal line.

Cc: File

Attachments

Steven Ostrowski

From: Rick Gerhardt <R.Gerhardt@NW-WildlifeConsultants.com>
Sent: Monday, May 02, 2016 2:44 PM
To: Steven Ostrowski
Subject: FW: ODFW comments on Summit Ridge Amendment #2

Steve:

Go to the bottom to read the entire thread; I think this should take care of things.

Rick

From: Jeremy Thompson [mailto:Jeremy.L.Thompson@coho2.dfw.state.or.us]
Sent: Monday, May 02, 2016 10:22 AM
To: CLIFFORD Katie; THOMPSON Jeremy L
Cc: WOODS Maxwell; REIF Sarah J; Rick Gerhardt
Subject: RE: ODFW comments on Summit Ridge Amendment #2

The 2015/16 raptor surveys will satisfy our request for pre-construction raptor surveys.

Rick and I briefly discussed the other comments from our letter, and the applicant is aware that the Mitigation plan will need to be revisited, which is the other major component to our comment letter.

No other issues were discussed in our call.

Jeremy Thompson

From: Clifford, Katie [mailto:katie.clifford@state.or.us]
Sent: Monday, May 02, 2016 10:16 AM
To: THOMPSON Jeremy L <Jeremy.L.thompson@state.or.us>
Cc: WOODS Maxwell <Maxwell.Woods@state.or.us>; REIF Sarah J <sarah.j.reif@state.or.us>; Rick Gerhardt <R.Gerhardt@NW-WildlifeConsultants.com>
Subject: RE: ODFW comments on Summit Ridge Amendment #2

Thanks Jeremy. I assume the 2015 and 2016 raptor surveys will address ODFW's request that ODOE/the Council require the applicant to reassess raptor nesting on the site for a two year period prior to initiation of construction activities. Is that correct?

Did that discussion resolve any of the other issues raised in ODFW's letter?

Katie

Katie Clifford
Energy Facility Siting Analyst
Oregon Department of Energy
C: (503) 302-0267

From: Jeremy Thompson [<mailto:jeremy.l.thompson@state.or.us>]
Sent: Friday, April 29, 2016 3:23 PM
To: CLIFFORD Katie <katie.clifford@state.or.us>; Rick Gerhardt <R.Gerhardt@NW-WildlifeConsultants.com>
Cc: WOODS Maxwell <Maxwell.Woods@state.or.us>; REIF Sarah J <sarah.j.reif@state.or.us>
Subject: RE: ODFW comments on Summit Ridge Amendment #2

Katie,

I spoke with Rick today. His concern was that we did not make specific mention of the 2015 raptor surveys that have already been conducted. I assured him that our concern was that the 2015 and the ongoing 2016 raptor survey data were utilized in assessing potential impacts during final micrositing.

From my conversation with Rick I don't see the need for a conference call. If you would still like to put one together let us know.

Jeremy Thompson

From: Clifford, Katie [<mailto:katie.clifford@state.or.us>]
Sent: Thursday, April 28, 2016 3:39 PM
To: THOMPSON Jeremy L <jeremy.l.thompson@state.or.us>
Cc: WOODS Maxwell <Maxwell.Woods@state.or.us>; REIF Sarah J <sarah.j.reif@state.or.us>
Subject: RE: ODFW comments on Summit Ridge Amendment #2

Hi Jeremy,

I requested information from the site certificate holder based on ODFW's letter. Steve Ostrowski and one of his consultants (Rick Gerhardt) would like to have a phone call with ODFW to discuss a few of the agency's comments, which ODOE agrees could be helpful to make sure we're all on the same page. My understanding is that Rick will be reaching out soon, if he hasn't already, to set up a phone call between the applicant team, ODFW, and ODOE.

Katie

Katie Clifford
Energy Facility Siting Analyst
Oregon Department of Energy
C: (503) 302-0267

From: Jeremy Thompson [<mailto:jeremy.l.thompson@state.or.us>]
Sent: Tuesday, April 26, 2016 7:49 AM
To: CLIFFORD Katie <katie.clifford@state.or.us>
Cc: GERMOND Jon P <jon.p.germond@state.or.us>; MOORE Michael <michael.moore@state.or.us>; HOOTON Robert M <robert.m.hooton@state.or.us>; REIF Sarah J <sarah.j.reif@state.or.us>; WRAY Simon N <simon.n.wray@state.or.us>
Subject: ODFW comments on Summit Ridge Amendment #2

Katie,

Please see the attached letter regarding the proposed amendment to Summit Ridge Wind facility.

If possible, could you provide me with the updated shapefiles for the project boundary? The map on the website appears to still include areas no longer under consideration for development.

Please let me know if I can provide you any other information.

Jeremy Thompson

District Wildlife Biologist

Mid-Columbia District, ODFW

3701 W. 13th. St.

The Dalles, OR 97058

541-296-4628 office

541-980-8524 cell

541-298-4993 fax

**Habitat Mitigation Plan
for the
Summit Ridge Wind Project
(As Amended)**

Prepared for:

LotusWorks
9611 NE 117th Avenue, Suite 2840
Vancouver, Washington 98662

Prepared by:

Rick Gerhardt
Northwest Wildlife Consultants, Inc.
815 NW 4th St.
Pendleton, Oregon 97801



Revised October 21, 2014

Introduction

This document was originally prepared for the Summit Ridge Wind Project (Project) Site Certificate Application (SCA) submitted to the Oregon Department of Energy (ODOE) in 2010. It has been updated in association with a request by LotusWorks for an Amendment to the Site Certificate in order to address two sets of changes. One is a decrease in the number of turbines proposed for installation, which resulted in a decrease in the acreages of both permanent and temporary impacts. The other is a change (in 2013) in the way the Oregon Department of Fish and Wildlife (ODFW) categorizes several habitat types (including exotic annual grassland, old field, revegetated grassland, native perennial grassland, and rabbitbrush/buckwheat shrub-steppe habitats) when they lie within designated deer and/or elk winter habitat (ODFW, 2013). The proposed concepts of this Habitat Mitigation Plan (HMP) were originally discussed with the Oregon Department of Fish and Wildlife in December 2009 and again on March 30, 2010; the changes contained herein were made in response to ODFW comments on the Request for an Amendment and were discussed with ODFW personnel in October 2014.

The Summit Ridge Wind Project is located in Wasco County, Oregon. As part of the SCA (Exhibits P and Q), Northwest Wildlife Consultants, Inc. (NWC) completed habitat mapping and quality assessment of the Project area, and conducted site-specific biological studies that included rare plant surveys, avian use surveys, a grassland bird displacement study, special status vertebrate wildlife species surveys, a raptor nest survey, an inventory of bat species, and big game observations, as well as reviews for potential occurrence of or records of special status species (Gerhardt et al., 2009a, 2009b). Based on a combination of the results of these studies, Project impact estimates provided by LotusWorks and David Evans Associates (DEA), experience with such mitigation, and knowledge of the wildlife and habitats impacted by wind energy development in the Columbia Plateau, NWC offers the concepts in this document as recommendations for inclusion in the Project's final Habitat Mitigation Plan. Details on habitat types, subtypes, and Categories 1–6 can be found in the SCA, Exhibit P.

Description of Project Impacts

As presently designed (as of October 17, 2014), the Summit Ridge Wind Project will consist of up to 72 2.7 megawatt (MW) turbines. The Project is expected to have a generating capacity of 200 megawatts. Other associated facilities include turbine pads, maintenance roads, overhead and underground electrical cables, an operations and maintenance building, a batch plant, and one 230-kilovolt overhead transmission line.

Most of the Project's footprint (area to be covered by permanent facilities) will occupy dryland agriculture, which is Category 6 habitat. No Category 1 habitat will be impacted, but a small amount of habitat traditionally designated Category 2 (big sagebrush shrub-steppe) will be permanently impacted. Most of the remaining footprint will occupy habitats originally designated Category 3 (revegetated grassland, native perennial grassland, or rabbitbrush/buckwheat shrub-steppe) or Category 4 (old field or exotic annual grassland).

but now designated by ODFW as Category 2 because the land lies within designated deer and/or elk winter range (ODFW, 2013).

In addition to the permanent impacts mentioned above, construction of the Project will entail temporary impacts to the same types and categories of habitat. Temporary impacts are summarized as follows: no Category 1 impacts, a small amount of impact to traditional Category 2 habitat, some impacts to habitats traditionally designated Category 3 and Category 4 but now designated by ODFW as Category 2, and mostly Category 6 habitat will be impacted. Grassland habitats that were traditionally Category 3 (revegetated grassland and native perennial grassland) are expected to require two to five years after restoration activities start to achieve a trend towards recovery to a mature state of grassland cover. Old field and exotic annual grassland habitats are expected to be improved—within two or three years—as restoration will result in more native grasses and far fewer of the invasive, noxious weeds that existed prior to disturbance). Native forbs in perennial grasslands (as well as in shrub-steppe) may not recover to pre-construction diversity or will take longer to recolonize the restored areas. Shrub-steppe habitats—Category 2 and (traditionally) Category 3—may take much longer to achieve the shrub species maturity and height that existed prior to construction.

Calculation of the Size of the Mitigation Area

The Habitat Mitigation Area (HMA) must be large enough and have the characteristics to meet the standards set by the Oregon Department of Fish and Wildlife (ODFW) in their Wildlife Habitat Mitigation Policy (OAR 635-415-0025). These standards include “no net loss” and a “net benefit” in habitat quality and quantity for Category 2 habitats, and “no net loss” of habitat for Categories 3 and 4. Mitigation standards for Category 6 involve minimizing direct habitat loss and avoiding impacts to off-site habitat.

For the purposes of this discussion, the acreages of impact are the current estimate of the maximum affected area. The actual areas of disturbance will be determined based on the final design layout of the Project. It is anticipated that ODOE and ODFW will require that they be provided with the final design layout and the associated impact acreages prior to the beginning of Project construction.

Current maximum habitat impact estimates of the Summit Ridge Wind Project (including the transmission line) are:

<u>Habitat Category</u>	<u>Permanent Impacts</u>	<u>Temporary Impacts</u>
Category 2 (traditional)	0.43	0.37
Category 2 (big game)	25.80	35.15
Category 6*	41.78	47.16
Total Acres	68.01	82.68

* no mitigation required

Based on these impact estimates, calculation of the mitigation area requirement is as follows:

Category 2 (Traditional)

Footprint: 0.43 acres (2:1 ratio)

Temporary impacts: 0.37 acres (2:1 ratio)

Mitigation area required: $(0.43 \times 2) + (0.37 \times 2) = 1.60$ acres

Category 2 (Big Game)

Footprint: 25.80 acres ($> 1:1$ ratio)

Temporary impacts: revegetated grassland 17.19 acres (1:1); native perennial grassland and shrub-steppe 6.23 acres (1:1 ratio); old field and exotic annual grassland 10.86 acres (1:1)

Mitigation area required: $25.80 + 17.19 + 6.23 + 10.86 = > 60.08$ acres

Total mitigation area required: Approximately 65 acres (i.e., > 61.68 acres)

Description of the Habitat Mitigation Area (HMA)

According to ODFW standards, areas appropriate for mitigation of Category 2 habitat impacts must be "in proximity" to the Project and have potential for habitat and enhancement. The applicant has identified four habitat parcels for consideration by ODFW and ODOE (Figure 1). These range in size from 15 to 77 acres, and are revegetated grasslands of varying quality. NWC believes that the identified parcels have adequate potential for mitigating the habitat loss expected to occur and for providing benefit for the wildlife species most likely to be impacted by habitat loss associated with the Project, including grasshopper sparrow (*Ammodramus saviannarum*), Brewer's sparrow (*Spizella breweri*), vesper sparrow (*Poocetes gramineus*), and loggerhead shrike (*Lanius ludovicianus*). The referenced parcels for mitigation have been discussed with ODFW, LotusWorks, NWC, and the associated landowners, and other parcels may be considered as well.

Possible Habitat Enhancement Options

It is assumed that the habitat designated for mitigation will be conserved and protected from alteration for the life of the Project. Besides such legal protection, actions that are proposed for enhancement of the mitigation area include fencing out livestock (if not already fenced), modification of livestock grazing (wildlife habitat values take precedence over livestock grazing), weed control, revegetation with native plants, and fire control.

Monitoring

It is expected that a comprehensive program of monitoring the HMA and the success of its protection and enhancements will be required by ODOE and ODFW. Such monitoring will be conducted by an independent and qualified specialist (wildlife biologist/botanist). Annual monitoring will include assessments of quality of vegetation, success of weed control measures, recovery of native grasses and forbs (in response to reductions in livestock grazing), and success of revegetation measures (where applicable). In addition, some requirement for periodic monitoring of avian species use of the area (especially during the breeding season) is recommended for understanding the enhancement success. Details of monitoring time frames and success criteria will be designed after the final site is selected.

Results of all monitoring will be reported to ODOE and ODFW on an annual basis, along with a report of the mitigation/enhancement measures undertaken that year.

Criteria for Success

Success of this Habitat Mitigation Plan will be predicated upon several criteria. These include increased vegetative cover consisting of desired native vegetation (relative to the structure prior to initiation of enhancement actions), similar or increased avian use of the area (similar or increased diversity of species), success of noxious weed control, increased recruitment of native forbs, and increased seed production of native bunchgrasses.

References

- Gerhardt, R., R. Gritski, B. Anderson. 2009a. Ecological baseline studies and Impact assessment for the Summit Ridge Wind Power Project, Wasco County, Oregon—Interim Report. Prepared for LotusWorks, Vancouver, Washington. Prepared by Northwest Wildlife Consultants, Pendleton, Oregon.
- Gerhardt, R., R. Gritski, B. Anderson. 2009b. Ecological baseline studies and Impact assessment for the Summit Ridge Wind Power Project, Wasco County, Oregon—Addendum. Prepared for LotusWorks, Vancouver, Washington. Prepared by Northwest Wildlife Consultants, Pendleton, Oregon.
- Oregon Department of Fish and Wildlife (ODFW). 2013. ODFW's data clearinghouse: ODFW winter range for eastern Oregon. Available online at: <http://nrmp.dfw.state.or.us/DataClearinghouse/default.aspx?p=202&XMLname=885.xml>.



Summit Ridge Wind, LLC

9611 NE 117th Avenue
Suite 2840
Vancouver, WA 98662-2404

360.737.9090

July 20, 2016

Ms. Katie Clifford
Oregon Department of Energy
625 Marion Street NE
Salem, OR 97301

Sent via email: Clifford, Katie <katie.clifford@state.or.us>

Subject: Response to AIR Request #2

Reference: July 6, 2016 ODOE Additional Information Request #2; Summit Ridge Wind Farm Request for Amendment #2

Dear Ms. Clifford,

This letter serves as our response to the above referenced Request for Additional Information. Our response addresses all ten items (AIR #6 – AIR #15). AIR #6 through AIR # 13 are responded to via the attached July 19, 2016 David Evans and Associates memo and associated drawings. Air #14 and AIR # 15 are addressed below.

AIR #14 – Summit Ridge Wind, LLC confirms that the Air Containment Discharge Permit required to operate the Batch Plant will be obtained by the certificate holder.

AIR #15 – A copy of the Figure 1 of the Habitat Mitigation Plan (HMP: as revised October 22, 2014) is included as an attachment to this letter. An informal copy was provided to ODOE via email on July 14, 2016.

We trust you will find our response complete. Please advise should you have questions or require additional clarification.

Sincerely,



Steven A. Ostrowski, Jr.

Cc: File

Attachments



MEMORANDUM

DATE: July 19, 2016
TO: Steve Ostrowski
LotusWorks – Summit Ridge I, LLC
Katie Clifford
Oregon Department of Energy
FROM: Sean P. Sullivan
SUBJECT: Summit Ridge Wind Farm - Request for Amendment #2; Additional Information Request #1 Response
PROJECT: LRNG0000-0001
COPIES: File

On July 6, 2016, Oregon Department of Energy (ODOE) provided LotusWorks – Summit Ridge I, LLC (LWSR I) with an Additional Information Request (AIR) pertaining to LWSR I's Request for Amendment #2 (RFA 2) for the Summit Ridge Wind Farm (herein "Project") in Wasco County. This memorandum provides responses to AIR 6 through 13.

Project facilities subject to the AIR are shown on Figure 1. The Bonneville Power Administration (BPA) interconnect substation is included for context; BPA will be responsible for the siting and design of its facility.

AIR 6

Provide confirmation that all facility structures, as amended, with the exception of the proposed transmission line, would be located a minimum of 200 feet from the property line of adjacent land used for perennial or annual crops.

Response:

David Evans and Associates, Inc. (DEA) assumes the property line of adjacent land pertains to non-participating landowners only. In other words, the request applies to parcels beyond the lease boundary. Figure 2 illustrates the lease boundary, a 200-foot buffer inward from the boundary, and facility structures. No facilities occur within the 200-foot buffer. Therefore all facilities would be located a minimum of 200 feet from the property line of adjacent land used for perennial or annual crops.

AIR 7

Provide confirmation that the facility foundations and permanent structures, as amended, with the exception of the proposed access roads and transmission line, would be located at least 100 feet away from seasonal or permanent waterways.

Response:

Regarding waterways, Wasco County Land Use & Development Ordinance (WCLUDO) 3.216(A)(2)(a) establishes that “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.” The best available information for identifying the high water line or wetlands for the Project is Wetland Delineation Report #2009-0445R, for which Oregon Department of State Lands (ODSL) issued concurrence on April 5, 2010, and re-issued concurrence on May 31, 2016.

Facility foundations and structures subject to this AIR include the turbine foundations, and substation and O&M buildings and associated foundations. As shown in Figure 3, these facilities and structures avoid the 100-foot setback from seasonal or permanent waterways (i.e., delineated wetlands and waters of the state).

AIR 8

Using the most current Flood Insurance Rate Map available for Wasco County, provide confirmation that no facility components, as amended, would be located within the 100-year floodplain.

Response:

Figure 4 illustrates the relationships between the 100-year floodplain and facility components. DEA acquired the digital data for the National Flood Hazard Layer from Federal Emergency Management Agency in July 2016. As shown in Figure 4, project components avoid the 100-year floodplain (i.e., Type A Flood Zone). Flood Insurance Rate Maps for the Project area are included as Attachment 8-1.

AIR 9

Provide confirmation that the facility, as amended, would not include development within 50 feet of the centerline of an irrigation ditch that continues past the subject parcel to provide water to other property owners.

Response:

Agriculture in the Project area is predominately comprised of dry-land wheat and cattle ranching. As such, there are no irrigation ditches or pipelines in the Site Boundary. LWSR I confirmed this with local rancher and project participant KC Kortge (Kortge, pers. comm., 2016). Therefore, development will not occur within 50 feet of the centerline of an irrigation ditch or pipeline.

AIR 10

Provide evidence (e.g., description, maps/figures) demonstrating that the facility components, as amended, would be located to avoid impacts to wetlands and waterways.

Response:

As shown in Figure 3, facility components avoid impacts to wetlands and waterways. While the transmission line crosses wetlands and waters, it is reasonable to assume the transmission line can span these resources and that the transmission poles can be sited to avoid them.

AIR 11

Provide a more detailed analysis of the impacts (under the proposed 3.0 MW turbine option as compared to the approved 2.7 MW turbine facility) to Cottonwood Canyon State Park and each protected area within the analysis area shown in the table entitled “Protected Areas Within 20 Miles of the Facility” in the Final Order.

Response:

As part of LWSR I’s RFA 2, DEA prepared a comparative analysis of Alternative B and Alternative C to illustrate the net changes in visibility patterns for Protected Areas. The analysis used computer modeling to predict where turbines would be newly visible, where turbines would no longer be visible, and where visibility would remain relatively unchanged. Figure 5 (which includes an Index Map and Sheets 1 through 6) details the results of this analysis.

In the figure, blue shading represents areas where any portion of any turbine(s) would be visible in Alternative B, but would not be visible in Alternative C (i.e., a decrease in visibility). Red shading illustrates areas where any portion of any turbine(s) would be visible in Alternative C, but would not be visible in Alternative B (i.e., an increase in visibility). Yellow shading identifies areas where visibility would remain about the same. As with the original visual impact analyses used by ODOE to develop the Final Order, it is important to note the model does not consider vegetation, distance, and atmospheric conditions which limit visibility.

The results indicate that visibility for Alternative C would remain about the same or slightly less than Alternative B. The reduction in visibility becomes intuitive when one considers two factors. First, the ground-to-tip distance for the Alternative B turbines is 152m; the distance for Alternative C turbines is 150m. Second, Alternative C includes eight fewer turbines than Alternative B. Slight increases in visibility (i.e., the red areas) occur because turbine locations in Alternative C have shifted within the Site Boundary and the new locations may be more visible than previous locations.

According to the modeling results and DEA’s best professional judgment which considers the entire Project record, viewing distance, and the presence of vegetation in certain areas, Alternative C would not be visible from the following Protected Areas. Therefore no impact would occur.

- Botanical/Scenic Areas within Columbia Gorge ACEC
- Columbia Hills (Horsethief Lake) State Park

- Cottonwood Canyon State Park
- Doug's Beach State Park
- John Day Federal Wild and Scenic River
- John Day State Scenic Waterway
- JS Burres State Recreation Site (BLM)
- Lower Klickitat Federal Wild and Scenic River
- Maryhill State Park
- Mayer State Park
- Memaloose State Park
- Tom McCall Preserve ACEC
- White River Falls State Park

Similar to the results ODOE relied upon to develop the Final Order, portions of the facility may be visible from these Protected Areas:

- Badger Creek Wilderness Area
- Deschutes River State Recreation Area
- Heritage Landing (Deschutes) State Park
- John Day Wildlife Refuge
- White River Federal Wild and Scenic River
- White River State Wildlife Area

As evidenced in Figure 5, the significant amount of yellow shading indicates there is very little change in visibility patterns among these Protected Areas. The facility would be visible from isolated, limited rims of White River Canyon and John Day River Canyon, but not from the rivers themselves. Badger Creek Wilderness features significant vegetation that would screen views of the facility which is located at least 18 miles away. Views of the facility from Deschutes River Recreation Area and Heritage Landing are also impaired by vegetation and distances of at least nine miles. For these reasons, it is reasonable to conclude that Alternative C will result in negligible, if any, impact to these Protected Areas.

Model results predict that the facility will be visible from these Protected Areas:

- Columbia Basin Agricultural Research Center – This research facility is located approximately six miles from the facility and is not managed for scenic quality. In the Final Order, ODOE concludes the Project is not expected to adversely impact the research center or interfere with its management objectives. Given the similar nature in impacts and the Center's management objectives, it is reasonable to conclude Alternative C will not adversely affect this Protected Area.

- Columbia Hills Natural Area Preserve – This preserve is located at least 14 miles from the facility and is managed for rare plant habitat rather than scenic quality. In the Final Order, ODOE concludes the facility is not expected to adversely impact the preserve or interfere with its management objectives. As shown in Figure 5, visibility patterns within this resource remain almost identical to previous analyses. Therefore, it is reasonable to conclude that Alternative C will not adversely impact the preserve or interfere with its management objectives.
- Columbia River Gorge National Scenic Area – As shown in Figure 5, visibility patterns remain very similar when viewed from the Columbia River Gorge National Scenic Area (CRGNSA). Much of the land within CRGNSA from which the facility would be visible is not accessible to the public, as there are limited roads and most land is privately owned. The most likely locations from which the facility may be visible occur along SR-14 in the vicinity of Wishram, Washington at distances of over 14 miles. In the Final Order, ODOE concludes that the facility is not expected to adversely impact the CRGNSA. Given the similar patterns in visibility and viewing distances, it is reasonable to conclude that Alternative C will not adversely impact CRGNSA.
- Deschutes Federal Wild and Scenic River; Deschutes State Scenic Waterway; and Lower Deschutes Wildlife Area (collectively “Lower Deschutes River Canyon”). Modeling predicts that views from the river for Alternative C would be about the same or slightly less than previous analyses. Computer simulations for Alternative C suggest the facility would no longer be visible from Viewpoints 1, 4, and 5. Views would be about the same from Viewpoints 2 and 3. However, the model results predict that visibility will increase slightly in isolated, generally inaccessible areas along the canyon walls and rim, as evidenced by red shading in Figure 5. Because these areas are generally inaccessible, and the previously submitted simulations predict a reduction in visibility from the river, it is reasonable to conclude the facility will not result in significant adverse impacts to the Lower Deschutes River Canyon, which is consistent with the conclusions of the Final Order.

AIR 12

Provide a more detailed analysis of the impacts (under the proposed 3.0 MW turbine option as compared to the approved 2.7 MW turbine facility) to the following scenic resources identified by the applicable resource plans within the analysis area: Columbia River Gorge National Scenic Area (CRGNSA), the White River Canyon, resources in the John Day River Canyon, the Mt. Hood National Forest, Oregon National Historic Trail, the Journey Through Time Scenic Byway, Wasco County Resources, and Sherman County Resources.

Response:

Consistent with the approach used to assess impacts to Protected Areas (see AIR 11 response), DEA prepared a comparative analysis of Alternative B and Alternative C to illustrate the net changes in visibility patterns for Scenic and Aesthetic Resources. Figure 6 (which includes an Index Map and Sheets 1 through 6) details the results of this analysis.

The results indicate that visibility for Alternative C would remain about the same or slightly less than Alternative B for the same reasons stated in the AIR 11 response.

The Project record, including the Final Order, identifies nine scenic resources within the analysis area for Scenic and Aesthetic Values. AIR 12 requests additional information for eight of these resources, discussed below.

- Columbia River Gorge National Scenic Area – As evidenced in Figure 6 (and consistent with the response to AIR 11), visibility patterns from CRGNSA remain about the same for Alternative C. In the Final Order, ODOE concludes that based on the amount of existing development in the foreground and middleground, viewing distances, and limited opportunities to view turbines, the facility would likely result in minimal impacts, if any, to CRGNSA. Given the similarity in visibility patterns modeled for Alternative C, it is reasonable to conclude that Alternative C will not have significant adverse impacts on the CRGNSA.
- White River Canyon – Computer modeling and previous field investigations indicate the facility would not be visible from White River Falls State Park, and that portions of turbines may be visible at distances greater than eight miles from higher canyon walls and rims. Access to the canyon walls and rim are very limited. The facility would not be visible from the river itself. In the Final Order, ODOE concludes the facility is not likely to have significant adverse impacts on the White River Canyon. Given the similarity in visibility patterns, viewing distance, and limited access to canyon rims and walls, it is reasonable to conclude Alternative C will not have significant adverse impacts on the White River Canyon.
- John Day River Canyon – Computer modeling results for Alternative C are consistent with previous analyses, indicating the facility will not be visible from the John Day River, and may be visible from extremely limited portions of the canyon rims at distances over 18 miles. Given these factors, it is reasonable to conclude Alternative C will not likely have significant adverse impacts on the John Day River Canyon, which is consistent with ODOE's conclusion in the Final Order.
- Mt. Hood National Forest – Figure 6 indicates very similar visibility patterns for Alternative C when compared to previous analyses. While modeling suggests the facility will be visible from significant portions of the Forest, these results are skewed because the Forest is heavily treed, which the model does not consider. Further, access is rather limited and viewing distances are greater than 15 miles. Given these considerations, it is reasonable to conclude Alternative C will not result in significant adverse impacts on the Mt. Hood National Forest, which is consistent with ODOE's conclusion in the Final Order.
- Oregon National Historic Trail – Computer modeling indicates the facility will not be visible from the four identified high-potential sites: Deschutes River Crossing, The Dalles Complex, Tygh Valley, and Biggs Junction. Therefore, the facility will not impact these resources of the Oregon National Historic Trail.
- Journey Through Time Scenic Byway – Visibility patterns for Alternative C closely mimic previous analyses as shown in Figure 6. While turbines will be visible primarily between Wasco and Grass Valley, ODOE states in the Final Order that the facility is compatible with the byway's stated goals, particularly the goals of job creation and building regional identity. Further, ODOE concludes the facility will not significantly impact the byway. Since the visibility patterns of the facility viewed from the byway are largely the same, it is reasonable to conclude the Alternative C will not result in significant adverse impacts to the Journey Through Time Scenic Byway.

- Wasco County Resources – Scenic and aesthetic values in Wasco County include CRGNSA, Pine Hollow Lake, and three scenic highways within the analysis area: Interstate 84 (I-84) east of The Dalles city limits; Oregon Highway 197 (Hwy 197) between I-84 and Dufur; and a second segment of Hwy 197 beginning at the summit of Tygh Ridge continuing south approximately 13 miles before leaving the analysis area.

Regarding Wasco County Resources, CRGNSA is addressed above. The facility is not visible from Pine Hollow Lake; therefore impacts to this resource will not occur. The facility is not visible from I-84 and intermittently visible along Hwy 197. In the Final Order ODOE concludes the facility would have minimal impacts, if any, on the scenic highways given the intermittent nature of the views, distance, presence of other infrastructure including transmission and distribution facilities, and the fact that the turbines and transmission line would be subordinate to the surrounding landscape. Considering these circumstances and the similar patterns in visibility for Alternative C, it is reasonable to conclude Alternative C will not result in significant adverse impacts to the scenic and aesthetic values in Wasco County.

- Sherman County Resources – Scenic and aesthetic values in Sherman County include the rural nature of the Sherman County landscape and trees. The facility is located completely within Wasco County and will not impact trees in Sherman County or affect the rural nature of the Sherman County landscape. Therefore, the facility will not impact Sherman County scenic and aesthetic values.

AIR 13

Provide confirmation that the project would not require 50 cubic yards or more of material to be removed, filled, or altered within any “waters of the state.”

Response:

As shown in Figure 3, the Project avoids impacts to wetlands and waters of the state. Therefore, the Project will not require 50 cubic yards or more of material to be removed, filled, or altered within any wetlands or waters of the state.

REFERENCES

Kortge, KC. Personal Communication. July 14, 2016.

Attachments/Enclosures:

Figures 1 through 6

Attachment 8-1: FIRM Maps

Figures 1 through 6

Figure 1
Project Facilities

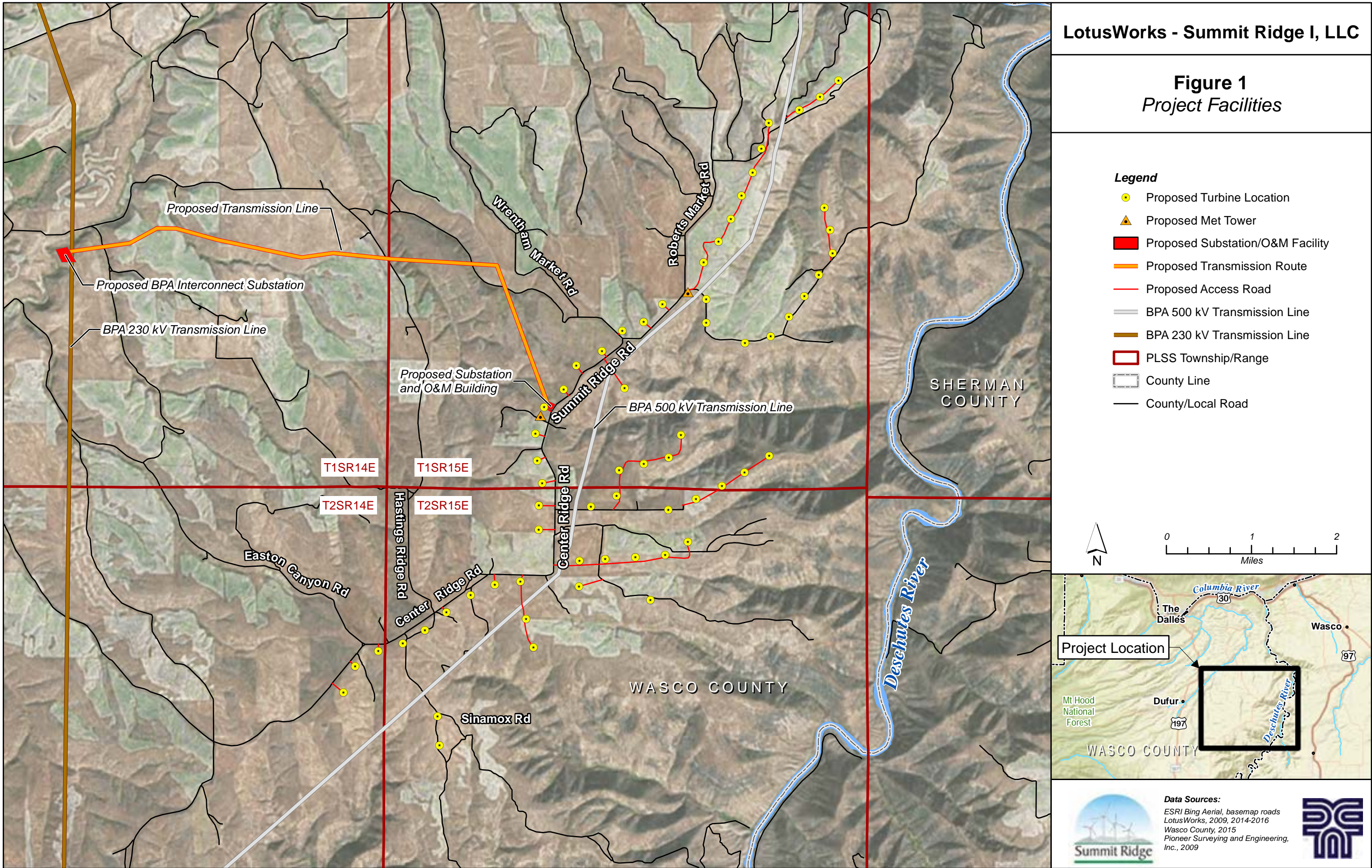
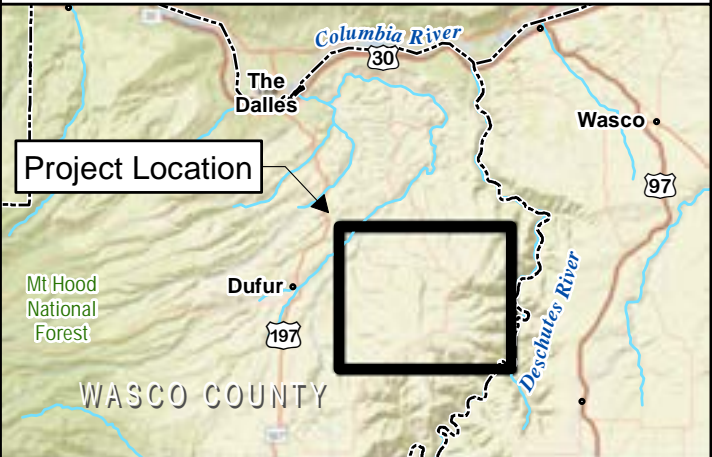
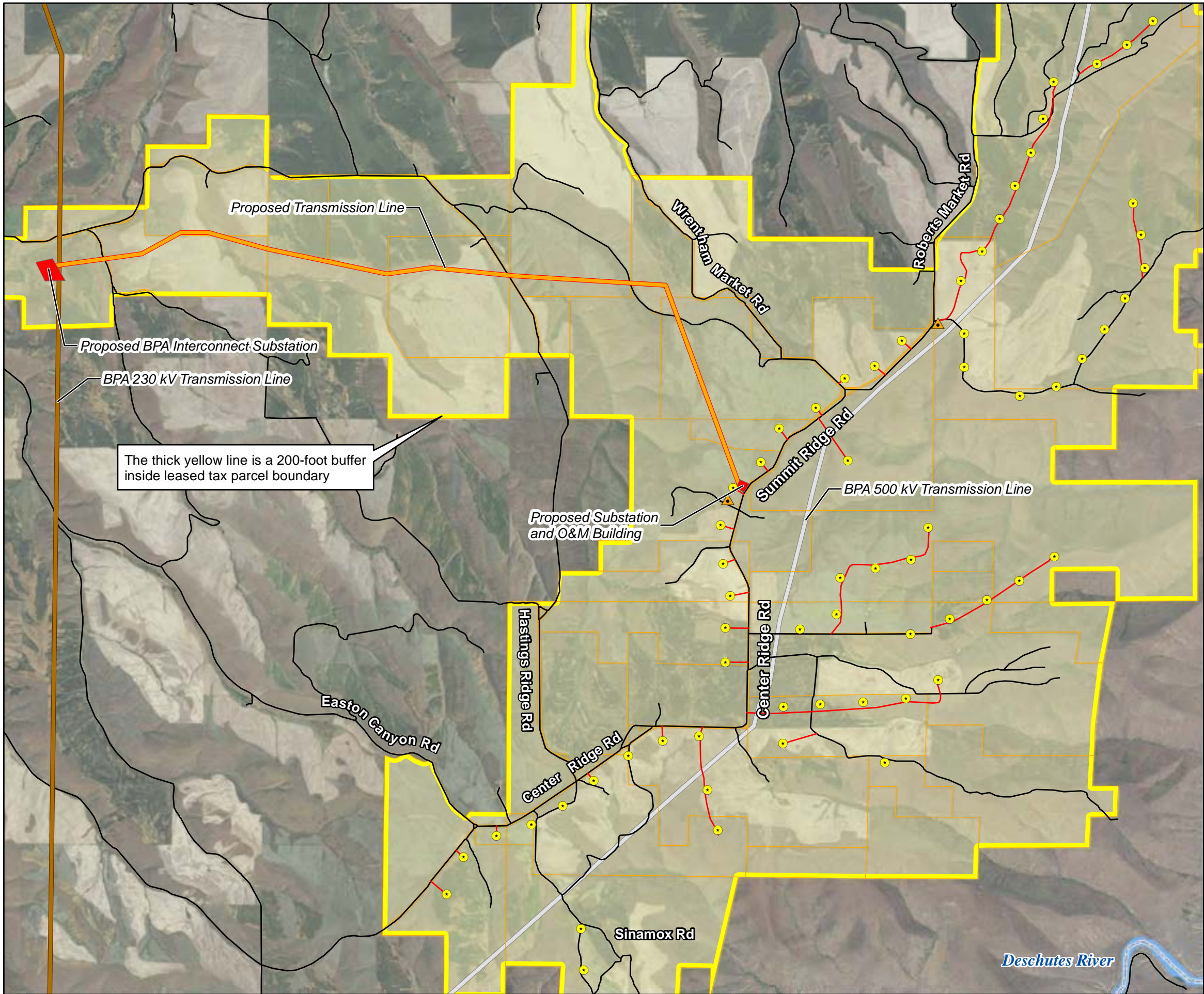
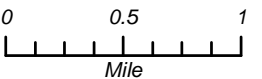


Figure 2
*Project Facilities Locations
Relative to Adjacent Cropland*

Legend

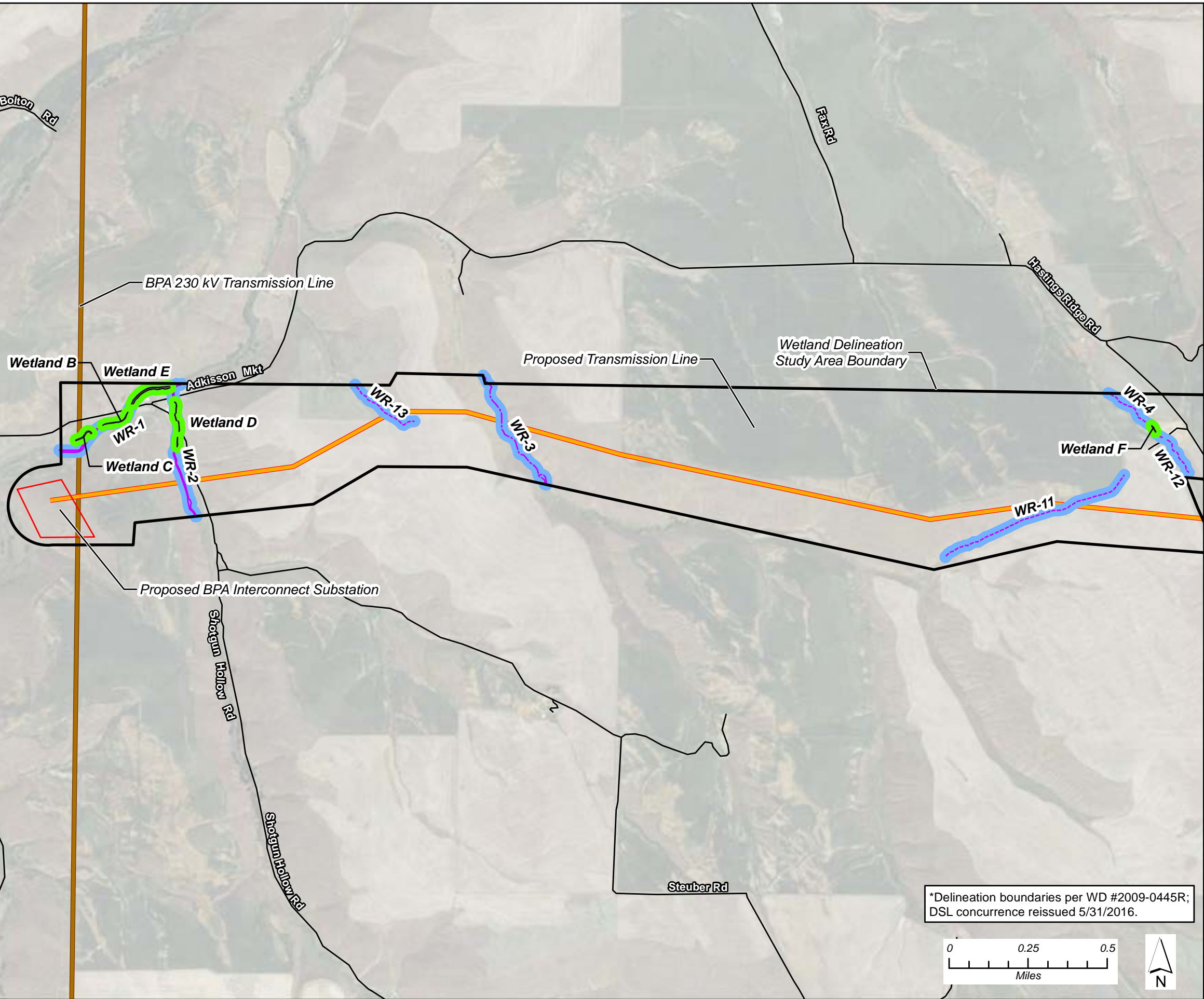
- Taxlot Adjacent to Lease Boundary:
200-foot buffer shown
- Leased Tax Parcel
- Proposed Turbine Location
- Proposed Met Tower
- Proposed Substation/O&M Facility
- Proposed Transmission Route
- Proposed Access Road
- BPA 500 kV Transmission Line
- BPA 230 kV Transmission Line
- County Line
- County/Local Road



Data Sources:
ESRI Bing Aerial, basemap roads
LotusWorks, 2009, 2014-2016
Wasco County, 2015
Pioneer Surveying and Engineering,
Inc., 2009

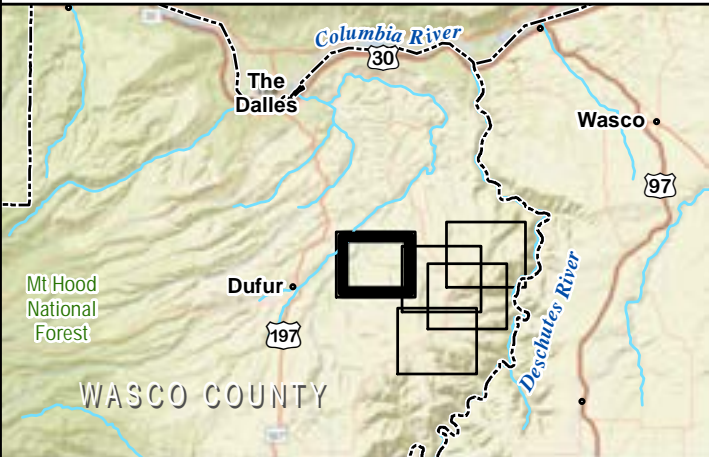


Figure 3, Sheet 1
Facility Foundations and Permanent Structure Locations Relative to Wetlands and Waters of the State

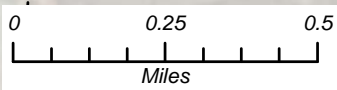


Legend

- Wetland Delineation Study Area*
- Delineated Wetland*
- Delineated Wetland with 100-foot buffer*
- Delineated Streams*
 - Ordinary High Water (OHW)
 - Perennial Water
 - Intermittent Water
 - Ephemeral Water
- Bridge
- Delineated Streams: 100-foot buffer*
- Deschutes River
- Proposed Turbine Foundation (70' diameter)
- Proposed BPA Interconnect Substation
- Proposed Transmission Route
- BPA 230 kV Transmission Line
- County/Local Road



*Delineation boundaries per WD #2009-0445R;
DSL concurrence reissued 5/31/2016.
















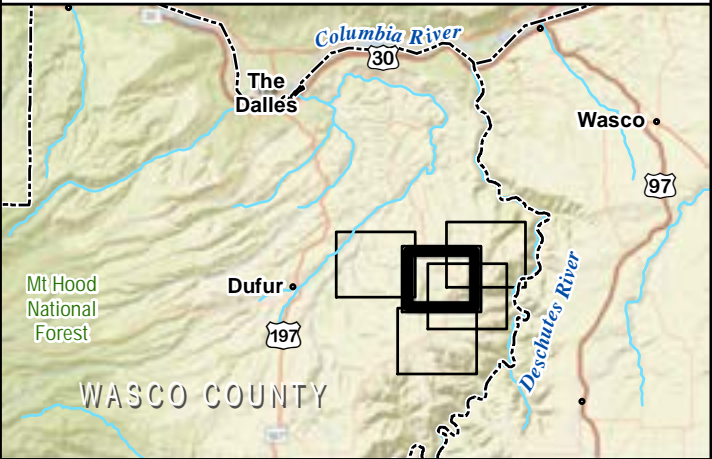
Data Sources:
USGS NHD, 2016
ESRI Bing Aerial, basemap roads
LotusWorks, 2009, 2014-2016
Wasco County, 2015
Pioneer Surveying and Engineering, Inc., 2009



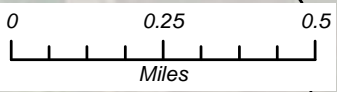
Figure 3, Sheet 2
Facility Foundations and Permanent Structure Locations Relative to Wetlands and Waters of the State

Legend

-  Wetland Delineation Study
- Delineated Streams***
-  Perennial Water
-  Intermittent Water
-  Ephemeral Water
-  Delineated Streams: 100-foot buffer*
-  Deschutes River
-  Proposed Turbine Foundation (70' diameter)
-  Proposed Met Tower
-  Proposed Access
-  Proposed Substation/O&M Facility
-  Proposed Transmission Route
-  BPA 500 kV Transmission Line
-  County/Local Road



*Delineation boundaries per WD #2009-0445R;
DSL concurrence reissued 5/31/2016.

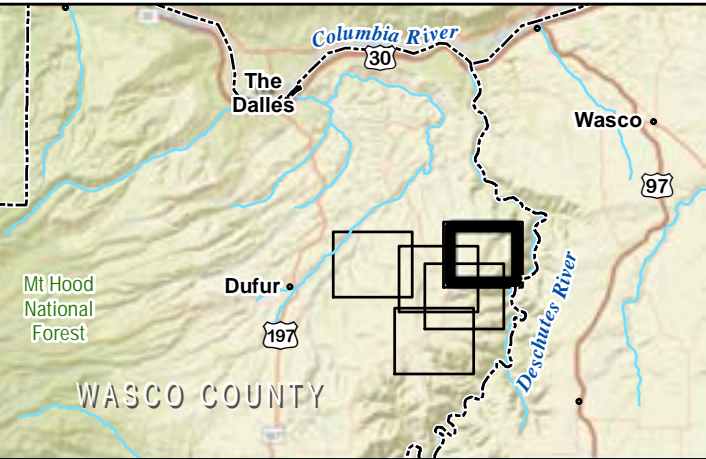


Proposed Substation
and O&M Building

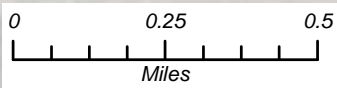
BPA 500 kV Transmission Line

Figure 3, Sheet 3
Facility Foundations and Permanent Structure Locations Relative to Wetlands and Waters of the State

- Legend**
- Wetland Delineation Study
 - Delineated Streams*
 - Ephemeral Water
 - Delineated Streams: 100-foot buffer*
 - Deschutes River
 - Proposed Turbine Foundation (70' diameter)
 - Proposed Met Tower
 - Proposed Access
 - Proposed Substation/O&M Facility
 - BPA 500 kV Transmission
 - County/Local Road



*Delineation boundaries per WD #2009-0445R; DSL concurrence reissued 5/31/2016.



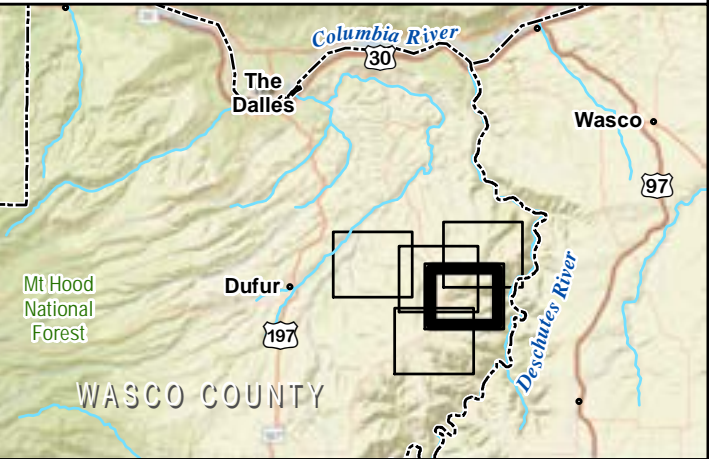
Data Sources:
USGS NHD, 2016
ESRI Bing Aerial, basemap roads
LotusWorks, 2009, 2014-2016
Wasco County, 2015
Pioneer Surveying and Engineering, Inc., 2009



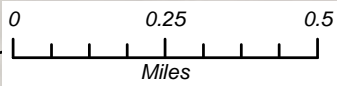
Figure 3, Sheet 4
Facility Foundations and Permanent Structure Locations Relative to Wetlands and Waters of the State

Legend

- Wetland Delineation Study
- Delineated Streams*
 - Ephemeral Water
 - Delineated Streams: 100-foot buffer*
 - Deschutes River
- Proposed Turbine Foundation (70' diameter)
- Proposed Met Tower
- Proposed Access
- Proposed Substation/O&M Facility
- Proposed Transmission
- BPA 500 kV Transmission
- County/Local Road



*Delineation boundaries per WD #2009-0445R; DSL concurrence reissued 5/31/2016.



Data Sources:
USGS NHD, 2016
ESRI Bing Aerial, basemap roads
LotusWorks, 2009, 2014-2016
Wasco County, 2015
Pioneer Surveying and Engineering, Inc., 2009

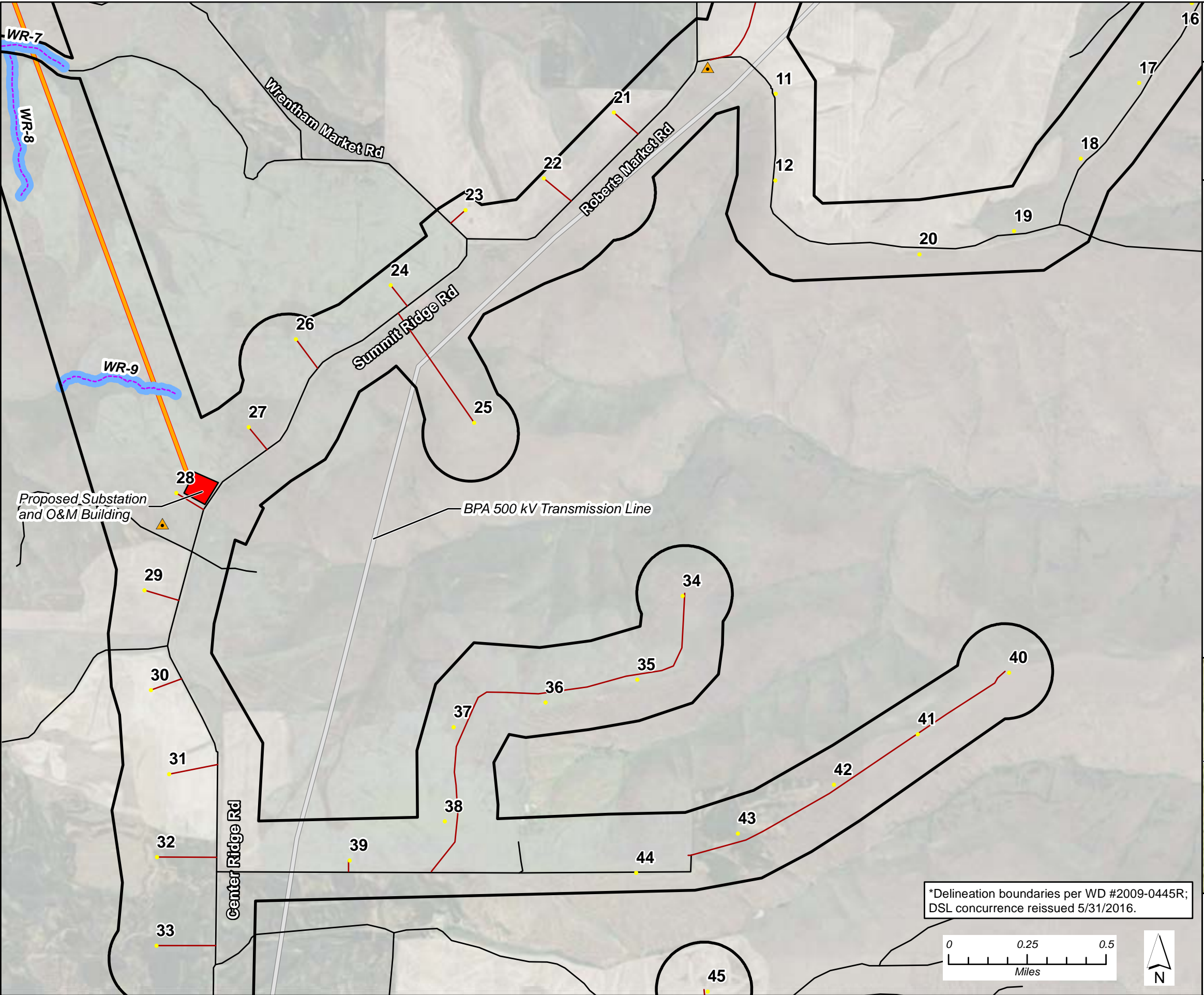
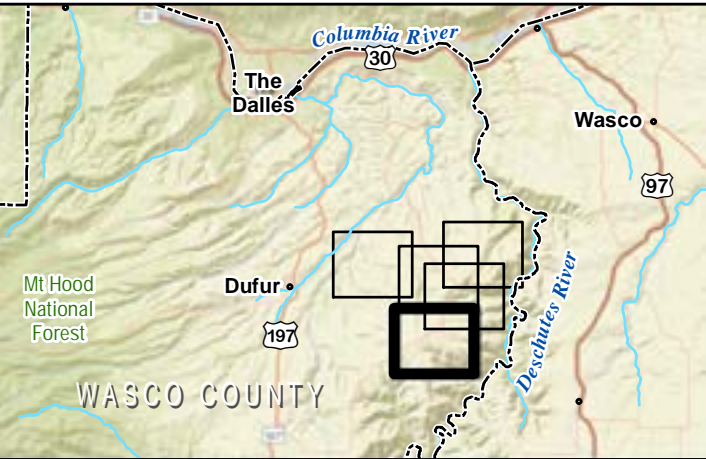
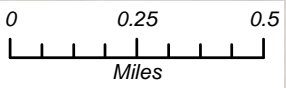


Figure 3, Sheet 5
Facility Foundations and Permanent Structure Locations Relative to Wetlands and Waters of the State

- Legend**
- Wetland Delineation Study
 - Delineated Wetland*
 - Delineated Wetland with 100-foot buffer*
 - Deschutes River
 - Proposed Turbine Foundation (70' diameter)
 - Proposed Access
 - Proposed Substation/O&M Facility
 - BPA 500 kV Transmission
 - County/Local Road



*Delineation boundaries per WD #2009-0445R; DSL concurrence reissued 5/31/2016.



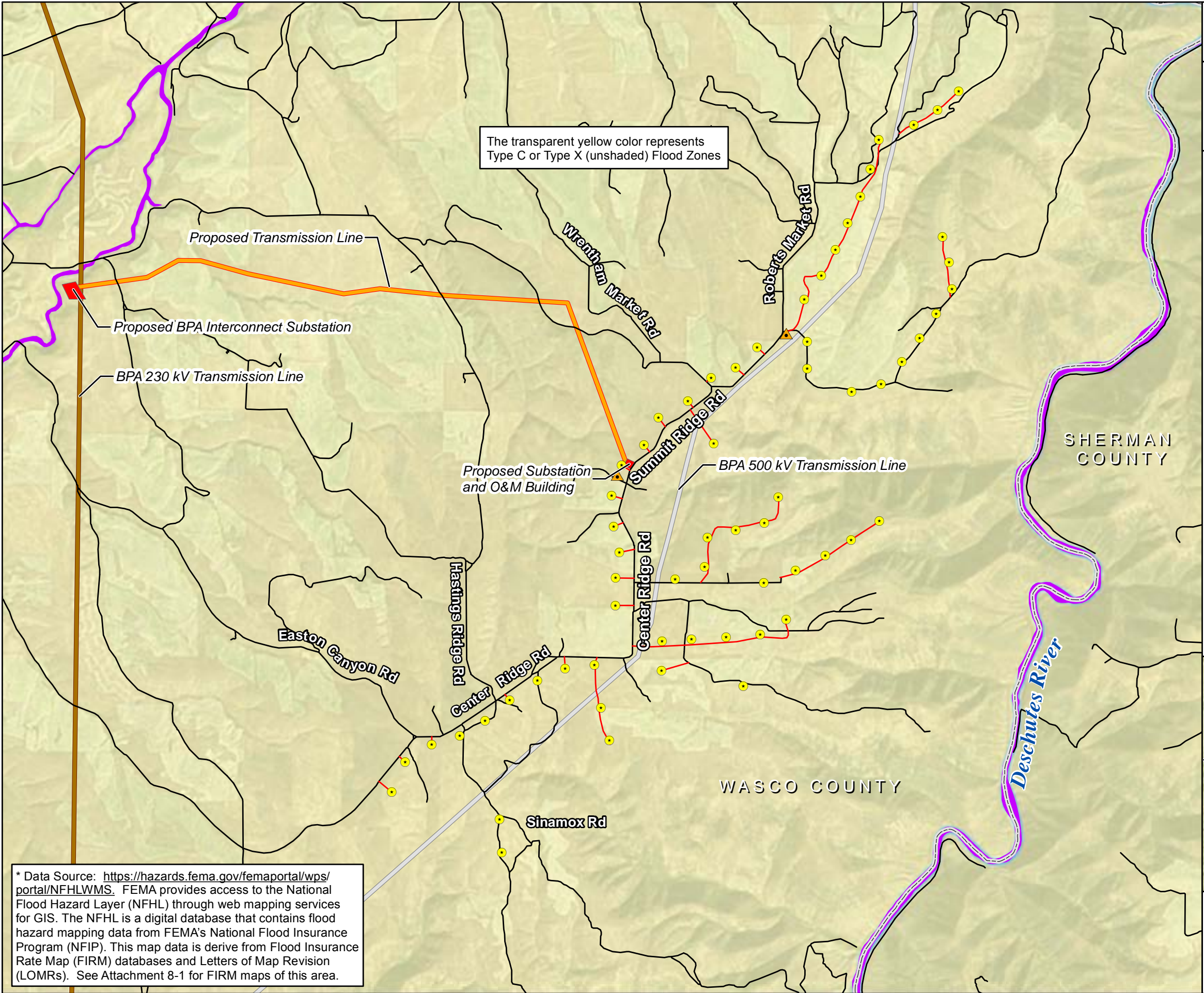
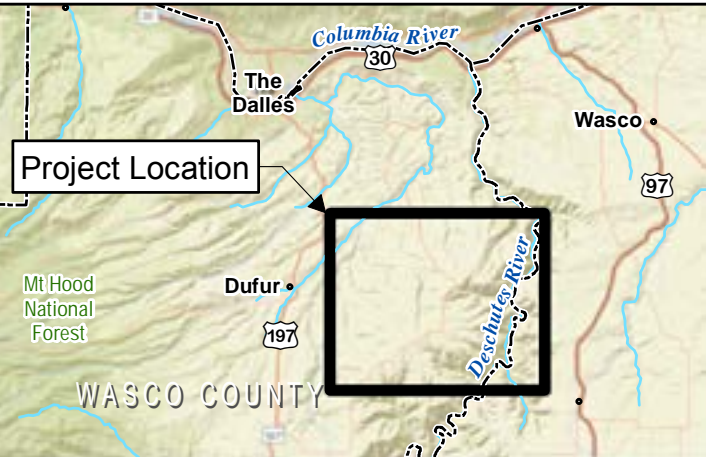
Data Sources:
USGS NHD, 2016
ESRI Bing Aerial, basemap roads
LotusWorks, 2009, 2014-2016
Wasco County, 2015
Pioneer Surveying and Engineering, Inc., 2009



Figure 4
*Facility Component Locations
Relative to FIRM 100-yr Floodplain*

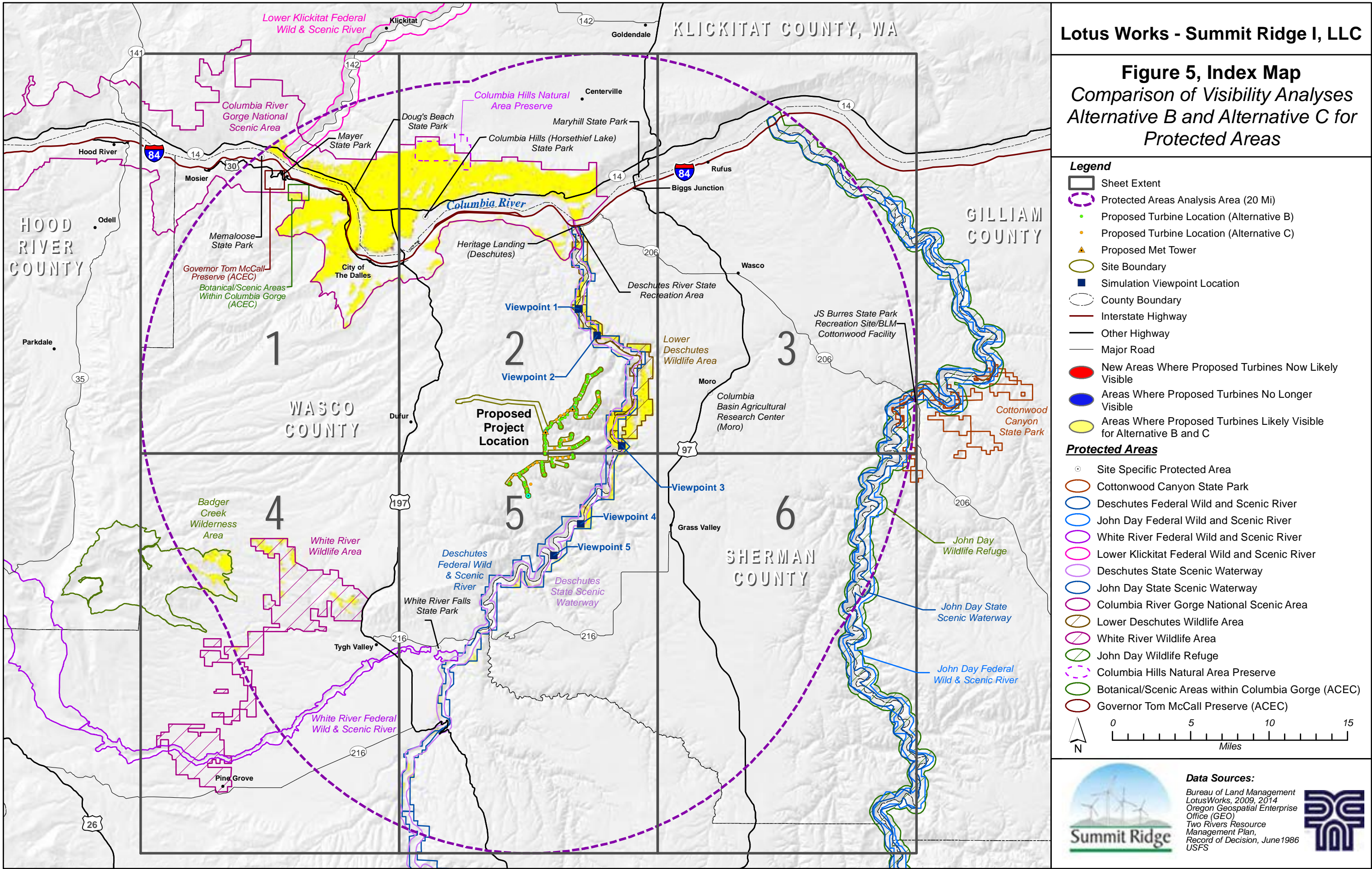
The transparent yellow color represents
Type C or Type X (unshaded) Flood Zones

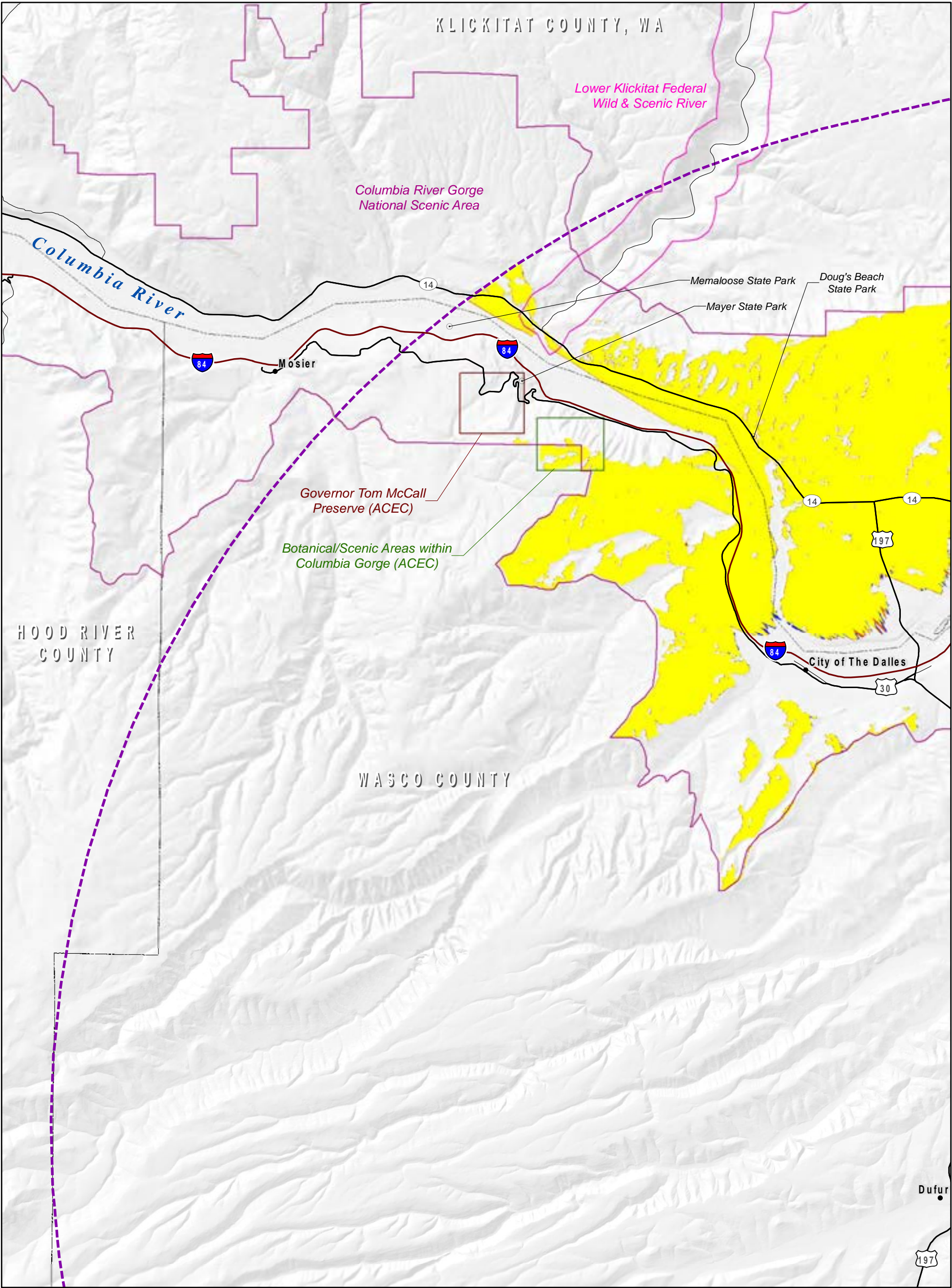
- Legend**
- (Type A Flood Zone)* Areas subject to inundation by the 1-percent-annual-chance flood event
 - (Types C, X (unshaded) Flood Zone)* Areas of minimal flood hazard; higher than the elevation of the 0.2-percent-annual-chance flood
 - Proposed Turbine Location
 - Proposed Met Tower
 - Proposed Substation/O&M Facility
 - Proposed Transmission Route
 - Proposed Access Road
 - BPA 500 kV Transmission Line
 - BPA 230 kV Transmission Line
 - County Line
 - County/Local Road



* Data Source: <https://hazards.fema.gov/femaportal/wps/portal/NFHLWMS>. FEMA provides access to the National Flood Hazard Layer (NFHL) through web mapping services for GIS. The NFHL is a digital database that contains flood hazard mapping data from FEMA's National Flood Insurance Program (NFIP). This map data is derive from Flood Insurance Rate Map (FIRM) databases and Letters of Map Revision (LOMRs). See Attachment 8-1 for FIRM maps of this area.

Figure 5, Index Map
Comparison of Visibility Analyses
Alternative B and Alternative C for
Protected Areas





- | | | | |
|---|---------------------------------------|---|---|
| New Areas Where Proposed Turbines Now Likely Visible | Protected Areas Analysis Area (20 mi) | Columbia River Gorge National Scenic Area | Governor Tom McCall Preserve (ACEC) |
| Areas Where Proposed Turbines No Longer Visible | Site Specific Protected Area | Lower Klickitat Wild and Scenic River | Botanical/Scenic Areas within Columbia Gorge (ACEC) |
| Areas Where Proposed Turbines Likely Visible for Alternatives B and C | | | |

Note: For the purposes of this analysis, proposed turbine visibility was calculated within the protected areas within the study area.



Data Sources:
Bureau of Land Management
LearningSI, LLC (LSI), 2015.
LotusWorks, 2009, 2014
Oregon Geospatial Enterprise Office (GEO)
Two Rivers Resource Management Plan,
Record of Decision, June 1986
US Forest Service

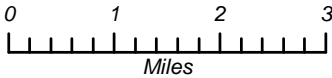
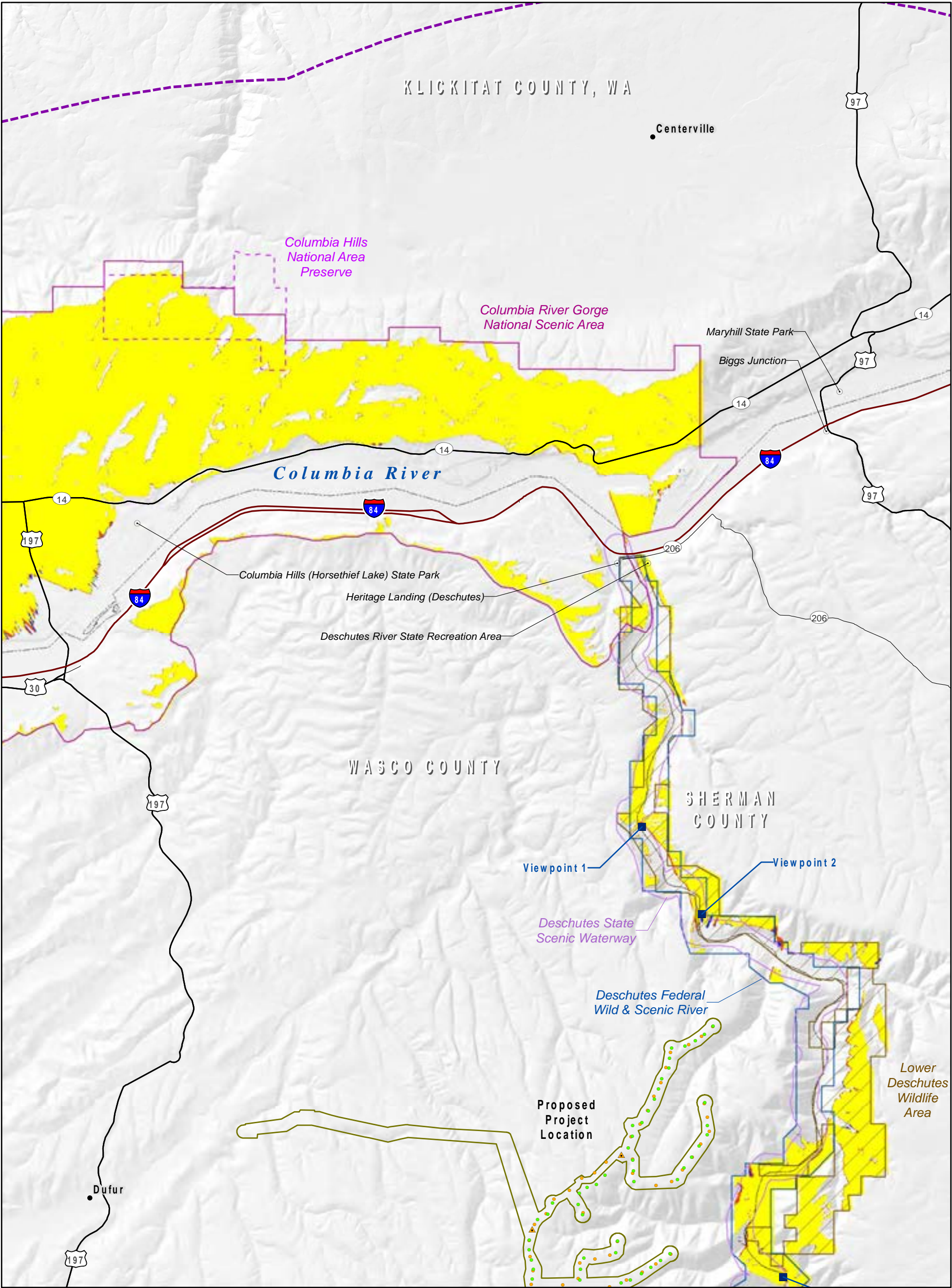


Figure 5, Sheet 1 of 6
Comparison of Visibility Analyses
Alternative B and Alternative C
for Protected Areas



- New Areas Where Proposed Turbines Now Likely Visible

Areas Where Proposed Turbines No Longer Visible

Areas Where Proposed Turbines Likely Visible for Alternatives B and C
- Protected Areas Analysis Area (20 mi)
- Proposed Turbine Location (Alternative B)
- Proposed Turbine Location (Alternative C)
- Proposed Met Tower
- Site Specific Protected Area
- Simulation Viewpoint Location
- Columbia Hills Natural Area Preserve
- Columbia River Gorge National Scenic Area
- Deschutes State Scenic Waterway
- Deschutes River Federal Wild and Scenic River
- Lower Deschutes Wildlife Area

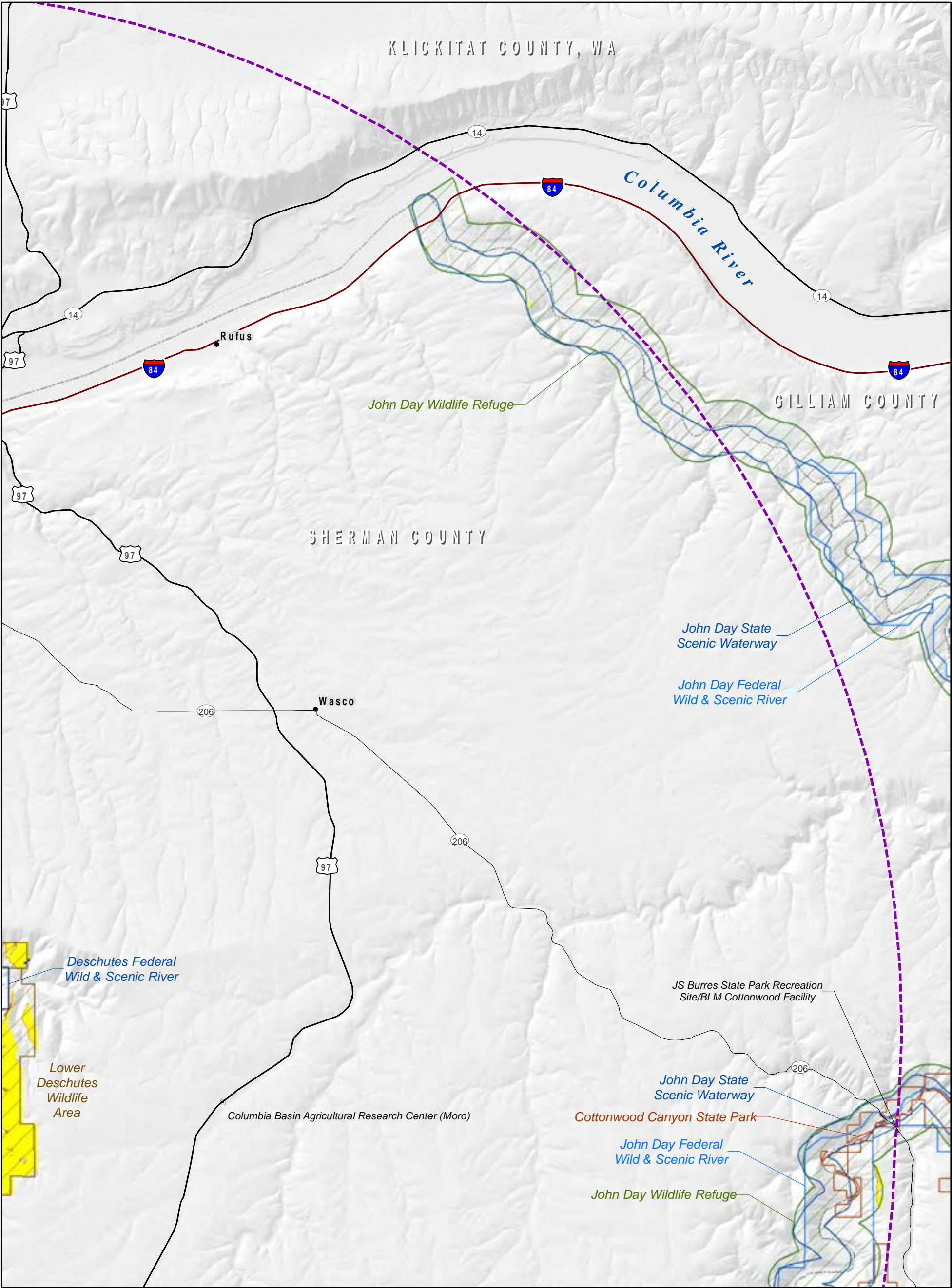
Note: For the purposes of this analysis, proposed turbine visibility was calculated within the protected areas within the study area.



Data Sources:
Bureau of Land Management
LearningSI, LLC (LSI), 2015.
LotusWorks, 2009, 2014
Oregon Geospatial Enterprise Office (GEO)
Two Rivers Resource Management Plan,
Record of Decision, June 1986
US Forest Service



Figure 5, Sheet 2 of 6
*Comparison of Visibility Analyses
Alternative B and Alternative C
for Protected Areas*



- | | | | |
|---|---------------------------------------|---|------------------------------|
| New Areas Where Proposed Turbines Now Likely Visible | Protected Areas Analysis Area (20 mi) | Deschutes River Federal Wild and Scenic River | Cottonwood Canyon State Park |
| Areas Where Proposed Turbines No Longer Visible | Site Specific Protected Area | John Day Federal Wild and Scenic River | John Day Wildlife Refuge |
| Areas Where Proposed Turbines Likely Visible for Alternatives B and C | John Day State Scenic Waterway | Lower Deschutes Wildlife Area | |

Note: For the purposes of this analysis, proposed turbine visibility was calculated within the protected areas within the study area.



Data Sources:
Bureau of Land Management
LearningSI, LLC (LSI), 2015.
LotusWorks, 2009, 2014
Oregon Geospatial Enterprise Office (GEO)
Two Rivers Resource Management Plan,
Record of Decision, June 1986
US Forest Service

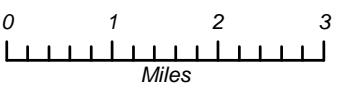
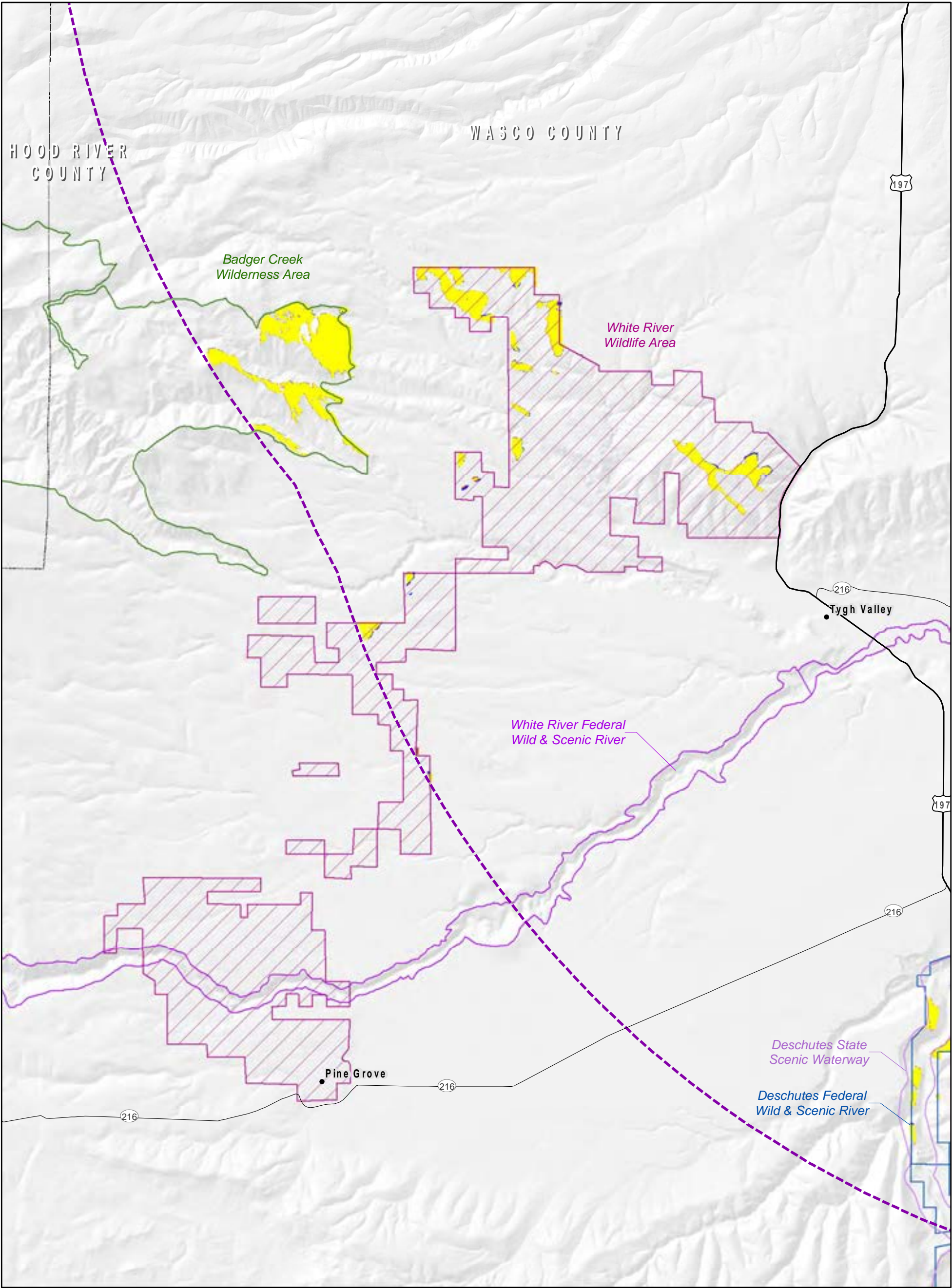


Figure 5, Sheet 3 of 6
Comparison of Visibility Analyses
Alternative B and Alternative C
for Protected Areas



- New Areas Where Proposed Turbines Now Likely Visible

Areas Where Proposed Turbines No Longer Visible

Areas Where Proposed Turbines Likely Visible for Alternatives B and C
- Protected Areas Analysis Area (20 mi)

Badger Creek Wilderness

Deschutes State Scenic Waterway
- Deschutes River Federal Wild and Scenic River

White River Federal Wild and Scenic River

White River Wildlife Area

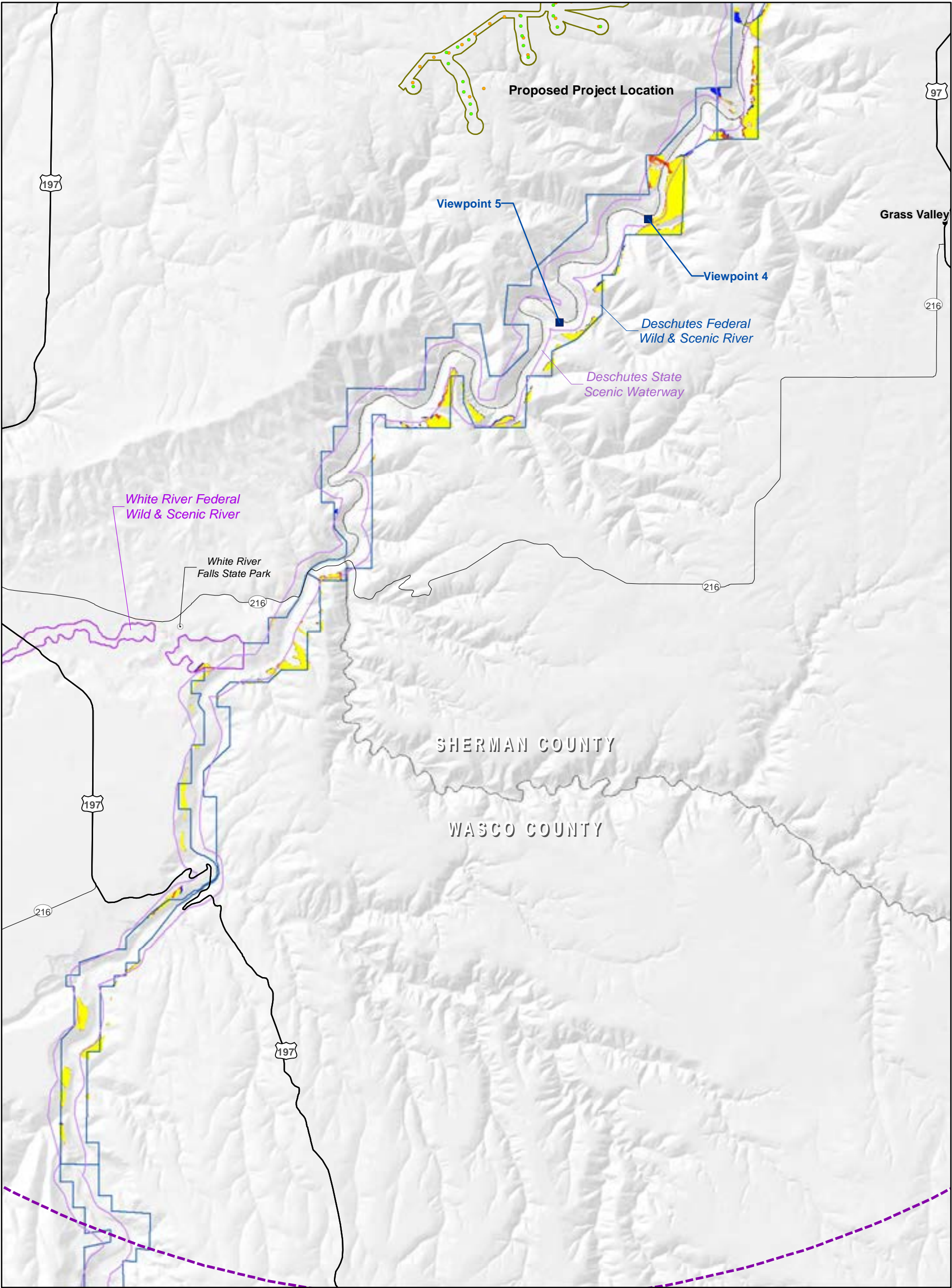
Note: For the purposes of this analysis, proposed turbine visibility was calculated within the protected areas within the study area.



Data Sources:
Bureau of Land Management
LearningSI, LLC (LSI), 2015.
LotusWorks, 2009, 2014
Oregon Geospatial Enterprise Office (GEO)
Two Rivers Resource Management Plan,
Record of Decision, June 1986
US Forest Service



Figure 5, Sheet 4 of 6
*Comparison of Visibility Analyses
Alternative B and Alternative C
for Protected Areas*



- New Areas Where Proposed Turbines Now Likely Visible

Areas Where Proposed Turbines No Longer Visible

Areas Where Proposed Turbines Likely Visible for Alternatives B and C
- Protected Areas Analysis Area (20 mi)

Proposed Turbine Location (Alternative B)

Proposed Turbine Location (Alternative C)
- Site Specific Protected Area

Simulation Viewpoint Location

Deschutes State Scenic Waterway
- Deschutes River Federal Wild and Scenic River

White River Federal Wild and Scenic River

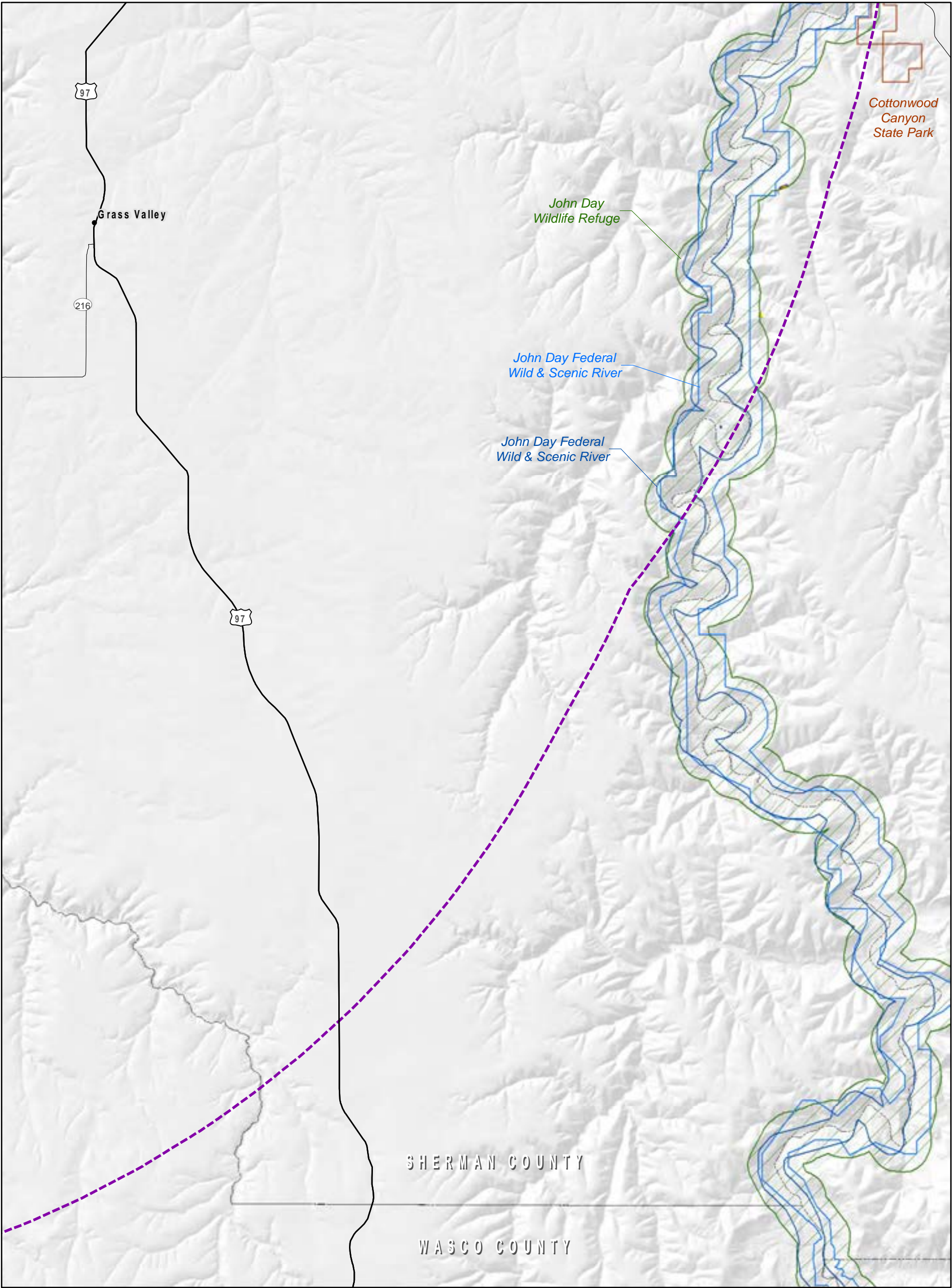
Note: For the purposes of this analysis, proposed turbine visibility was calculated within the protected areas within the study area.



Data Sources:
Bureau of Land Management
LearningSI, LLC (LSI), 2015.
LotusWorks, 2009, 2014
Oregon Geospatial Enterprise Office (GEO)
Two Rivers Resource Management Plan,
Record of Decision, June 1986
US Forest Service



Figure 5, Sheet 5 of 6
*Comparison of Visibility Analyses
Alternative B and Alternative C
for Protected Areas*



- New Areas Where Proposed Turbines Now Likely Visible

Areas Where Proposed Turbines No Longer Visible

Areas Where Proposed Turbines Likely Visible for Alternatives B and C
- Protected Areas Analysis Area (20 mi)

John Day State Scenic Waterway
- John Day Federal Wild and Scenic River

Cottonwood Canyon State Park

John Day Wildlife Refuge

Note: For the purposes of this analysis, proposed turbine visibility was calculated within the protected areas within the study area.

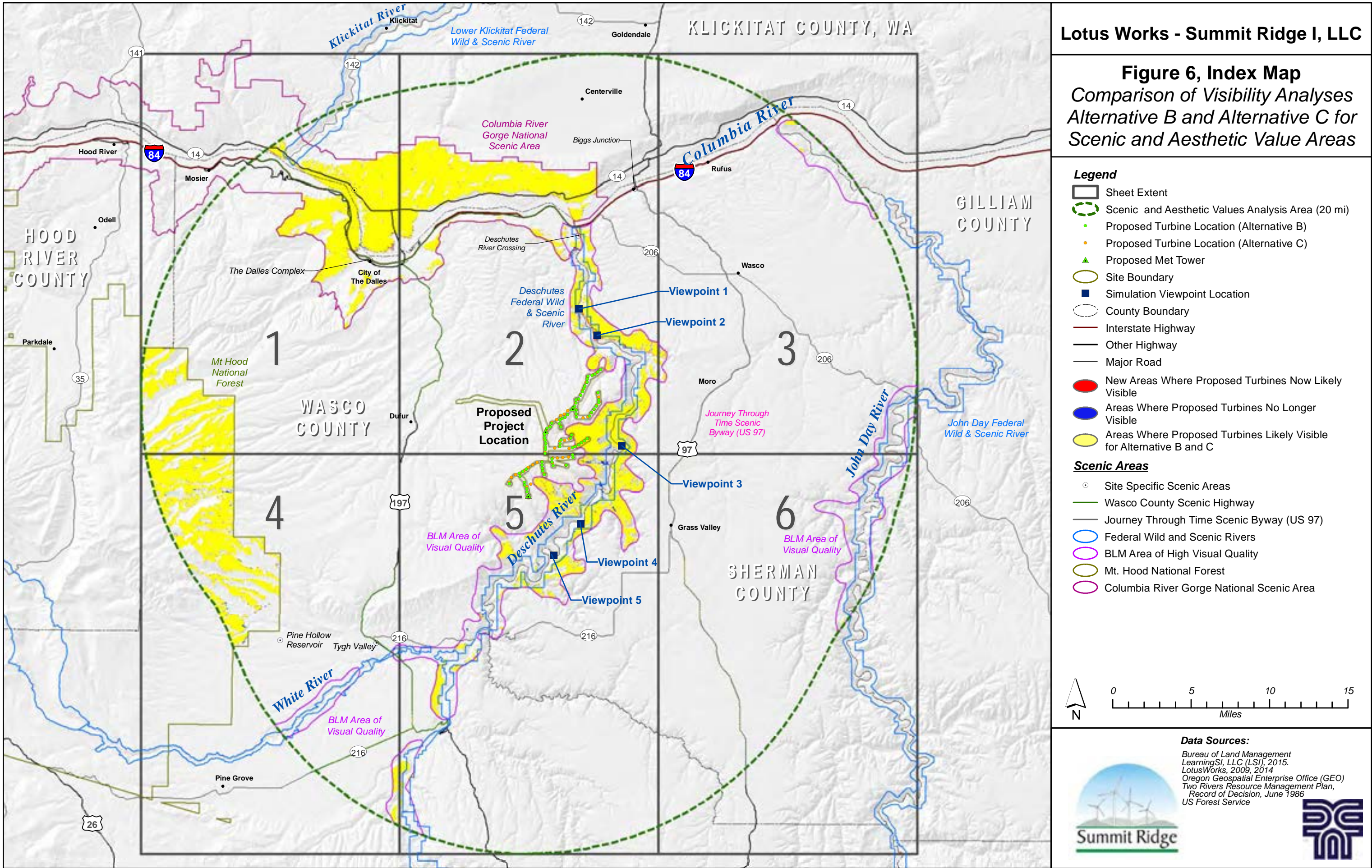


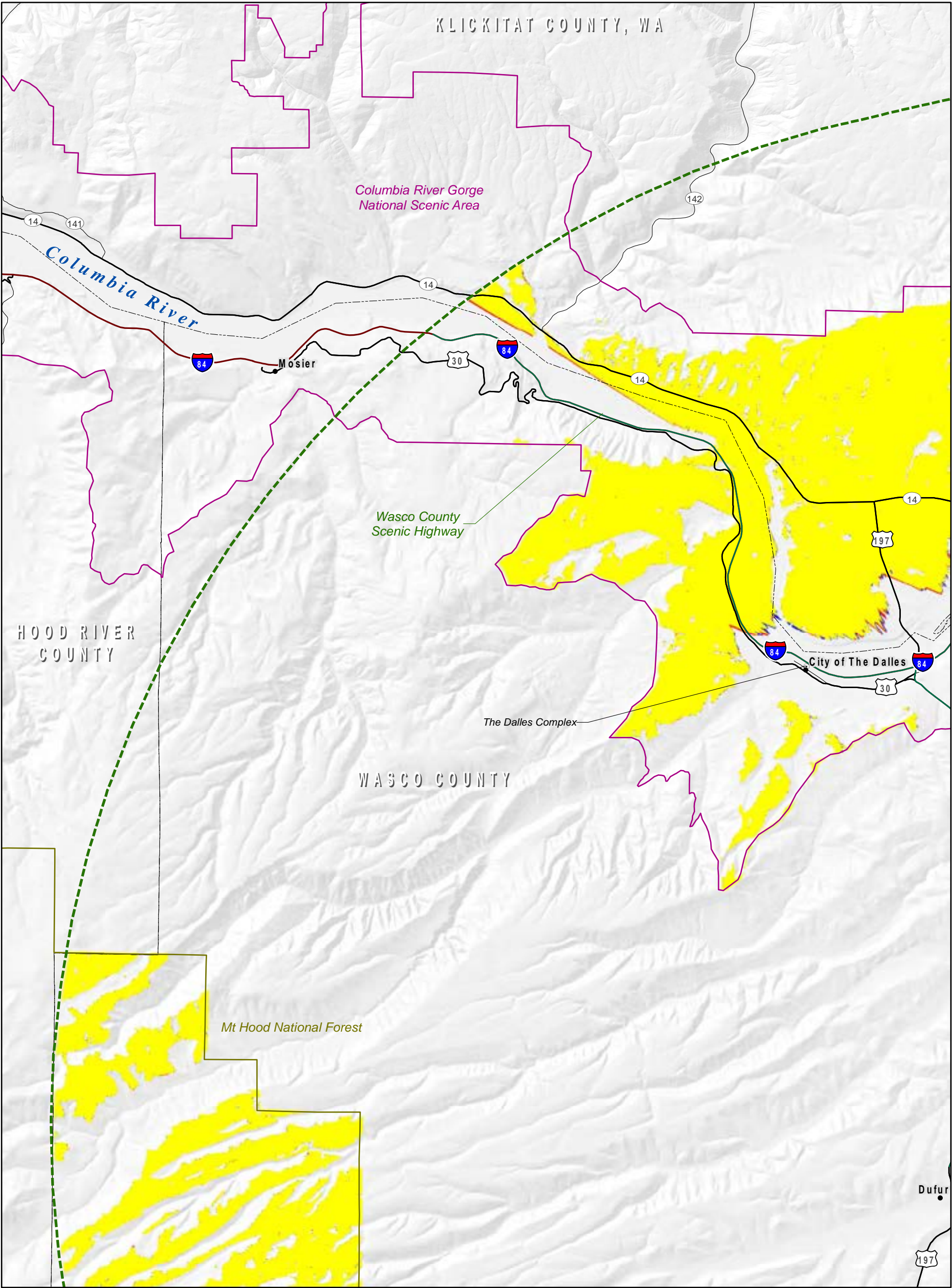
Data Sources:
Bureau of Land Management
LearningSI, LLC (LSI), 2015.
LotusWorks, 2009, 2014
Oregon Geospatial Enterprise Office (GEO)
Two Rivers Resource Management Plan,
Record of Decision, June 1986
US Forest Service



Figure 5, Sheet 6 of 6
*Comparison of Visibility Analyses
Alternative B and Alternative C
for Protected Areas*

Figure 6, Index Map
Comparison of Visibility Analyses
Alternative B and Alternative C for
Scenic and Aesthetic Value Areas





- New Areas Where Proposed Turbines Now Likely Visible
- Areas Where Proposed Turbines No Longer Visible
- Areas Where Proposed Turbines Likely Visible for Alternatives B and C
- Scenic and Aesthetic Values Analysis Area (20 mi)
- Site Specific Scenic
- Wasco County Scenic Highway
- Mt. Hood National Forest
- Columbia River Gorge National Scenic Area

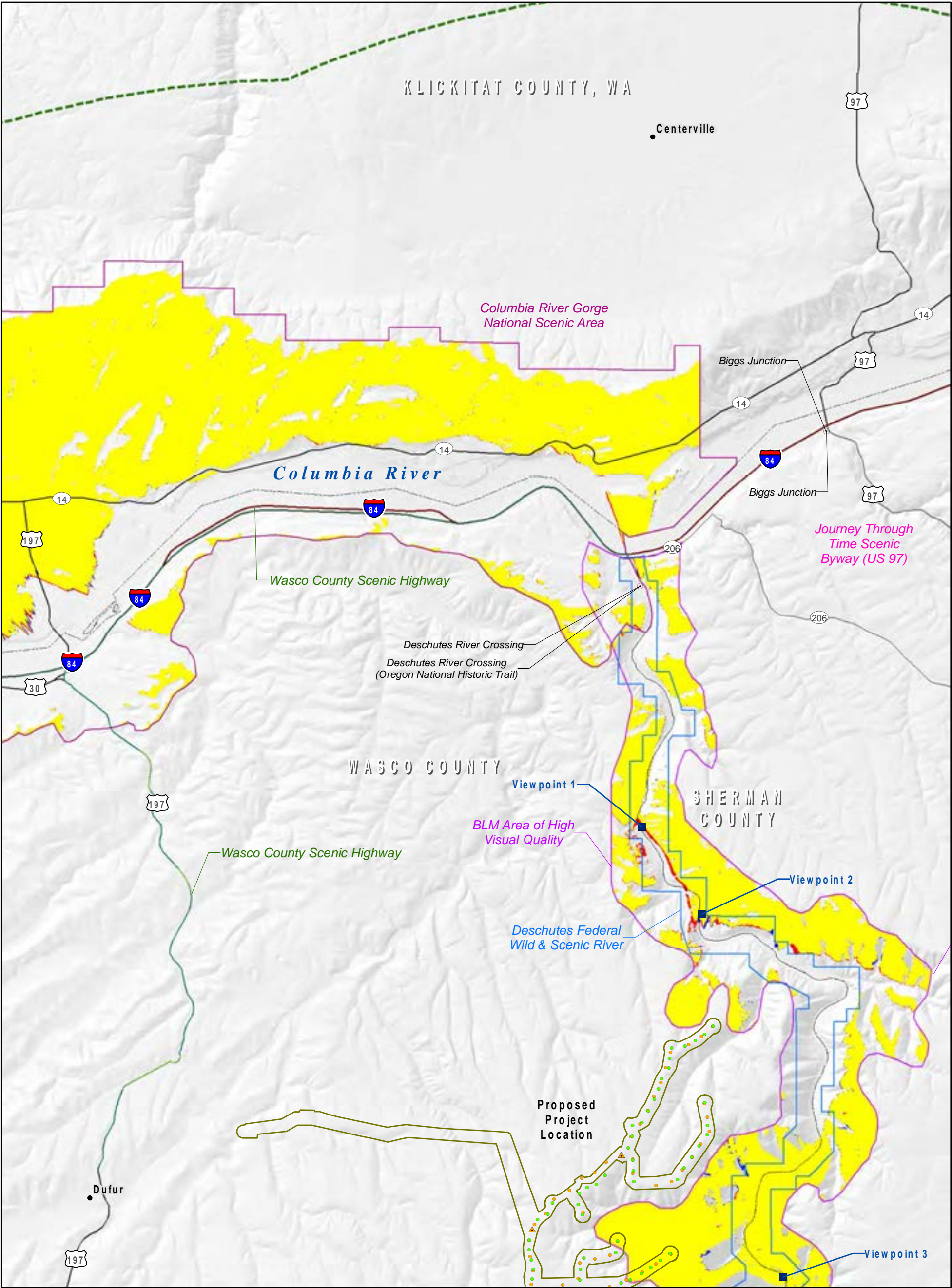
Note: For the purposes of this analysis, proposed turbine visibility was calculated within the scenic and aesthetically valued areas within the analysis area.



Data Sources:
Bureau of Land Management
LearningSI, LLC (LSI), 2015.
LotusWorks, 2009, 2014
Oregon Geospatial Enterprise Office (GEO)
Two Rivers Resource Management Plan,
Record of Decision, June 1986
US Forest Service



Figure 6, Sheet 1 of 6
*Comparison of Visibility Analyses
Alternative B and Alternative C
for Scenic and Aesthetic Values*



- New Areas Where Proposed Turbines Now Likely Visible

Areas Where Proposed Turbines No Longer Visible

Areas Where Proposed Turbines Likely Visible for Alternatives B and C

Scenic and Aesthetic Values Analysis Area (20 mi)

Proposed Turbine Location (Alternative B)

Proposed Turbine Location (Alternative C)

Proposed Met Tower

Simulation Viewpoint Location

Site Specific Scenic Area

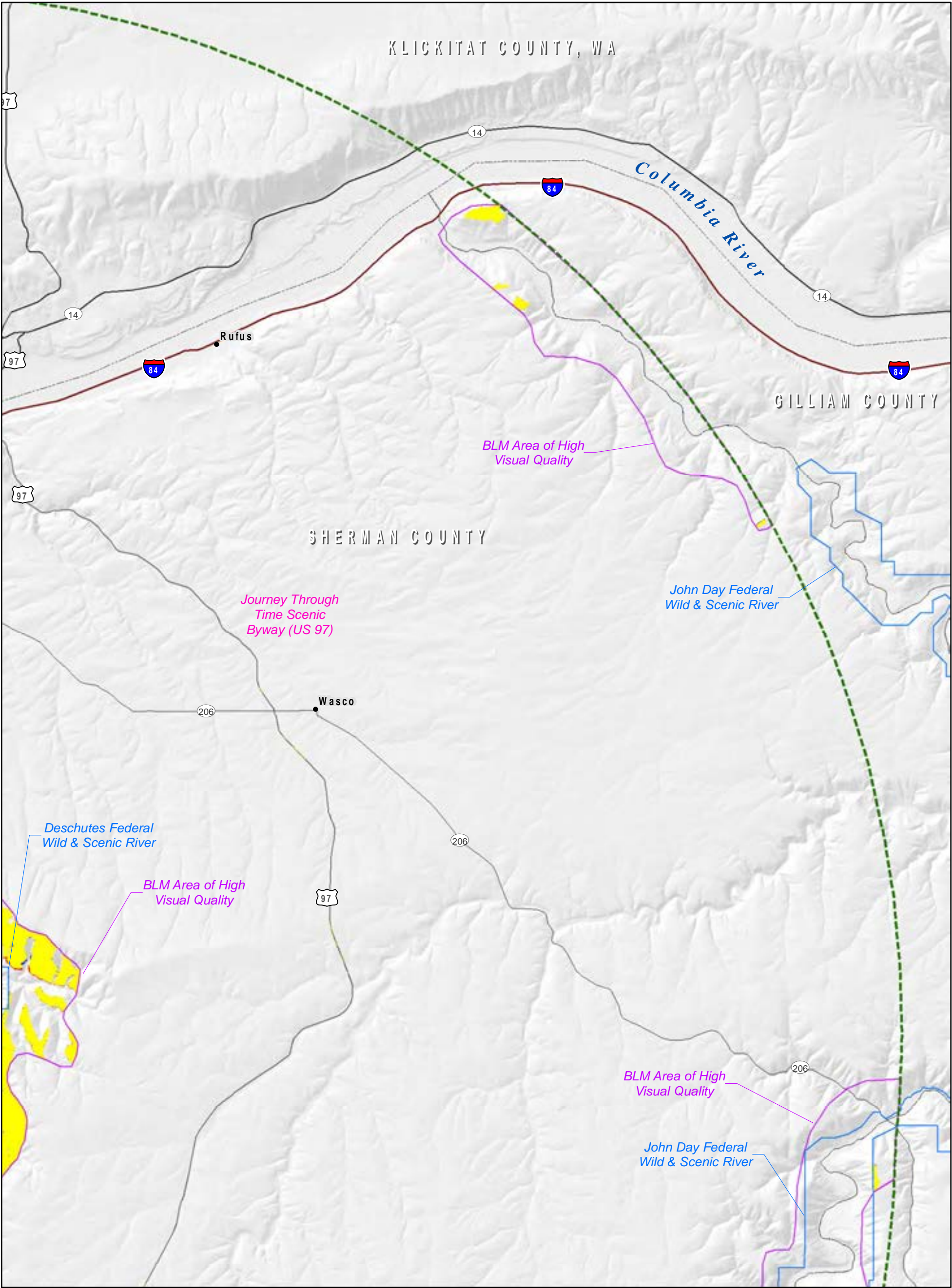
Wasco County Scenic Highway




Journey Through Time Scenic Byway (US 97)



Federal Wild and Scenic Rivers



BLM Area of High Visual Quality

Columbia River Gorge National Scenic Area
- Note: For the purposes of this analysis, proposed turbine visibility was calculated within the scenic and aesthetically valued areas within the analysis area.
- Data Sources:**
Bureau of Land Management
LearningSI, LLC (LSI), 2015.
LotusWorks, 2009, 2014
Oregon Geospatial Enterprise Office (GEO)
Two Rivers Resource Management Plan,
Record of Decision, June 1986
US Forest Service
-
-
- Figure 6, Sheet 2 of 6**
*Comparison of Visibility Analyses
Alternative B and Alternative C
for Scenic and Aesthetic Values*



-  New Areas Where Proposed Turbines Now Likely Visible
-  Areas Where Proposed Turbines No Longer Visible
-  Areas Where Proposed Turbines Likely Visible for Alternatives B and C

-  Scenic and Aesthetic Values Analysis Area (20 mi)
-  Journey Through Time Scenic Byway (US 97)

-  Federal Wild and Scenic Rivers
-  BLM Area of High Visual Quality

Note: For the purposes of this analysis, proposed turbine visibility was calculated within the scenic and aesthetically valued areas within the analysis area.



Data Sources:
Bureau of Land Management
LearningSI, LLC (LSI), 2015.
LotusWorks, 2009, 2014
Oregon Geospatial Enterprise Office (GEO)
Two Rivers Resource Management Plan,
Record of Decision, June 1986
US Forest Service

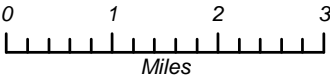
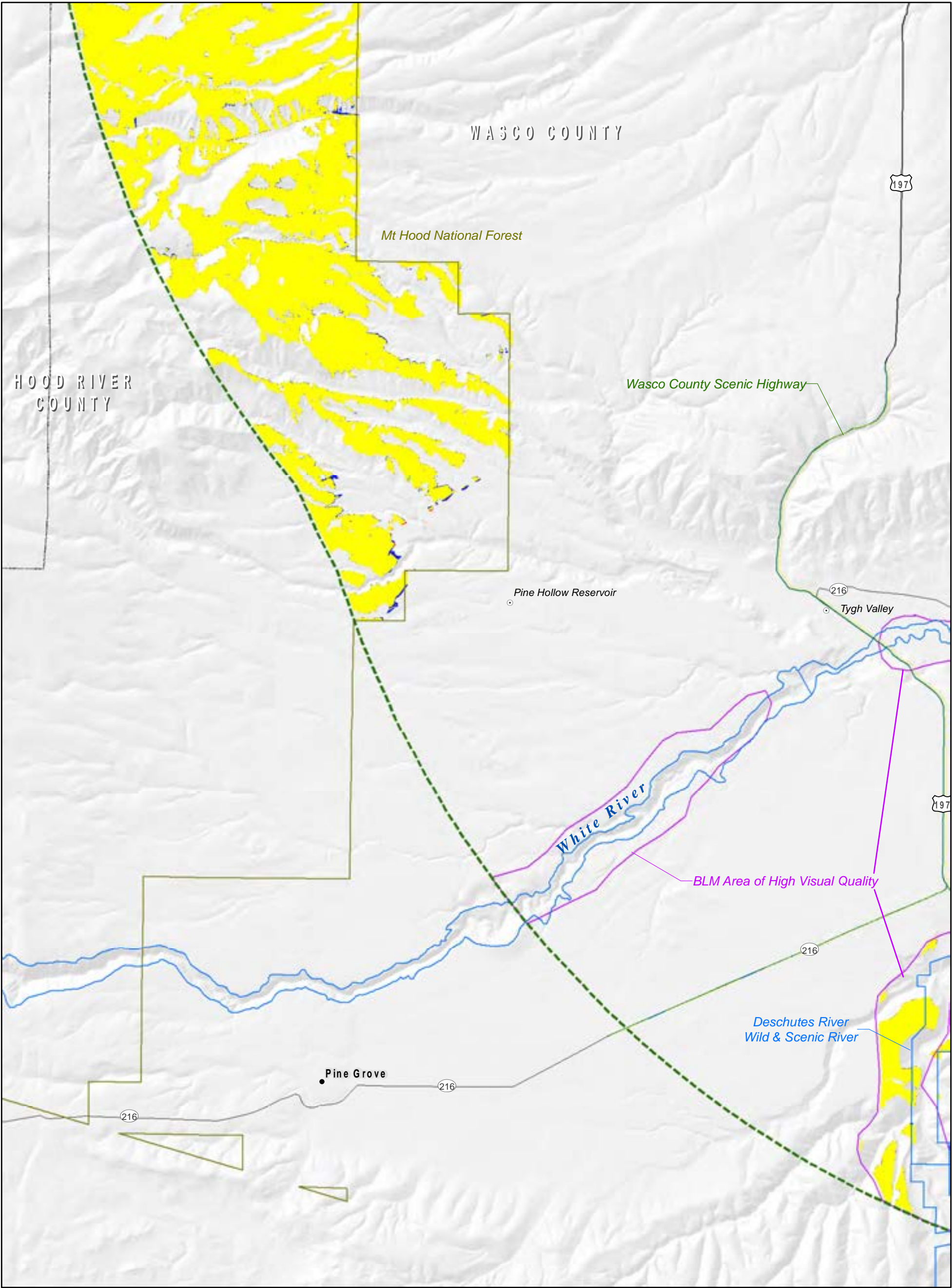











Figure 6, Sheet 3 of 6
*Comparison of Visibility Analyses
Alternative B and Alternative C
for Scenic and Aesthetic Values*



-  New Areas Where Proposed Turbines Now Likely Visible
-  Areas Where Proposed Turbines No Longer Visible
-  Areas Where Proposed Turbines Likely Visible for Alternatives B and C

-  Scenic and Aesthetic Values Analysis Area (20 mi)
-  Site Specific Scenic Area
-  Wasco County Scenic Highway

-  Federal Wild and Scenic Rivers
-  BLM Area of High Visual Quality
-  Mt. Hood National Forest

Note: For the purposes of this analysis, proposed turbine visibility was calculated within the scenic and aesthetically valued areas within the analysis area.



Data Sources:
Bureau of Land Management
LearningSI, LLC (LSI), 2015.
LotusWorks, 2009, 2014
Oregon Geospatial Enterprise Office (GEO)
Two Rivers Resource Management Plan,
Record of Decision, June 1986
US Forest Service

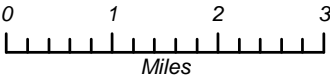
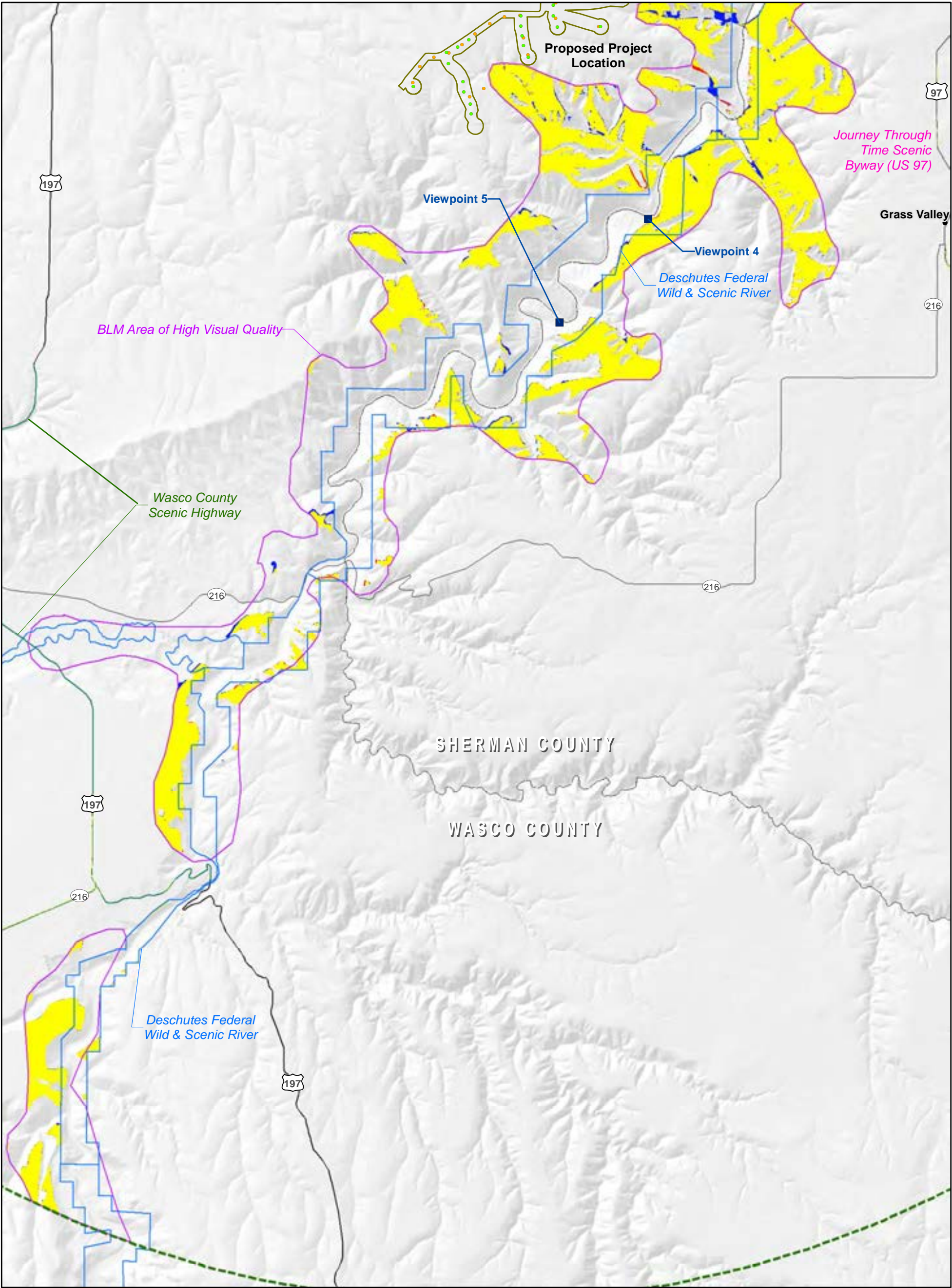


Figure 6, Sheet 4 of 6
*Comparison of Visibility Analyses
Alternative B and Alternative C
for Scenic and Aesthetic Values*



- New Areas Where Proposed Turbines Now Likely Visible

Areas Where Proposed Turbines No Longer Visible

Areas Where Proposed Turbines Likely Visible for Alternatives B and C
- Scenic and Aesthetic Values Analysis Area (20 mi)

Proposed Turbine Location (Alternative B)

Proposed Turbine Location (Alternative C)
- Simulation Viewpoint Location

Wasco County Scenic Highway

Journey Through Time Scenic Byway (US 97)
- Federal Wild and Scenic Rivers

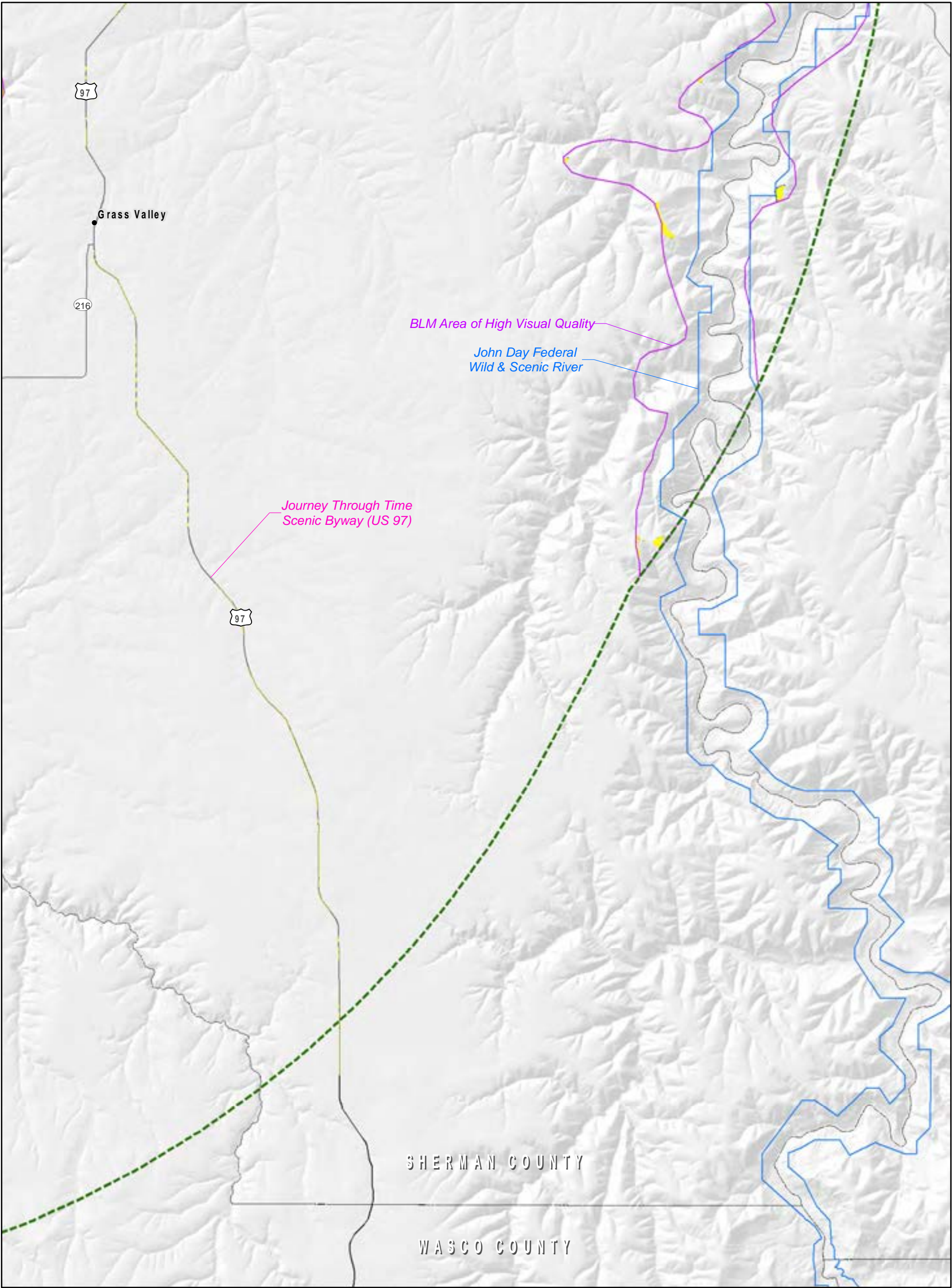
BLM Area of High Visual Quality
- Note: For the purposes of this analysis, proposed turbine visibility was calculated within the scenic and aesthetically valued areas within the analysis area.



Data Sources:
Bureau of Land Management
LearningSI, LLC (LSI), 2015.
LotusWorks, 2009, 2014
Oregon Geospatial Enterprise Office (GEO)
Two Rivers Resource Management Plan,
Record of Decision, June 1986
US Forest Service



Figure 6, Sheet 5 of 6
*Comparison of Visibility Analyses
Alternative B and Alternative C
for Scenic and Aesthetic Values*



- New Areas Where Proposed Turbines Now Likely Visible
- Areas Where Proposed Turbines No Longer Visible
- Areas Where Proposed Turbines Likely Visible for Alternatives B and C

- Scenic and Aesthetic Values Analysis Area (20 mi)
- Federal Wild and Scenic Rivers
- BLM Area of High Visual Quality
- Journey Through Time Scenic Byway (US 97)

Note: For the purposes of this analysis, proposed turbine visibility was calculated within the scenic and aesthetically valued areas within the analysis area.

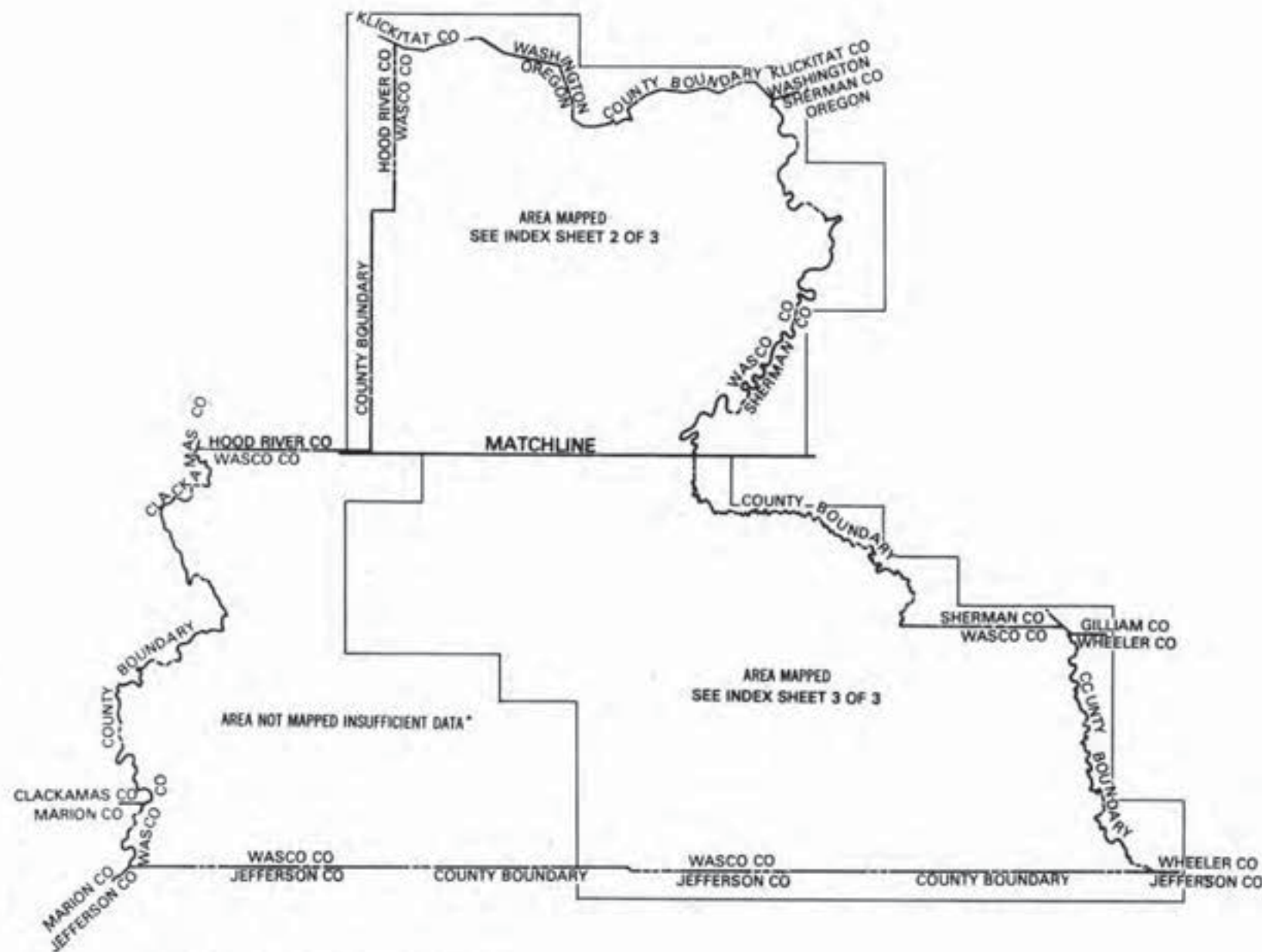


Data Sources:
Bureau of Land Management
LearningSI, LLC (LSI), 2015.
LotusWorks, 2009, 2014
Oregon Geospatial Enterprise Office (GEO)
Two Rivers Resource Management Plan,
Record of Decision, June 1986
US Forest Service



Figure 6, Sheet 6 of 6
*Comparison of Visibility Analyses
Alternative B and Alternative C
for Scenic and Aesthetic Values*

Attachment 8-1: FIRM Maps



*PANELS NOT PRINTED - AREA IN ZONE D



KEY TO MAP

SPECIAL FLOOD HAZARD AREA

ZONE A

ZONE B

Elevation Reference Mark

RM7_X

Zone D Boundary

River Mile

• M . S

EXPLANATION OF ZONE DESIGNATIONS

ZONE	EXPLANATION
A	Areas of 100-year flood base flood elevations and flood hazard factors not determined.
B	Areas between limits of the 100-year flood and 500-year flood; or certain areas subject to 100-year flooding with average depths less than one (1) foot or where the contributing drainage area is less than one square mile; or areas protected by levees from the base flood.
C	Areas of minimal flooding.
D	Areas of undetermined, but possible flood hazards.
V	Areas of 100-year coastal flood with velocity (wave action); base flood elevations and flood hazard factors not determined.

NOTES TO USER

INITIAL IDENTIFICATION
FEBRUARY 21, 1975
FLOOD HAZARD BOUNDARY MAP REVISIONS
NOVEMBER 1, 1977
FLOOD INSURANCE RATE MAP EFFECTIVE
SEPTEMBER 24, 1984

To determine if flood insurance is available in this community contact your insurance agent, or call the National Flood Insurance Program, at (800) 638-6620.

FEDERAL EMERGENCY MANAGEMENT AGENCY

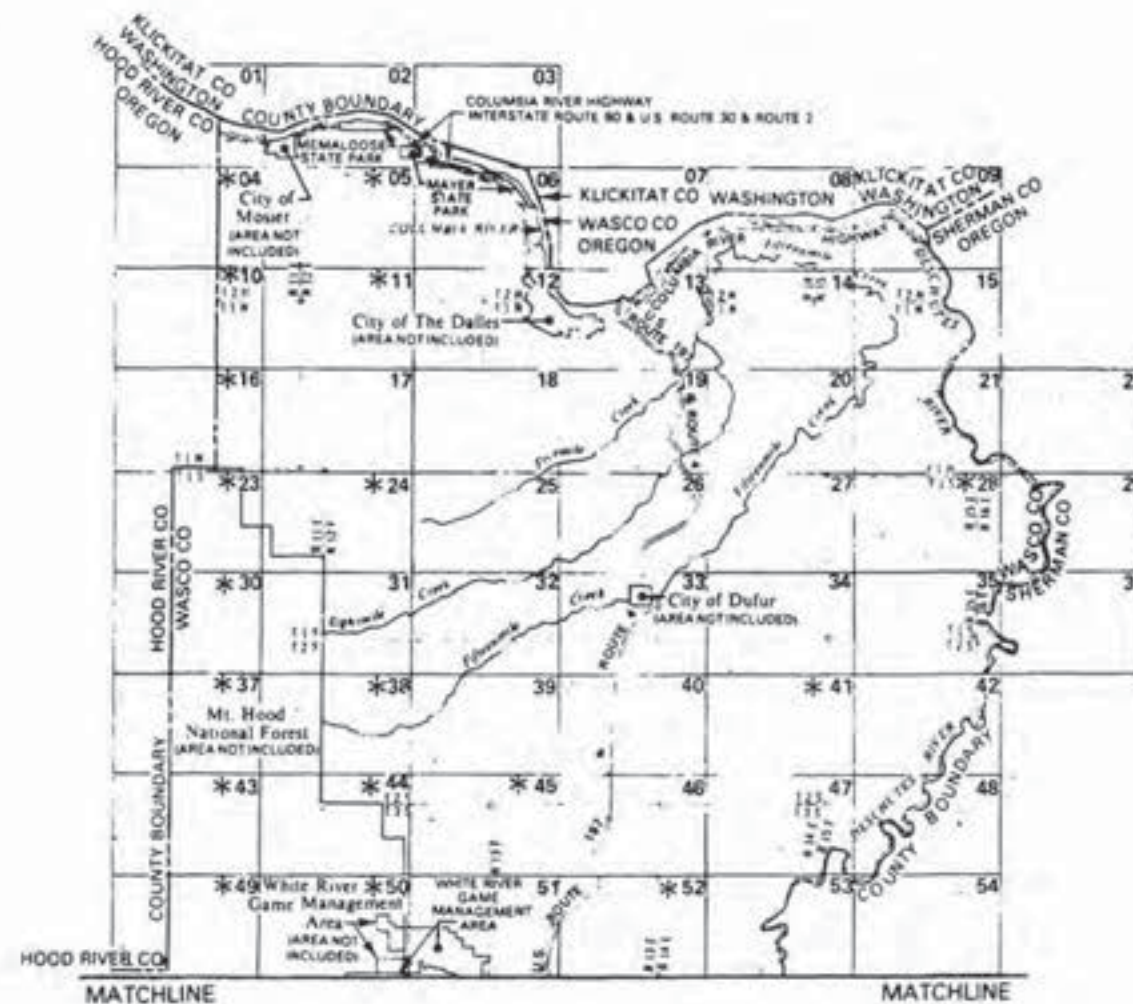


FLOOD INSURANCE RATE MAP
PANEL(S) 01-121

MAP INDEX
1 OF 3

WASCO CO., OR
(UNINC. AREA)

COMMUNITY NO. 410229 B



*PANEL NOT PRINTED - AREA IN ZONE C

KEY TO MAP

SPECIAL FLOOD HAZARD
AREA



Elevation Reference Mark

RM7_x

Zone D Boundary

River Mile

+M1.5

EXPLANATION OF ZONE DESIGNATIONS

ZONE	EXPLANATION
A	Area of 100-year flood; base flood elevations and flood hazard factors not determined.
B	Area between limits of the 100-year flood and 500-year flood, or certain areas subject to 100-year flooding with average depths less than one (1) foot or where the contributing drainage area is less than one square mile; or areas protected by levees from the base flood.
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NOTES TO USER

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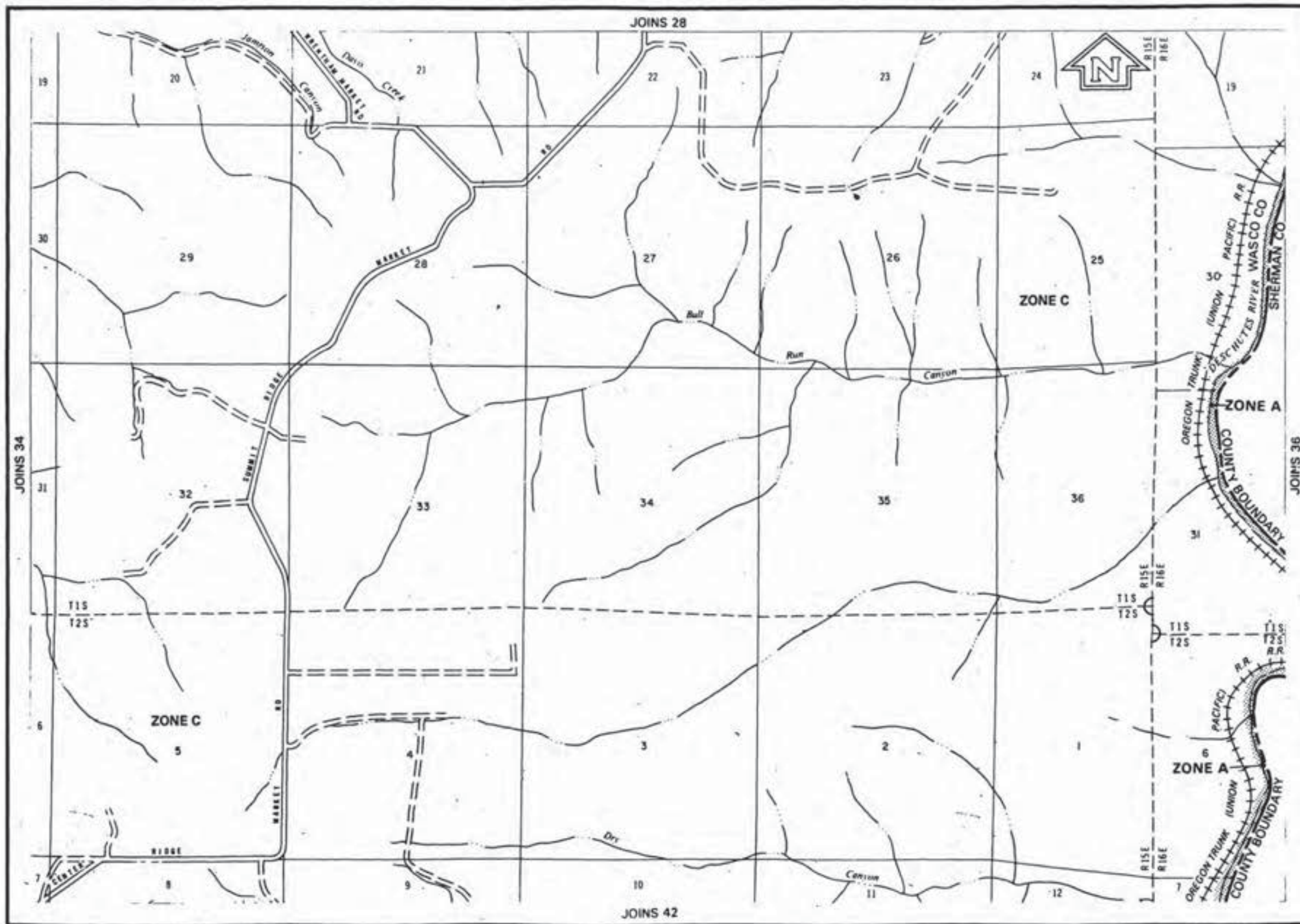


FLOOD INSURANCE RATE MAP
PANEL(S) 01-121

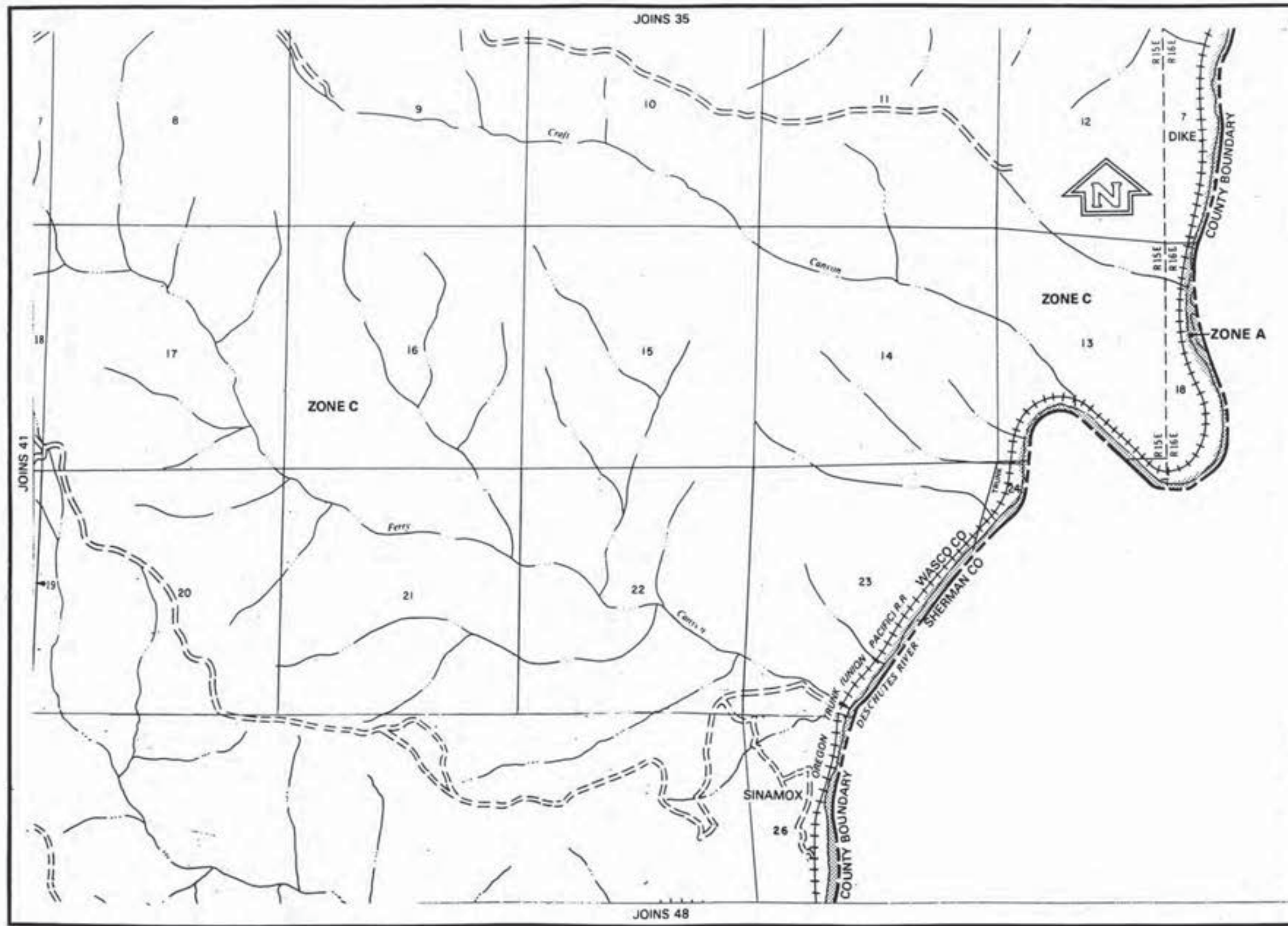
MAP INDEX
2 OF 3

WASCO CO., OR
(UNINC. AREA)

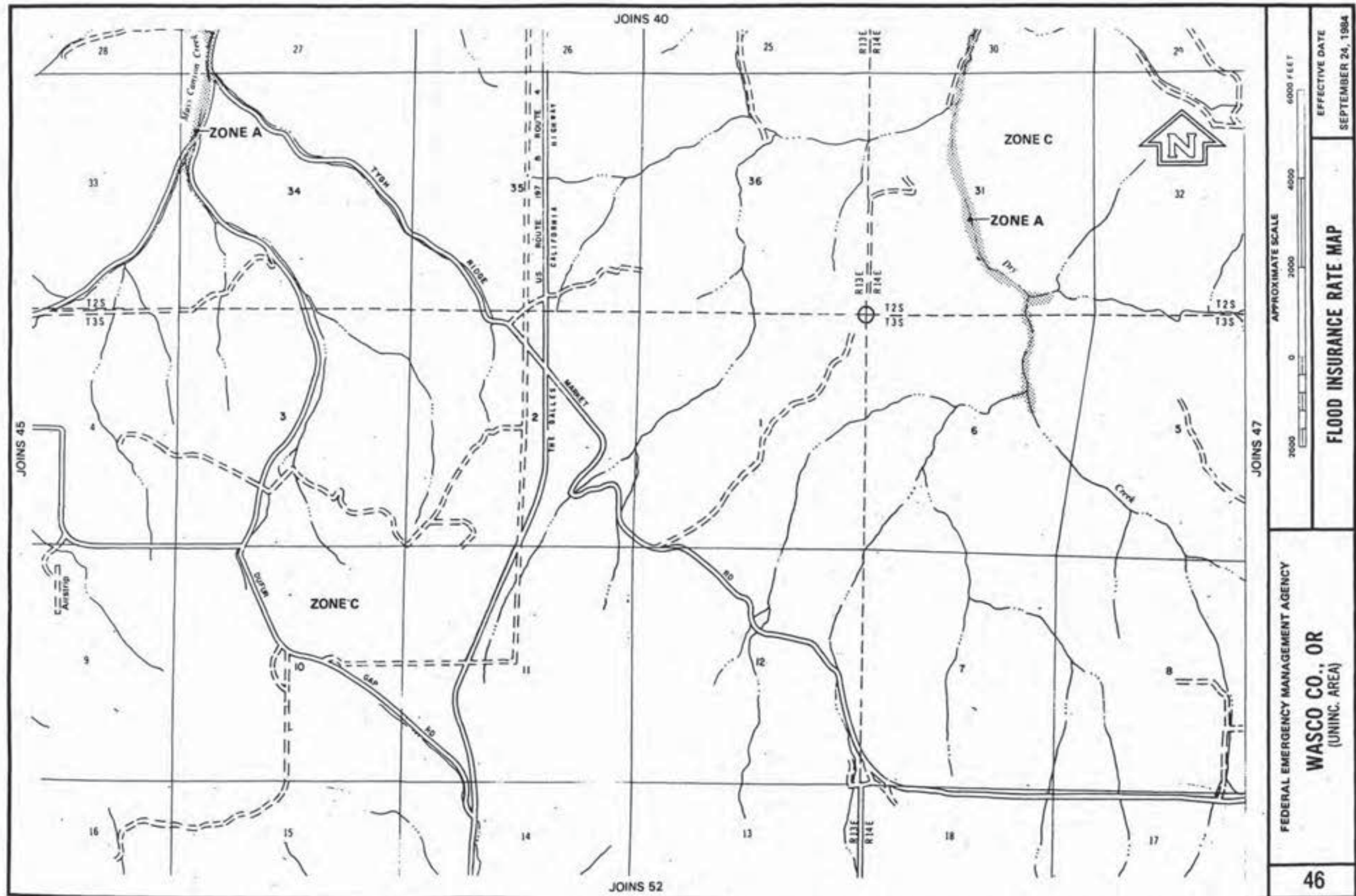
COMMUNITY NO. 410229 B

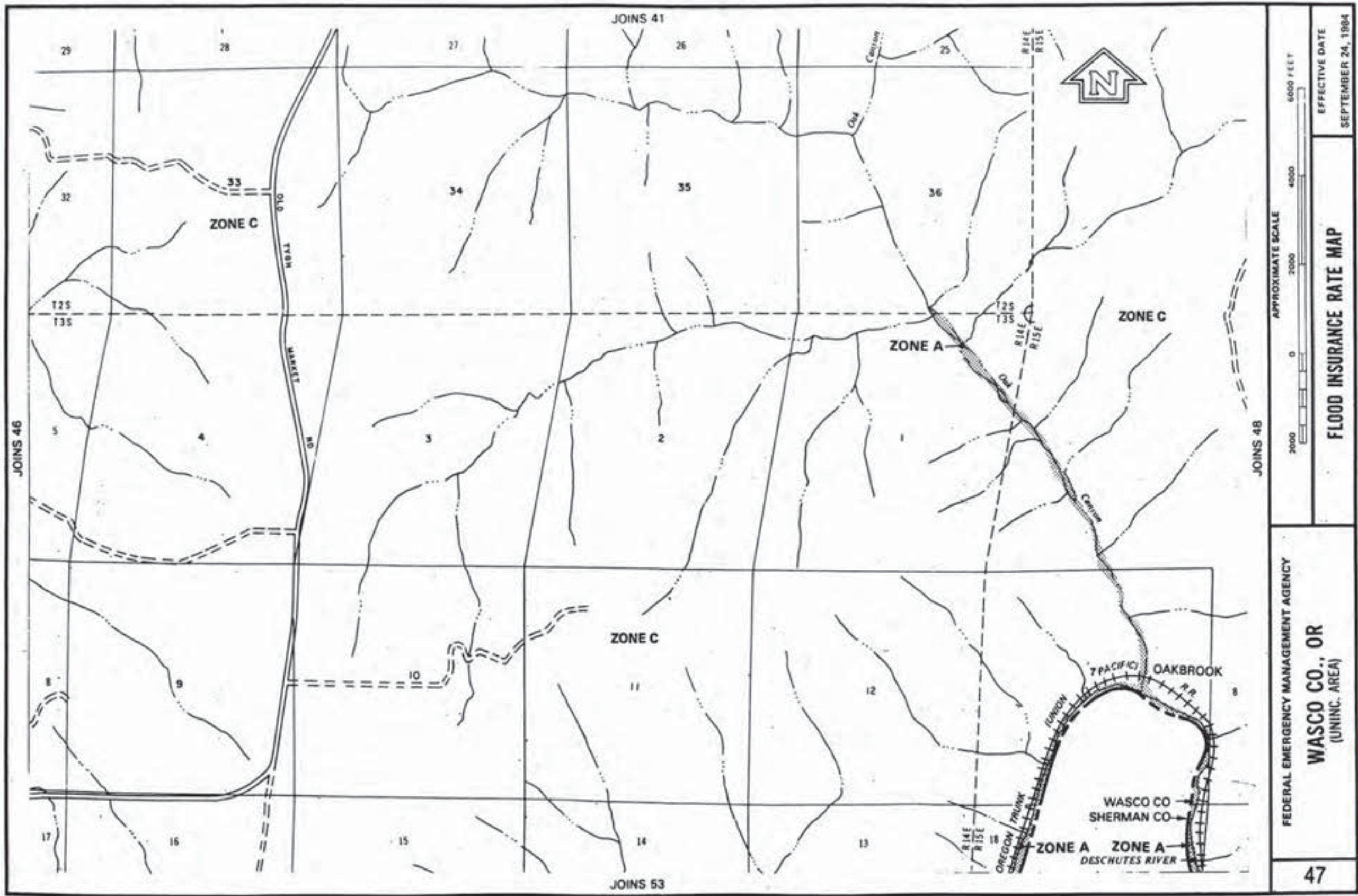


FEDERAL EMERGENCY MANAGEMENT AGENCY WASCO CO., OR (UNINC. AREA)	FLOOD INSURANCE RATE MAP		EFFECTIVE DATE SEPTEMBER 24, 1984
	APPROXIMATE SCALE 0 2000 4000 6000 FEET		

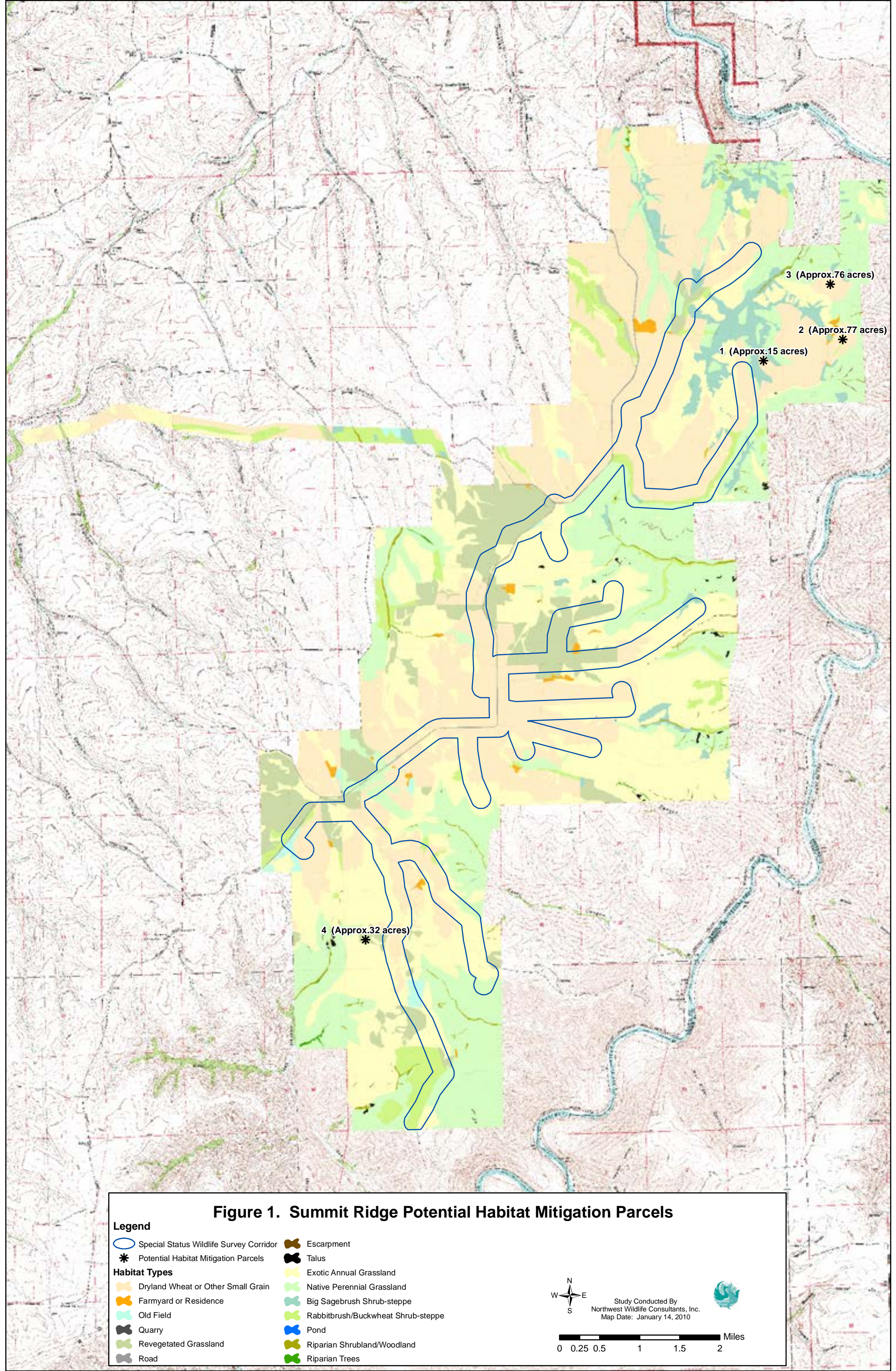


FEDERAL EMERGENCY MANAGEMENT AGENCY WASCO CO., OR (UNINC. AREA)	APPROXIMATE SCALE 0 2000 4000 6000 FEET	
	FLOOD INSURANCE RATE MAP	
EFFECTIVE DATE SEPTEMBER 24, 1984		





FEDERAL EMERGENCY MANAGEMENT AGENCY	47
WASCO CO., OR (UNINC. AREA)	FLOOD INSURANCE RATE MAP EFFECTIVE DATE SEPTEMBER 24, 1984



Attachment E: Draft Revegetation and Weed Control Plan

(As approved in the original Final Order dated August 19, 2011)

SUMMIT RIDGE WIND FARM
FINAL ORDER

Summit Ridge Wind Farm: Revegetation and Weed Control Plan

[FINAL ORDER, EXHIBIT 1, AUGUST 19, 2011]

1 This Revegetation and Weed Control Plan ("Plan") describes the methods and standards for
2 restoring areas disturbed during construction of the Summit Ridge Wind Farm (Summit Ridge).¹
3 The certificate holder is not required to restore areas occupied by permanent facility components
4 (the "footprint") under this Plan. The objective of this Plan is to minimize and mitigate potential
5 impacts to the site and help bolster the native plant community.

6 Revegetation and restoration measures are designed to support wildlife habitat, control
7 erosion, and mitigate against the invasion of noxious weed species into newly disturbed areas.
8 Where vegetation has been damaged or removed during construction, the certificate holder must
9 restore suitable vegetation to pre-disturbance condition or better. In addition, the certificate holder
10 shall maintain erosion and sediment control measures put in place during construction until the
11 affected areas are restored as described in this Plan and the risk of erosion has been eliminated.
12 The Plan specifies monitoring procedures to evaluate revegetation success of disturbed wildlife
13 habitat areas. Remedial action may be necessary for wildlife habitat areas that do not show
14 revegetation progress. Additional mitigation may be necessary if revegetation is unsuccessful.

15 The certificate holder shall use experienced and properly trained personnel ("investigators")
16 to conduct the monitoring required under this Plan. The professional qualifications of the
17 investigators are subject to approval by the Oregon Department of Energy (ODOE or
18 "Department"). This Plan has been developed in consultation with the Oregon Department of Fish
19 and Wildlife (ODFW).

20 **GOALS AND OBJECTIVES**

21 The overall goal of this Plan is to return the project site to as close to pre-construction
22 conditions as possible. The Plan has the following objectives:

- 23 • Promote recovery of disturbed areas;
- 24 • Re-establish native plant communities in non-cultivated areas and re-establish regular
25 farming practices in cultivated areas;
- 26 • Control the introduction and spread of undesirable plants;
- 27 • Protect the site from erosion; and
- 28 • Support existing wildlife habitat.

29 These objectives will be achieved by a combination of techniques, including, but not limited
30 to, the following:

- 31 • Installing and maintaining appropriate erosion control best management practices
32 (BMPs) and construction limit staking per the Oregon Department of Environmental
33 Quality (DEQ) 1200-C permit;
- 34 • Revegetating non-cultivated disturbed areas with native grasses and forbs (flowering
35 plants) and resuming crop production in cultivated areas;
- 36 • Controlling weed germination and growth during and after construction; and

¹ This plan is incorporated by reference in the site certificate for Summit Ridge and must be understood in that context. It is not a "stand-alone" document. This plan does not contain all mitigation required of the certificate holder.

SUMMIT RIDGE WIND FARM
FINAL ORDER

- Establishing a regular monitoring program during and after construction to ensure the continued successful development of restored areas, and to quickly identify new populations of weeds.

SITE DESCRIPTION

The Summit Ridge site is located on private land in Wasco County, Oregon, approximately 15 miles southeast of The Dalles, Oregon. Approximately 0.4 acre of Category 2 habitat (big sagebrush dominated shrub-steppe), 28 acres of Category 3 habitat (including revegetated grassland, native perennial grassland, and rabbitbrush-dominated shrub-steppe) and 20 acres of Category 4 habitat (including old fields and exotic annual dominated grassland) are expected to be temporarily disturbed. Soil types in the project area consist primarily of silt loam (Condon, Cantala, and Condon-Bakeoven complex series) and very cobbly loam (Bakeoven-Condon complex).

The primary disturbed areas of the facility will include: 1) narrow corridors where wind turbines will be erected, 2) construction and operations access roadways, 3) construction laydown areas, and 4) underground collection system corridors. Disturbance will be concentrated on ridgetops, and the facility will utilize existing roads and disturbed areas wherever feasible in order to minimize new disturbance. Other areas that will be restored, as needed, include areas around the project's meteorological towers, electrical substation, and the temporary concrete batch plant.

SCHEDULE

Implementation of this Plan will begin as soon as site excavation begins. An on-site monitor shall ensure that erosion control BMPs and construction limits are appropriately installed and maintained per the DEQ 1200-C permit. Weed control and/or seeding shall be conducted as soon as construction is completed in a given area. This approach will provide for a more successful stand of vegetation because the soil will be less compacted for seeding, fewer weeds will have time to become established, and native plants will not have to compete with exotic weed seeds that blow in or are already in the soil.

It is most effective to apply seed in the fall and winter seasons or early enough in the spring to ensure sufficient soil moisture for germination and plant establishment. Thus, seeding activities should be scheduled during the period from September to April of any given year. Weed control and seed application work shall focus on areas that will not have future construction activities or further disturbance. Construction managers should take this into account while determining their construction schedule. Seed should be applied to an area as soon as possible following construction activities, once the area is available for restoration.

SITE REVEGETATION

Revegetation of temporarily disturbed areas will include several important aspects, including topsoil management, selection of an appropriate seed mix, and control of noxious and other undesirable plant species. The certificate holder shall choose planting methods based on site-specific factors such as slope, erosion potential, and the size of the area in need of revegetation. Disturbed ground may require chemical or mechanical weed control before weeds have a chance to go to seed.

TOPSOIL MANAGEMENT

The certificate holder shall restore topsoil to pre-construction condition or better. Preservation and/or replacement of native topsoil not only ensures a healthy, nutrient-rich seed bed, but also incorporates the native seed bank, increasing overall species richness and potential

SUMMIT RIDGE WIND FARM
FINAL ORDER

for full recovery of the site to natural conditions. Areas without sufficient topsoil recover at a slower rate, and tend to be colonized by exotic species much sooner, than areas with native topsoil.

During construction, topsoil should be kept in place where possible. Where it is necessary to remove topsoil, it shall be stockpiled in appropriate locations and protected with erosion control BMPs per the DEQ 1200-C permit. Stockpiled topsoil shall be windrowed inside of the clearing limits, kept separate from subsoil, and protected from wind and water erosion. If topsoil is removed from its place of origin, it shall be labeled and tracked so that it may be replaced appropriately prior to commencement revegetation.

Another contributing factor to restoration success is the condition of the seed bed at the time of seeding. Compacted soil does not provide an optimal environment for seed germination and establishment, but can instead lead to a lack of vegetative cover and thus increased erosion potential over time. In preparation for seeding activities, areas compacted by construction activities shall be ripped to a depth of 12" where feasible and roughened to provide maximum seed-soil contact.

SEED MIX

Plant materials (seed and nursery stock) used in revegetation must be adapted to the conditions of the site in order to have the best chance of germinating and long-term survival. All plant materials shall meet the following requirements, pending approval by ODFW and the Wasco County Weed Department:

- Seed and nursery stock shall be "source identified". The original source for the plant material should be Columbia Plateau Ecoregion (north-central Oregon State). The seed should be a locally adapted biotype, adapted to conditions similar to the project site.
- Seed shall be certified "weed free", indicating there are no noxious weeds in the seed.
- Seed application rates shall be based on pure live seed per pound, which is passed upon purity and germination testing.
- Seed shall be tested within 120 days of application for purity, germination, and noxious weed content. Inert matter should not exceed 10%. A tetrazolium test may be performed on forb species which are limited in availability in order to assess viability of the seed before it is used.

The certificate holder shall seed disturbed cropland areas with wheat or other crop seed. The certificate holder shall consult with the landowner and farm operator to determine species composition, seed and fertilizer application rates and application methods. Cropland areas are successfully revegetated when the replanted areas achieve crop production comparable to adjacent non-disturbed cultivated areas. The certificate holder shall consult with the landowner or farmer to determine whether these areas have been successfully revegetated and shall report to the Department on the success of revegetation in these areas.

The certificate holder shall seed all disturbed grassland, shrub-steppe, and other wildlife habitat subtype areas that are not cropland or other developed lands. The certificate holder shall consult with ODFW and the landowner to determine the appropriate seed mix and application rate for these areas, including a combination of grasses, forbs, and shrubs based on the characteristics of the affected area (see Table 1). The mix should contain native species selected based on relative availability and compatibility with local growing conditions. Seed mix selection should consider soil erosion potential, soil type, seed availability and the need for using native or native-like species.

SUMMIT RIDGE WIND FARM
FINAL ORDER

1 Table 1: Proposed Seed Mix Species for Summit Ridge

Habitat Types	Species	Lbs./Acre PLS*
Native and Revegetated Grassland	Sherman big bluegrass (<i>Poa secunda</i>)	2.0
	Magnar Basin wildrye (<i>Leymus cinereus</i>)	2.0
	Whitmar beardless wheatgrass (<i>Pseudoroegneria spicata</i> ssp. <i>inermis</i>)	2.0
	Sandberg's bluegrass (<i>Poa sandbergii</i>)	2.5
	Idaho fescue (<i>Festuca idahoensis</i>)	2.5
	Basin big sagebrush (<i>Artemisia tridentata</i> ssp. <i>tridentata</i>)	1.0
	TOTAL	12.0
Sagebrush and Rabbitbrush- dominated Shrub- steppe	Bluebunch Wheatgrass (<i>Pseudoroegneria spicata</i>)	11.0
	Idaho Fescue (<i>Festuca idahoensis</i>)	4.0
	Sandberg's Bluegrass (<i>Poa sandbergii</i>)	2.0
	Bottlebrush Squirreltail (<i>Elymus elymoides</i>)	0.5
	Silky Lupine (<i>Lupinus sericeus</i>)	0.5
	Common Yarrow (<i>Achillea millefolium</i>)	0.5
	Threadleaf fleabane (<i>Erigeron filifolius</i>)	0.1
	Basin big sagebrush (<i>Artemisia tridentata</i> ssp. <i>tridentata</i>)	0.1
	Gray rabbit-brush (<i>Chrysothamnus nauseosus</i>)	0.1
	TOTAL	18.8
Agricultural Fields	Revegetated in accordance with landowner requirements.	

2 *Pure Live Seed

3 **SEED PLANTING**

4 A combination of broadcast seeding, drill seeding, and hydroseeding shall be used to apply
5 the seed; the choice of method will depend on slope and other site conditions. For example, drill
6 seeding and broadcast seeding should be used as appropriate on areas with a slope of less than
7 3:1, and hydroseeding should be used on areas with a slope of greater than 3:1. Seeding rates
8 (pounds of pure live seed per acre) must be adjusted according to the seeding method used. For
9 hydroseeding, green-dyed, wood-fiber mulch shall be added to the slurry mixture at a rate of 1000
10 pounds per acre. In addition to serving as a carrying agent for the seed, the biodegradable green
11 mulch serves as a tracer for visually checking distribution to ensure complete and uniform
12 coverage of the disturbed areas.

13 **WEED CONTROL STRATEGIES**

14 Weed control will be a priority throughout construction and revegetation of the site and
15 should begin early to prevent infestations and development of substantial weed seed reservoirs in
16 the soil. Emphasis will be placed on avoiding infestations and controlling populations of state-
17 listed noxious weeds known to occur on the site. These species are listed in Table 2.

18 In addition to these state-listed weed species, the Wasco County Weed Department maintains
19 its own weed list including special pest species. Weed species on the County list that are
20 documented to occur on the site are also included in Table 2.

21 Control of cheatgrass during the fall establishment period is essential in order to reduce
22 competition with seeded plants. As a general strategy, the herbicide Plateau® may be applied
23 during the fall prior to fall rains, as a pre-emergent cheatgrass treatment; however, this should
24 only be done where seed application will be by rangeland drill such that the desirable grass seed
25 will have minimal contact with the herbicide.
26

SUMMIT RIDGE WIND FARM
FINAL ORDER

1 Table 2: Designated Oregon Noxious Weeds Observed During Field Surveys

Scientific Name	Common Name	ODA Status ¹	Wasco County Weed Classification ²
<i>Apocynum sp.</i>	Dogbane		C
<i>Centaurea diffusa</i>	Diffuse knapweed	B List	B
<i>Cirsium arvense</i>	Canada thistle	B List	B
<i>Cirsium vulgare</i>	Bull thistle	B List	
<i>Convolvulus arvensis</i>	Field bindweed	B List	C
<i>Conyza canadensis</i>	Horseweed		Q
<i>Lepidium latifolium</i>	Perennial pepperweed	B List	C
<i>Salsola kali</i>	Russian thistle		C
<i>Verbascum thapsis</i>	Common mullein		Q

2 ¹The Oregon State Weed Board's Noxious Weed Classification System designates noxious weeds as either "A" or
3 "B" and may be given the additional designation of "T":

- 4 • **"A" Designated Weed** – a weed of known economic importance which occurs in the state in small enough
5 infestations to make eradication or containment possible; or is not known to occur, but its presence in
6 neighboring states make future occurrence in Oregon seem imminent.
- 7 • **"B" Designated Weed** – a weed of economic importance which is regionally abundant, but which may
8 have limited distribution in some counties.
- 9 • **"T" Designated Weed** – a priority noxious weed designated by the Oregon State Weed Board as a target for
10 which the ODA will develop and implement a statewide management plan. "T" designated noxious weeds are
11 species selected from either the "A" or "B" list.

12 ²The Wasco County Weed List and Classifications are as follows:

- 13 • **"A" Pests** – a weed of known economic importance which occurs in the county in small enough infestations
14 to make eradication practical.
- 15 • **"B" Pests** – a weed of known economic importance and of limited distribution within the county and is
16 subject to intensive control or eradication, where feasible, at the county level.
- 17 • **"C" Pests** – a weed that also has economic importance but is more widely spread. Control of these weeds
18 will be limited by conditions that warrant special attention.
- 19 • **"Q" Pests** – a weed that exists in the county, but is of little, no, or undetermined economic importance.
20 However, they are to be monitored and subject to control if they begin to appear threatening.

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Glyphosate can then be applied over the winter, as needed in areas where cheatgrass has germinated, at a rate of four ounces per acre to seeded areas in February or March, before seeded grasses have germinated but after cheatgrass has germinated. A higher concentration may be required and will be determined based on incidental take after initial application. Provisions should be made to do frequent monitoring of such areas during this time period, in order to determine when sites are suitable for herbicide application. A less dilute rate of glyphosate should be applied to areas that have been disturbed and not seeded, if and when needed.

Other approaches may be used to control non-native plants, depending on site conditions, plant species, and project schedule and budget. These approaches include cleaning vehicles prior to entering the construction site (to reduce the potential for transporting non-native species to the construction areas), hand eradication, mowing, and use of fabric mulch or biobarriers. These approaches shall be considered on a site-specific basis, and applied by professionals trained to identify exotics for selective plant management. All chemical applications shall be made by licensed, trained and certified professionals, in accordance with strict health and safety procedures and with practices that comply fully with state and federal regulations. Use of Plateau® as a pre-emergent should be done with caution, as it may have an adverse effect on desired grasses where the seed was broadcast or hydraulically applied (i.e., no separation between seed and soil treated with Plateau®). It may be appropriate to experiment in some locations with Plateau® applied at a rate (or rates) substantially less than the six ounce rate recommended by the manufacturer for cheatgrass control in established rangelands.

The Plan shall be finalized prior to construction through coordination with ODFW and the Wasco County Weed Department, and shall be implemented during construction and the three-year revegetation monitoring period.

MONITORING PLAN

Successful revegetation and weed control will re-establish the native plant community through slow, but progressively steady, vegetative growth. Any problems with seeding or weed control should be identified and promptly corrected. In order to properly assess the progress of vegetation establishment, the certificate holder shall maintain a record of revegetation work for both cropland and wildlife habitat areas.

Prior to construction, at least two reference sites shall be identified in the project area. These sites shall be representative of the habitat types and plant communities temporarily disturbed during construction, and shall be paired with nearby restored sites (located in areas disturbed by construction activities) for use in follow-up evaluations of the project's success at revegetation efforts. Ground-level photographs shall be taken from the starting points of each restored and reference site monitoring plot, for comparison between monitoring years. Through the life of the facility², monitoring plots located in restored sites should be evaluated and compared with the conditions and vegetation growth of the corresponding reference sites (according to soil type and plant composition). The results of these comparisons should be documented in annual reports to the Department required under the site certificate.

The certificate holder shall monitor the revegetation of wildlife habitat areas as described in this section, unless the landowner has converted the area to a use inconsistent with the success criteria. The certificate holder shall employ a qualified investigator (an independent botanist or revegetation specialist) to examine all non-cropland revegetation areas to assess vegetation cover (species, structural stage, etc.) and progress toward meeting the success criteria:

² As used in this plan, "life of the facility" means continuously until the facility site is restored and the site certificate is terminated in accordance with OAR 345-027-0110.

SUMMIT RIDGE WIND FARM
FINAL ORDER

- During the first year post-construction, the site is not eroding and is not becoming infested with weeds.
- By the end of the second year, the species in the seed mix are represented in the stands established in the seeded areas and provide cover that is equal to 25 percent of the cover by desirable species in the reference sites.
- By the end of the third year, the species in the seed mix provide cover that is equal to 60 percent of the cover by desirable species in the reference sites.
- By the end of the fourth year, the species in the seed mix provide cover that is equal to 90 percent of the cover by desirable species in the reference sites.
- By the end of the fifth year and for each year thereafter, the species in the seed mix provide cover that is equal to the cover by desirable species in the reference sites.

CONTINGENCY PLAN

Contingency plans shall be implemented should the success criteria not be met in any monitoring year. The nature of the contingency plan will depend on the problems that arise, as anticipated below. On an annual basis as part of the annual report on the facility, the certificate holder shall report to the Department the investigator's recommendations and remedial actions taken. The Department may require reseeding or other remedial measures in those areas that do not meet the success criteria.

PLANT ESTABLISHMENT

In general, the contingency plan for low plant survival would be to first ascertain the reason for the mortality to the extent possible and then take actions appropriate to the cause of mortality. If certain species have high mortality, growing conditions including hydrology and exposure will be reviewed, and a better-adapted species will be identified and substituted.

WEED CONTROL

Weed control shall be addressed as a regular proactive part of the certificate holder's maintenance efforts. Should invasive/exotic plants exceed the percent cover found in the comparable reference site, additional weed control efforts shall be undertaken. The primary contingency measures would likely include an on-site meeting between monitoring staff, the certificate holder, ODFW, and Wasco County Weed Board to specify exactly what plants, in what areas, need to be removed, and observation of removal by qualified monitoring staff.

If a wildlife habitat area is damaged by wildfire during the first five years following initial seeding, the certificate holder shall work with the landowner to restore the damaged area. The certificate holder shall continue to report on revegetation progress during the remainder of the five-year period. The certificate holder shall report the damage caused by wildfire and the cause of the fire, if known.

AMENDMENT OF THE PLAN

This Plan may be amended from time to time by agreement of the certificate holder and the Oregon Energy Facility Siting Council ("Council"). Such amendments may be made without amendment of the site certificate. The Council authorizes the Department to agree to amendments to this Plan. The Department shall notify the Council of all amendments, and the Council retains the authority to approve, reject or modify any amendment of this Plan agreed to by the Department.

Attachment F: Draft Wildlife Monitoring and Mitigation Plan

(As approved in the original Final Order dated August 19, 2011)

SUMMIT RIDGE WIND FARM
FINAL ORDER

Summit Ridge Wind Farm: Wildlife Monitoring and Mitigation Plan

[FINAL ORDER, EXHIBIT 2, AUGUST 19, 2011]

1 This plan describes wildlife monitoring that the certificate holder shall conduct during
2 operation of the Summit Ridge Wind Farm (Summit Ridge).¹ The monitoring objectives are to
3 determine whether the facility causes significant fatalities of birds and bats and to determine
4 whether the facility results in a loss of habitat quality.

5 Summit Ridge is located in Wasco County, Oregon and is located in the Columbia Plateau
6 Ecoregion (CPE). The facility is expected to consist of up to 87 turbine towers with 1.8- to 2.3-
7 megawatt (MW) turbines, for a maximum generating capacity of up to 200.1 MW. Associated
8 components and related or supporting facilities include turbine pads, maintenance roads,
9 overhead and underground 34.5-kilovolt collector cables, an Operations and Maintenance
10 building, a temporary concrete batch plant, and approximately eight miles of 230-kilovolt
11 overhead transmission line.

12 The certificate holder shall use experienced and properly trained personnel ("investigators")
13 to conduct the monitoring required under this plan. The professional qualifications of the
14 investigators are subject to approval by the Oregon Department of Energy (ODOE, or
15 Department). For all components of this plan except the Wildlife Reporting and Handling
16 System, the certificate holder shall hire independent third party investigators (not employees of
17 the certificate holder) to perform monitoring tasks.

18 The *Wildlife Monitoring and Mitigation Plan* (WMMP) for Summit Ridge has the following
19 components:

20 **1) Fatality monitoring program, including:**

- 21 a) Carcass removal trials
- 22 b) Searcher efficiency trials
- 23 c) Fatality search protocol
- 24 d) Statistical analysis
- 25 e) Mitigation

26 **2) Grassland bird displacement study**

27 **3) Raptor nest surveys**

- 28 a) Short-term monitoring
- 29 b) Long-term monitoring
- 30 c) Analysis
- 31 d) Mitigation

32 **4) Wildlife reporting and handling process**

33 **5) Data reporting requirements**

¹ This plan is incorporated by reference in the site certificate for Summit Ridge and must be understood in that context. It is not a "stand-alone" document. This plan does not contain all mitigation required of the certificate holder and is intended to function in coordination with any federally required mitigation, including an Avian and Bat Protection Plan, entered into by Summit Ridge and the USFWS pursuant to the BGEPA.

SUMMIT RIDGE WIND FARM
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6) Process for amending the WMMP

Based on the results of the monitoring programs, mitigation of significant impacts may be required. The selection of the mitigation actions should allow for flexibility in creating appropriate responses to monitoring results that cannot be known in advance. If the Department determines that mitigation is needed, the certificate holder shall propose appropriate mitigation actions to the Department and shall carry out mitigation actions approved by the Department, subject to review by the Oregon Energy Facility Siting Council (Council).

FATALITY MONITORING

Seasons for fatality monitoring will be as follows:

Season	Dates
Spring Migration	March 16 to May 15
Summer/Breeding	May 16 to August 15
Fall Migration	August 16 to October 31
Winter	November 1 to March 15

Fatality monitoring will be conducted over two consecutive years, with half of the turbines being searched each year. At the end of the two years, all turbines will have been searched for a full year. The certificate holder, in consultation with the Oregon Department of Fish and Wildlife (ODFW), shall select search plots based on a systematic sampling design that ensures that the selected search plots are representative of the habitat conditions in different parts of the site. It is anticipated that each search plot will contain one or two turbines – this will be confirmed when the final layout is available. Search plots will be square and will be centered on the turbine location(s) and will have a length equal to the maximum blade tip height of the turbine contained within the plot (maximum blade tip height is the turbine hub-height plus one-half the rotor diameter). Maps of the search plots will be provided to ODOE before beginning fatality monitoring at the Project. The same search plots will be used in subsequent monitoring years.

In each monitoring year, fatality monitoring searches will be conducted at the rates of frequency shown below. Over the course of one monitoring year, 16 searches would be conducted, as follows:

Season	Frequency
Spring Migration	2 searches per month (4 searches)
Summer/Breeding	1 search per month (3 searches)
Fall Migration	2 searches per month (5 searches)
Winter	1 search per month (4 searches)

Fatality monitoring will begin one month after commencement of commercial operation of the facility. If the fatality rates during the first two years of monitoring at Summit Ridge do not exceed any of the thresholds of concern and are within the range of the fatality rates found at other wind power facilities in the region, then the investigators will perform a subsequent year of monitoring in Year 5 of operations.

SUMMIT RIDGE WIND FARM
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If fatality rates during the first two years of monitoring at Summit Ridge exceed any of the thresholds of concern or exceed the range of fatality rates found at other wind power facilities in the region, the certificate holder shall propose additional mitigation for Department and ODFW review within 6 months after reporting the fatality rates to the Department. Alternatively, the certificate holder may opt to conduct a third year of fatality monitoring immediately following the initial two years of monitoring if the certificate holder believes that the results of initial monitoring were anomalous. If the certificate holder takes this option, the investigators still must perform the monitoring in Year 5 of operations as described above.

During each year of fatality monitoring, both carcass removal trials and searcher efficiency trials will be conducted, as discussed below.

CARCASS REMOVAL TRIALS

The objective of the carcass removal trials is to estimate the length of time avian and bat carcasses remain in the search area. "Carcass removal" refers to the disappearance—due to predation, scavenging, farming activity, or other means—of a carcass from the search area. Obtaining this estimate will allow the adjustment of fatality estimates to account for removal bias. Removal rates will be estimated by size class, habitat type, and season.

One carcass removal trial will be conducted during each season of fatality monitoring. Each trial will involve the placement and observation of at least ten small bird carcasses and ten large bird carcasses. The "small bird" size class will use carcasses of house sparrows, starlings, commercially available game bird chicks, or legally obtained native birds to simulate passerines. The "large bird" size class will use carcasses of raptors provided by agencies, commercially available adult game birds, or cryptically colored chickens to simulate raptors, game birds, and waterfowl. The investigators may use carcasses found during fatality monitoring searches. If fresh bat carcasses are available, they may also be used.

To avoid confusion with turbine-related fatalities, carcasses will not be placed in fatality monitoring search plots. Instead, they will be placed at non-searched turbines at sufficient distance from turbines that are searched so as not to attract scavengers to the search plots. The carcass removal trial plots will be distributed proportionately within habitat categories and subtypes similar to the search plots. The carcasses will be placed randomly within the carcass removal trial plots and in a variety of postures—hidden, partially hidden, and exposed. Trial carcasses will be marked discreetly for recognition by searchers and other personnel.

Carcasses will be checked for a period of 35 days to determine removal rates. They will be checked approximately every day for the first 4 days, and then on day 7, day 10, day 14, day 21, day 28 and day 35. This schedule may vary depending on actual carcass removal rates, weather conditions, and coordination with other survey work. At the end of the 35-day period, the trial carcasses and scattered feathers will be removed.

Scavenger (or other removal) activity that results in scattering of feathers or other carcass parts will not constitute removal if evidence of the carcass remains within an area comparable to the search plot size, and if the evidence would be discernible to a searcher during a normal survey. Before beginning removal trials for any subsequent year of fatality monitoring, the certificate holder shall report the results of the first year of removal trials to the Department and ODFW. In the report, the certificate holder shall analyze whether four removal trials per year, as described above, provide sufficient data to accurately estimate adjustment factors for carcass removal. The number of removal trials may be adjusted up or down, subject to the approval of the Department.

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SEARCHER EFFICIENCY TRIALS

The purpose of searcher efficiency trials is to estimate the percentage of bird and bat fatalities that searchers are able to find. Searcher efficiency trials will be conducted on the fatality monitoring search plots in both grassland/shrub-steppe and cultivated agriculture habitat types. Searcher efficiency will be estimated by size class and by season. A pooled estimate of searcher efficiency will enable adjustment of fatality estimates to account for detection bias.

A searcher efficiency trial will be conducted during each of the seasons defined above during the years in which the fatality monitoring occurs. Each trial will involve approximately 25 carcasses (approximately 100 carcasses per year). The number of days needed to complete each trial (and thus the number of carcasses required each trial-day) will be varied among seasons so that searchers will not know the total number of trial carcasses being used on any given day. Personnel conducting fatality searches will not be made aware of the dates or plots on which searcher efficiency trials will be conducted.

Trial carcasses will be placed in the different habitat types roughly in proportion to the habitat composition within the site boundary. During each season, a randomized selection of both small bird and large bird carcasses will be used. The investigators shall use game birds or other legal sources of avian species as test carcasses for the efficiency trials, and the investigators may use carcasses found in fatality monitoring searches. The investigators shall select species with the same coloration and size attributes as species found within the site boundary. If suitable test carcasses are available, trials during the fall season will include several small brown birds to simulate bat carcasses. Legally obtained bat carcasses will be used if available.

The carcasses will be placed randomly within the fatality monitoring search plots and in a variety of postures—hidden, partially hidden, and exposed. The investigators shall mark the test carcasses to differentiate them from other carcasses that might be found within the search plots, and shall use methods similar to those used to mark removal test carcasses as long as the procedure is sufficiently discreet and does not increase carcass visibility.

Each efficiency trial will be spread over the entire season to incorporate effects of varying weather and vegetation growth. Trial carcasses will be placed before search personnel arrive; where appropriate (if, for example, avian scavengers are suspected in the area), carcasses will be placed before daylight.

The number and location of efficiency trial carcasses found during the carcass search will be recorded. The number of efficiency trial carcasses available for detection during each trial-day will be determined immediately after the day's searching by the person responsible for distributing the carcasses. Following plot searches, all traces of test carcasses will be removed from the site.

If new searchers are brought into the search team, additional searcher efficiency trials will be conducted to ensure that detection rates incorporate searcher differences. The certificate holder shall include a discussion of any changes in search personnel and any additional detection trials in the reporting required under Section 5 of this plan.

Before beginning searcher efficiency trials for any subsequent year of fatality monitoring, the certificate holder shall report the results of the first year efficiency trials to the Department and ODFW. In the report, the certificate holder shall analyze whether the efficiency trials as described above provide sufficient data to accurately estimate adjustment factors for searcher efficiency. The number of searcher efficiency trials for any subsequent year of fatality monitoring may be adjusted up or down, subject to the approval of the Department.

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FATALITY MONITORING SEARCH PROTOCOL

The objective of fatality monitoring is to estimate the number of bird and bat fatalities that are attributable to facility operation as an indicator of the impact of the facility on habitat quality. The goal of bird and bat fatality monitoring is to estimate fatality rates and associated variances. Standardized carcass searches will be conducted over two years (16 searches each year), beginning one month after the start of commercial operation of the facility.

Fatality rates will be estimated using the statistical methods described below Section (d). Fatality estimates will be computed annually for eight categories: 1) all birds, 2) small birds, 3) large birds, 4) raptors, 5) grassland birds, 6) nocturnal migrants, 7) State Sensitive Species listed under OAR 635-100-0040 and 8) bats. The certificate holder shall report annual fatality rates on both a per-MW and per-turbine basis.

All carcasses located within areas surveyed, regardless of species, will be recorded and, if possible, a cause of death determined based on necropsy results. If a different cause of death is not apparent, the fatality will be attributed to facility operation. The total number of avian and bat fatalities will be estimated by adjusting for carcass removal and searcher efficiency bias (Sections (a) and (b)).

Trained personnel will conduct the carcass searches by walking parallel transects within the search plots. Transects will be set at 6 meters apart in the area to be searched. A searcher will walk at a rate of approximately 45 to 60 meters per minute along each transect, searching both sides out to three meters for casualties. Search area and speed may be adjusted by habitat type after evaluation of the first searcher efficiency trial. The searchers will record the condition of each carcass found, using the following condition categories:

- Intact: a carcass that is completely intact, is not badly decomposed and shows no sign of being fed upon by a predator or scavenger
- Scavenged: an entire carcass that shows signs of being fed upon by a predator or scavenger, or portions of a carcass in one location (e.g., wings, skeletal remains, legs, pieces of skin, etc.)
- Feather Spot: 10 or more feathers or 2 or more primary feathers at one location (indicative of predation or scavenging)

All carcasses (avian and bat) found during the standardized carcass searches will be photographed, recorded, and labeled with a unique number. Each carcass will be bagged and frozen for future reference, possible necropsy, or use in removal or searcher efficiency trials. A copy of the data sheet for each carcass will be kept with the carcass at all times. For each carcass found, searchers will record species, sex and age when possible, date and time collected, location (global positioning system coordinates), condition (e.g., intact, scavenged, feather spot) and any comments that may indicate cause of death. Searchers will photograph each carcass as found and will map the find on a detailed map of the search area showing the location of nearby wind turbines, power poles, fence, building, or overhead line structures. Collection of state endangered, threatened, sensitive, or other state protected species will be coordinated with ODFW. Collection of federally-listed endangered or threatened species and avian species protected under the Migratory Bird Treaty Act will be coordinated with the U.S. Fish and Wildlife Service (USFWS). Appropriate collection permits will be obtained from ODFW and USFWS.

Carcasses may be discovered incidental to formal carcass searches (such as while driving between search plots or while setting up carcass removal or searcher efficiency trials). All such carcasses will be recorded, analyzed, and collected just like those found during formal searches.

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If the incidentally discovered carcass is found within a formal search plot, the fatality data will be included in the calculation of fatality rates. If the incidentally discovered carcass is found outside a formal search plot, the data will be reported separately.

A protocol for handling injured birds will be developed and followed. Any injured native birds found on the facility site will be carefully captured by a trained biologist or technician and transported to an approved rehabilitation specialist (Blue Mountain Wildlife in Pendleton or other certified wildlife care center). The certificate holder shall pay costs, if any, charged for time and expenses related to care and rehabilitation of injured native birds found on the site, unless the cause of injury is clearly demonstrated to be unrelated to the facility operations.

STATISTICAL METHODS FOR FATALITY ESTIMATES

The estimate of the total number of wind facility-related fatalities will be based on:

- (1) The observed number of carcasses found during standardized searches for which the cause of death is attributed to the facility.²
- (2) Searcher efficiency expressed as the proportion of planted carcasses found by searchers.
- (3) Carcass removal rates expressed as the estimated average probability a carcass is expected to remain in the study area and be available for detection by the searchers during the entire survey period.

The following variables are used in the equations below:

c_i	the number of carcasses detected at plot i for the study period of interest (e.g., one year) for which the cause of death is either unknown or is attributed to the Project
n	the number of search plots
k	the number of turbines searched (includes the turbines centered within each search plot and a proportion of the number of turbines adjacent to search plots to account for the effect of adjacent turbines on the search plot buffer area)
\bar{c}	the average number of carcasses observed per turbine per year
s	the number of carcasses used in removal trials
s_e	the number of carcasses in removal trials that remain in the study area after 40 days
se	standard error (square of the sample variance of the mean)
t_i	the time (days) a carcass remains in the study area before it is removed
\bar{t}	the average time (days) a carcass remains in the study area before it is removed
d	the total number of carcasses placed in searcher efficiency trials
p	the estimated proportion of detectable carcasses found by searchers
I	the average interval between searches in days
$\hat{\pi}$	the estimated probability that a carcass is both available to be found during a search and is found

² If a different cause of death is not apparent, the fatality will be attributed to facility operation.

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1 m_i the estimated annual average number of fatalities per turbine per year, adjusted
2 for removal and observer detection bias

3 C nameplate energy output of turbine in megawatts (MW)

4 The estimated average number of carcasses (\bar{c}) observed per turbine per year is:

5
$$\bar{c} = \frac{\sum_{i=1}^n c_i}{k} . \quad (1)$$

6 Estimates of carcass removal are used to adjust carcass counts for removal bias. Mean carcass
7 removal time (\bar{t}) is the average length of time a carcass remains at the site before it is removed:

8
$$\bar{t} = \frac{\sum_{i=1}^s t_i}{s - s_c} . \quad (2)$$

9 This estimator is the maximum likelihood estimator assuming the removal times follow an
10 exponential distribution and there is right-censoring of data. Any removal trial carcasses still
11 remaining at 35 days are collected, yielding censored observations at 35 days. If all trial carcasses
12 are removed before the end of the trial, then s_c is 0, and \bar{t} is just the arithmetic average of the
13 removal times. Removal rates will be estimated by carcass size (small and large), habitat type,
14 and season.

15 Observer detection rates (i.e., searcher efficiency rates) are expressed as p , the proportion of
16 trial carcasses that are detected by searchers. Observer detection rates will be estimated by
17 carcass size, habitat type, and season.

18 The estimated per-turbine annual fatality rate (m_i) is calculated by:

19
$$m_i = \frac{\bar{c}}{\hat{\pi}} , \quad (3)$$

20 where $\hat{\pi}$ includes adjustments for both carcass removal (from scavenging and other means)
21 and observer detection bias assuming that the carcass removal times t_i follow an exponential
22 distribution. Under these assumptions, this detection probability is estimated by:

23
$$\hat{\pi} = \frac{\bar{t} \cdot p}{I} \cdot \left[\frac{\exp\left(\frac{I}{\bar{t}}\right) - 1}{\exp\left(\frac{I}{\bar{t}}\right) - 1 + p} \right] . \quad (4)$$

24 The estimated per-MW annual fatality rate (m) is calculated by:

25
$$m = \frac{m_i}{C} . \quad (5)$$

26 Fatality estimates will be calculated for: (1) all birds, (2) small birds, (3) large birds, (4)
27 raptors, (5) grassland birds, (6) nocturnal migrants 7) State Sensitive Species listed under OAR
28 635-100-0040 and 8) bats. Differences in observed nocturnal migrant and bat fatality rates for lit

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turbines, unlit turbines that are adjacent to lit turbines, and unlit turbines that are not adjacent to lit turbines will be compared graphically and statistically.

The final reported estimates of m , associated standard errors, and 90% confidence intervals will be calculated using bootstrapping³. Bootstrapping is a computer simulation technique that is useful for calculating point estimates, variances, and confidence intervals for complicated test statistics. For each iteration of the bootstrap, \bar{c} , \bar{t} , p , $\hat{\pi}$, and m will be calculated. A total of 5,000 bootstrap iterations will be used. The reported estimates will be the means of the 5,000 bootstrap estimates. The standard deviation of the bootstrap estimates is the estimated standard error. The lower 5th and upper 95th percentiles of the 5000 bootstrap estimates are estimates of the lower limit and upper limit of 90% confidence intervals.

MITIGATION

Mitigation may be appropriate if fatality rates exceed a threshold of concern. For the purpose of determining whether a threshold has been exceeded, the average annual fatality rates will be calculated by species groups after monitoring is completed. Based on current knowledge of the species that are likely to use the habitat in the area of the facility, and based on thresholds established for other EFSC-level permitted wind projects⁴, the following thresholds apply to Summit Ridge:

Species Group	Threshold of Concern (fatalities per MW)
Raptors (All eagles, hawks, falcons and owls)	0.09
Raptor species of special concern (Swainson's hawk, ferruginous hawk, peregrine falcon, golden eagle, bald eagle, burrowing owl and any federal threatened or endangered raptor species.)	0.06
Grassland species (All native bird species that rely on grassland habitat and are either resident species occurring year round or species that nest in the area, excluding horned lark, burrowing owl and northern harrier.)	0.59
State sensitive avian species listed under OAR 635-100-0040 (Excluding raptors listed above.)	0.2
Bat species as a group	2.5

³ Manly, B.F. 1997. Randomization, bootstrap, and Monte Carlo methods in biology. 2nd edition. Chapman and Hall, New York. 399 pp.

⁴ The Council adopted "thresholds of concern" for raptors, grassland species, and state sensitive avian species in the Final Order on the Application for the Klondike III Wind Project (June 30, 2006) and for bats in the Final Order on the Application for the Biglow Canyon Wind Farm (June 30, 2006). As explained in the Klondike III order: "Although the threshold numbers provide a rough measure for deciding whether the Council should be concerned about observed fatality rates, the thresholds have a very limited scientific basis. The exceeding of a threshold, by itself, would not be a scientific indicator that operation of the facility would result in range-wide population level declines of any of the species affected. The thresholds are provided in the Wildlife Monitoring and Mitigation Plan to guide consideration of additional mitigation based on two years of monitoring data."

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If the data show that a threshold of concern for a species group has been exceeded, additional mitigation may be implemented (if determined to be warranted by ODOE and ODFW). ODOE may also determine that mitigation is appropriate if fatality rates for individual avian or bat species (especially State Sensitive Species) are higher than expected and at a level of biological concern. If mitigation is warranted, the certificate holder will proposed appropriate mitigation measures in consultation with the ODOE and ODFW to benefit the affected species.

Mitigation may include, but is not limited to, protection of nesting habitat for the affected group of native species (as through a conservation easement or similar agreement), enhancement of the protected tract by weed removal and control, increasing the diversity of native grasses and forbs, planting sagebrush or other shrubs, constructing and maintaining artificial nest structures for raptors, improving wildfire response, and/or conducting research or making a contribution to research that will aid in better understanding the affected species and its conservation needs in the region.

The certificate holder shall implement mitigation as approved by the Department and ODFW, subject to review by the Council. The Department may recommend additional, targeted data collection if the need for mitigation is unclear based on the information available at the time. The certificate holder shall implement such data collection as approved by the Council.

GRASSLAND BIRD DISPLACEMENT STUDY

A grassland bird displacement study was begun as part of pre-construction biological surveys of the Summit Ridge Wind Power Project. Five 300 m-long and 100 m-wide transects were established perpendicular to proposed turbine strings, and five control transects were established at least 800 m away from proposed turbines or roads. Transects (both experimental and control) were placed in native habitat where grassland bird species were expected to occur. Transects were each surveyed three times during the spring 2009 breeding season. Grassland birds that were documented on-site during baseline surveys conducted in 2009 included grasshopper sparrow, savannah sparrow, vesper sparrow, Brewer's sparrow, western meadowlark, and horned lark. The long-billed curlew, a shorebird that utilizes grassland habitats during the summer months, was also detected during avian use surveys.

Two years of post-construction surveys will be conducted using the same transects and methods used in pre-construction surveys. The objective of this before-and-after design is to determine if there are noticeable changes in the presence and overall use by grassland bird species as a result of facility construction and operation. It is hoped that this study will provide information on whether operation of Summit Ridge discourages use of the area by the indicator species, grasshopper sparrow. Post-construction surveys will, however, include observations of common species such as western meadowlark, savannah sparrow, vesper sparrow, and Brewer's sparrow to provide information on the presence and distribution of these species within the study area and their behavior relative to turbine locations. Post-construction surveys will begin in the first spring after the facility is fully operational.

A comprehensive report of this research will be submitted to ODOE following the completion of the second year of post-construction surveys. The report will include maps showing transects walked and specific areas of use by the indicator species, plus analysis of any changes noted in distances from turbines by grassland bird species before and after Summit Ridge construction. The report will also include a description of vegetation compared to pre-construction conditions as recorded in the first year(s), including notes on any changes in land use, wildfire influences, and grazing, and describing any areas of intense vegetation impact.

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1 RAPTOR NEST SURVEYS

2 The objectives of raptor nest surveys are: (1) to estimate the size of the local breeding
3 populations of raptor species that nest on the ground or aboveground in trees or other
4 aboveground nest locations in the vicinity of the facility; and (2) to determine whether operation
5 of the facility results in a reduction of nesting activity or nesting success in the local populations
6 of the following raptor species: Swainson's hawk, golden eagle, bald eagle, ferruginous hawk,
7 and burrowing owl.

8 The certificate holder shall conduct short-term and long-term monitoring. The investigators
9 will use aerial and ground surveys to evaluate nest success by gathering data on active nests, on
10 nests with young, and on young fledged. The investigators will analyze the data as described in
11 Section 3(c) and will share the data with state and federal biologists.

12 SHORT-TERM MONITORING

13 Short-term monitoring will be done in two monitoring periods. The first monitoring period
14 will be in the first two raptor nesting seasons after completion of construction of the facility. The
15 second monitoring period will be in the fifth year after construction is completed. The certificate
16 holder shall provide a summary of the first-period results in the monitoring report described in
17 Section 5 of this WMMP. After the second monitoring period, the investigators will analyze the
18 data compared to the baseline data.

19 During each monitoring period, the investigators will conduct a minimum of one aerial and
20 one ground survey for raptor nests in late May or early June and additional surveys as described
21 in this section. The survey area is the area within the facility site and a 2-mile buffer zone around
22 the site. For the ground surveys while checking for nesting success (conducted within the facility
23 site and up to a maximum of ½ mile from the facility site), nests outside the leased project
24 boundary will be checked from an appropriate distance where feasible, depending on permission
25 from the landowner for access.

26 All nests discovered during pre-construction surveys and any nests discovered during post-
27 construction surveys, whether active or inactive, will be given identification numbers. Nest
28 locations will be recorded on U.S. Geological Survey 7.5-minute quadrangle maps. Global
29 positioning system coordinates will be recorded for each nest. Locations of inactive nests will be
30 recorded because they could become occupied during future years.

31 Determining nest occupancy may require one or two visits to each nest. Aerial surveys for
32 nest occupancy will be conducted within the facility site and a 2-mile buffer. For occupied nests,
33 the certificate holder will determine nesting success by a minimum of one ground visit to
34 determine the species, number of young and young fledged within the facility site and up to ½
35 mile from the facility site. "Nesting success" means that the young have successfully fledged (the
36 young are independent of the core nest site).

37 If burrowing owl nest sites are discovered, the investigators will monitor them according to
38 the following protocol. This species is not easily detected during aerial raptor nest surveys. The
39 investigators shall record active burrowing owl nest sites in the vicinity of the facility as they are
40 discovered during other wildlife monitoring tasks. Any nests discovered during post-construction
41 surveys, whether active or showing signs of intermittent use by the species, will be given
42 identification numbers. Nest locations will be recorded on U.S. Geological Survey 7.5-minute
43 quadrangle maps. Global positioning system coordinates will be recorded for each nest site.
44 Coordinates for ancillary burrows used by one nesting pair or a group of nesting pairs will also be
45 recorded. Locations of inactive nests will be recorded because they could become occupied
46 during future years.

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The investigators shall conduct burrowing owl monitoring in the same years as the raptor nest surveys described above. For occupied nests, the investigators shall determine nesting success by a minimum of one ground visit to determine species, number of young and young fledged. Three visits to the nest sites may be necessary to determine outcome. Nests that cannot be monitored due to the landowner denying access will be checked from a distance where feasible.

If burrowing owl nests are discovered during the first year of post-construction raptor nest surveys (the first raptor nesting season after construction is completed), the investigators shall monitor those nest locations during the second year of surveys in the fourth year after construction is completed. Thereafter, the investigators shall monitor all known burrowing owl nest locations as a part of the long-term raptor nest monitoring program described in Section 2(b) below.

LONG-TERM MONITORING

In addition to the three years of post-construction raptor nest surveys described in Section 2(a), the investigators shall conduct long-term raptor nest surveys at 5-year intervals for the life of the facility.⁵ Investigators will conduct the first long-term raptor nest survey in the raptor nesting season of the tenth year after construction is completed and will repeat the survey at 5-year intervals thereafter. In conducting long-term surveys, the investigators will follow the same survey protocols as described above in Section 2(a) unless the investigators propose alternative protocols that are approved by the Department. In developing an alternative protocol, the investigators will consult with ODFW and will take into consideration other monitoring conducted in adjacent areas. The investigators will analyze the data and report after each year of long-term raptor nest surveys.

ANALYSIS

The investigators will analyze the raptor nesting data to determine whether a reduction in either nesting success or nest use has occurred in the survey area. Impacts may have to be judged based on trends in the data, results from other wind energy facility monitoring studies, and literature on what is known regarding the populations in the region. If the analysis indicates a reduction in raptor nesting success or nest use, then the certificate holder will propose appropriate mitigation for the affected species as described in Section 2(d) and will implement mitigation as approved by the Department, subject to review by the Council.

Reductions in nesting success or nest use could be due to operation of Summit Ridge or some other cause. The investigators shall attribute the reduction to operation of the facility if the wind turbine closest to the affected nest site is a Summit Ridge turbine, unless the certificate holder demonstrates, and the Department agrees, that the reduction was due to a different cause. At a minimum, if the analysis shows that a Swainson's hawk, ferruginous hawk, bald eagle, golden eagle, or burrowing owl has abandoned a nest territory within the facility site or within ½ mile of the facility site, or has not fledged any young over two successive surveys within that same area, the investigators will assume the abandonment or unsuccessful fledging is due to operation of the facility unless another cause can be demonstrated convincingly.

MITIGATION

If the analysis shows a reduction in nesting success or nest use, the certificate holder shall implement mitigation if the Department determines that mitigation is appropriate. The certificate holder shall propose mitigation for the affected species in consultation with the Department and

⁵ As used in this plan, "life of the facility" means continuously until the facility site is restored and the site certificate is terminated in accordance with OAR 345-027-0110.

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ODFW, and shall implement mitigation as approved by the Council. Mitigation should be designed to benefit the affected species or contribute to overall scientific knowledge and understanding of what causes nest abandonment or nest failure. Mitigation may be designed to proceed in phases over several years. It may include, but is not limited to, additional raptor nest monitoring, protection of natural nest sites from human disturbance or cattle activity (preferably within the general area of the facility), or participation in research projects designed to improve scientific understanding of the needs of the affected species. Mitigation may take into consideration whether the mitigation required or provided in conjunction with other components of the WMMP or *Habitat Mitigation Plan* would also benefit the raptor species whose nesting success was adversely affected.

WILDLIFE REPORTING AND HANDLING PROCESS

The certificate holder shall establish a training program for facility maintenance personnel to report avian and bat casualties while conducting routine duties associated with the operation of the facility. This program will include initial response, handling, and reporting of bird and bat carcasses discovered incidental to maintenance operations.

All avian and bat carcasses discovered by maintenance personnel will be photographed and the data recorded as would be done for carcasses within the formal search sample during scheduled searches. If incidental finds are made, maintenance personnel will notify a project biologist. The biologist will collect the carcass, or will instruct maintenance personnel to have an on-site carcass handling permittee collect the carcass. That permittee will be a person who is listed on state and federal scientific or salvage collection permits and who is available to process (collect) the find on the day it is discovered. The find will be processed on the same day as it is discovered. The certificate holder shall coordinate collection of state endangered, threatened, sensitive, or other state protected species with ODFW. The certificate holder shall coordinate collection of federally-listed endangered or threatened species and Migratory Bird Treaty Act protected avian species with the USFWS.

During the years in which fatality monitoring occurs, if maintenance personnel discover incidental finds outside the search plots for the fatality monitoring searches, the data will be reported separately from fatality monitoring data. If maintenance personnel discover carcasses within search plots, the data will be included in the calculation of fatality rates.

DATA REPORTING REQUIREMENTS

Wildlife monitoring data and analysis will be reported to ODOE. Monitoring data include fatality monitoring program data, grassland bird study data, raptor nest use and success data, and wildlife reporting and handling data. These reports may be included in the annual report required under OAR 345-026-0080 or submitted as a separate document at the same time the annual report is submitted.

USFWS and ODFW will be notified immediately if any federal or state endangered or threatened species are killed or injured on the Summit Ridge site.

PROCESS FOR AMENDING THE WMMP

This WMMP may be amended from time to time by agreement of the certificate holder and the Council. Such amendments may be made without amendment of the site certificate. The Council authorizes the Department to agree to amendments to this plan and to mitigation actions that may be required under this plan. The Department shall notify the Council of all amendments and mitigation actions, and the Council retains the authority to approve, reject, or modify any amendment of this plan or mitigation action agreed to by the Department.

Attachment G: Amended Draft Habitat Mitigation Plan

(As approved in the Amended Final Order on Request for Amendment #1
dated August 7, 2015)

**Habitat Mitigation Plan
for the
Summit Ridge Wind Project
(As Amended)**

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Revised October 22, 2014

Introduction

This document was originally prepared for the Summit Ridge Wind Project (Project) Site Certificate Application (SCA) submitted to the Oregon Department of Energy (ODOE) in 2010. It has been updated in association with a request by LotusWorks for an Amendment to the Site Certificate in order to address two sets of changes. One is a decrease in the number of turbines proposed for installation, which resulted in a decrease in the acreages of both permanent and temporary impacts. The other is a change (in 2013) in the way the Oregon Department of Fish and Wildlife (ODFW) categorizes several habitat types (including exotic annual grassland, old field, revegetated grassland, native perennial grassland, and rabbitbrush/buckwheat shrub-steppe habitats) when they lie within designated deer and/or elk winter habitat (ODFW, 2013). The proposed concepts of this Habitat Mitigation Plan (HMP) were originally discussed with the Oregon Department of Fish and Wildlife in December 2009 and again on March 30, 2010; the changes contained herein were made in response to ODFW comments on the Request for an Amendment and were discussed with ODFW personnel in October 2014.

The Summit Ridge Wind Project is located in Wasco County, Oregon. As part of the SCA (Exhibits P and Q), Northwest Wildlife Consultants, Inc. (NWC) completed habitat mapping and quality assessment of the Project area, and conducted site-specific biological studies that included rare plant surveys, avian use surveys, a grassland bird displacement study, special status vertebrate wildlife species surveys, a raptor nest survey, an inventory of bat species, and big game observations, as well as reviews for potential occurrence of or records of special status species (Gerhardt et al., 2009a, 2009b). Based on a combination of the results of these studies, Project impact estimates provided by LotusWorks and David Evans Associates (DEA), experience with such mitigation, and knowledge of the wildlife and habitats impacted by wind energy development in the Columbia Plateau, NWC offers the concepts in this document as recommendations for inclusion in the Project's final Habitat Mitigation Plan. Details on habitat types, subtypes, and Categories 1–6 can be found in the SCA, Exhibit P.

Description of Project Impacts

As presently designed (as of October 17, 2014), the Summit Ridge Wind Project will consist of up to 72 2.7 megawatt (MW) turbines. The Project is expected to have a generating capacity of 200 megawatts. Other associated facilities include turbine pads, maintenance roads, overhead and underground electrical cables, an operations and maintenance building, a batch plant, and one 230-kilovolt overhead transmission line.

Most of the Project's footprint (area to be covered by permanent facilities) will occupy dryland agriculture, which is Category 6 habitat. No Category 1 habitat will be impacted, but a small amount of habitat traditionally designated Category 2 (big sagebrush shrub-steppe) will be permanently impacted. Most of the remaining footprint will occupy habitats originally designated Category 3 (revegetated grassland, native perennial grassland, or rabbitbrush/buckwheat shrub-steppe) or Category 4 (old field or exotic annual grassland)

but now designated by ODFW as Category 2 because the land lies within designated deer and/or elk winter range (ODFW, 2013).

In addition to the permanent impacts mentioned above, construction of the Project will entail temporary impacts to the same types and categories of habitat. Temporary impacts are summarized as follows: no Category 1 impacts, a small amount of impact to traditional Category 2 habitat, some impacts to habitats traditionally designated Category 3 and Category 4 but now designated by ODFW as Category 2, and mostly Category 6 habitat will be impacted. Grassland habitats that were traditionally Category 3 (revegetated grassland and native perennial grassland) are expected to require two to five years after restoration activities start to achieve a trend towards recovery to a mature state of grassland cover. Old field and exotic annual grassland habitats are expected to be improved—within two or three years—as restoration will result in more native grasses and far fewer of the invasive, noxious weeds that existed prior to disturbance). Native forbs in perennial grasslands (as well as in shrub-steppe) may not recover to pre-construction diversity or will take longer to recolonize the restored areas. Shrub-steppe habitats—Category 2 and (traditionally) Category 3—may take much longer to achieve the shrub species maturity and height that existed prior to construction.

Calculation of the Size of the Mitigation Area

The Habitat Mitigation Area (HMA) must be large enough and have the characteristics to meet the standards set by the Oregon Department of Fish and Wildlife (ODFW) in their Wildlife Habitat Mitigation Policy (OAR 635-415-0025). These standards include “no net loss” and a “net benefit” in habitat quality and quantity for Category 2 habitats, and “no net loss” of habitat for Categories 3 and 4. Mitigation standards for Category 6 involve minimizing direct habitat loss and avoiding impacts to off-site habitat.

For the purposes of this discussion, the acreages of impact are the current estimate of the maximum affected area. The actual areas of disturbance will be determined based on the final design layout of the Project. It is anticipated that ODOE and ODFW will require that they be provided with the final design layout and the associated impact acreages prior to the beginning of Project construction.

Current maximum habitat impact estimates of the Summit Ridge Wind Project (including the transmission line) are:

<u>Habitat Category</u>	<u>Permanent Impacts</u>	<u>Temporary Impacts</u>
Category 2 (traditional)	0.43	0.37
Category 2 (big game)	25.80	35.15
Category 6*	41.78	47.16
Total Acres	68.01	82.68

* no mitigation required

Based on these impact estimates, calculation of the mitigation area requirement is as follows:

Category 2 (Traditional)

Footprint: 0.43 acres (2:1 ratio)

Temporary impacts: 0.37 acres (2:1 ratio)

Mitigation area required: $(0.43 \times 2) + (0.37 \times 2) = 1.60$ acres

Category 2 (Big Game)

Footprint: 25.80 acres (>1:1 ratio)

Temporary impacts: revegetated grassland 17.19 acres (1:1); native perennial grassland and shrub-steppe 6.23 acres (1:1 ratio); old field and exotic annual grassland 10.86 acres (1:1)

Mitigation area required: $25.80 + 17.19 + 6.23 + 10.86 = > 60.08$ acres

Total mitigation area required: Approximately 65 acres (i.e., > 61.68 acres)

Description of the Habitat Mitigation Area (HMA)

According to ODFW standards, areas appropriate for mitigation of Category 2 habitat impacts must be “in proximity” to the Project and have potential for habitat and enhancement. The applicant has identified four habitat parcels for consideration by ODFW and ODOE (Figure 1). These range in size from 15 to 77 acres, and are revegetated grasslands of varying quality. NWC believes that the identified parcels have adequate potential for mitigating the habitat loss expected to occur and for providing benefit for the wildlife species most likely to be impacted by habitat loss associated with the Project, including grasshopper sparrow (*Ammodramus savannarum*), Brewer’s sparrow (*Spizella breweri*), vesper sparrow (*Pooecetes gramineus*), and loggerhead shrike (*Lanius ludovicianus*). The referenced parcels for mitigation have been discussed with ODFW, LotusWorks, NWC, and the associated landowners, and other parcels may be considered as well.

Possible Habitat Enhancement Options

It is assumed that the habitat designated for mitigation will be conserved and protected from alteration for the life of the Project. Besides such legal protection, actions that are proposed for enhancement of the mitigation area include fencing out livestock (if not already fenced), modification of livestock grazing (wildlife habitat values take precedence over livestock grazing), weed control, revegetation with native plants, and fire control.

Monitoring

It is expected that a comprehensive program of monitoring the HMA and the success of its protection and enhancements will be required by ODOE and ODFW. Such monitoring will be conducted by an independent and qualified specialist (wildlife biologist/botanist). Annual monitoring will include assessments of quality of vegetation, success of weed control measures, recovery of native grasses and forbs (in response to reductions in livestock grazing), and success of revegetation measures (where applicable). In addition, some requirement for periodic monitoring of avian species use of the area (especially during the breeding season) is recommended for understanding the enhancement success. Details of monitoring time frames and success criteria will be designed after the final site is selected.

Results of all monitoring will be reported to ODOE and ODFW on an annual basis, along with a report of the mitigation/enhancement measures undertaken that year.

Criteria for Success

Success of this Habitat Mitigation Plan will be predicated upon several criteria. These include increased vegetative cover consisting of desired native vegetation (relative to the structure prior to initiation of enhancement actions), similar or increased avian use of the area (similar or increased diversity of species), success of noxious weed control, increased recruitment of native forbs, and increased seed production of native bunchgrasses.

References

- Gerhardt, R., R. Gritski, B. Anderson. 2009a. Ecological baseline studies and impact assessment for the Summit Ridge Wind Power Project, Wasco County, Oregon—Interim Report. Prepared for LotusWorks, Vancouver, Washington. Prepared by Northwest Wildlife Consultants, Pendleton, Oregon.
- Gerhardt, R., R. Gritski, B. Anderson. 2009b. Ecological baseline studies and impact assessment for the Summit Ridge Wind Power Project, Wasco County, Oregon—Addendum. Prepared for LotusWorks, Vancouver, Washington. Prepared by Northwest Wildlife Consultants, Pendleton, Oregon.
- Oregon Department of Fish and Wildlife (ODFW). 2013. ODFW's data clearinghouse: ODFW winter range for eastern Oregon. Available online at:
<http://nrimp.dfw.state.or.us/DataClearinghouse/default.aspx?p=202&XMLname=885.xml>.

**Attachment H: 2015/16 Raptor Nest, Special Status Vertebrate Wildlife Species, and Rare Plant
Survey Memos**



Northwest
Wildlife
Consultants, Inc.

MEMORANDUM

Date: June 25, 2016

To: Steven Ostrowski, Summit Ridge Wind Holdings, LLC

From: Rick Gerhardt, Wildlife Biologist
Northwest Wildlife Consultants, Inc.

Subject: Summit Ridge 2016 Raptor Nest Survey

As part of comprehensive wildlife, habitat and plant studies conducted in association with the proposed Summit Ridge Wind Project (Project), surveys for nests of raptors were conducted in 2009 (Gerhardt et al., 2010) and again in 2015 (Gerhardt, 2015). In order to ensure that the understanding of the affected area remains as current as possible, Summit Ridge Wind Holdings, LLC contracted Northwest Wildlife Consultants, Inc. (NWC), which conducted the original surveys, to resurvey in spring of 2016 areas within 0.5 miles of the proposed facilities (as amended; LotusWorks, 2014; Summit Ridge, 2016) for nests of raptors and other large birds. This memorandum summarizes the results of the 2016 survey.

Methods

Ground-based surveys were conducted for above-ground raptor nests on April 26 and 27 (in conjunction with special status wildlife species surveys), and an aerial survey occurred on April 30, 2016. Biologists surveyed all suitable nesting substrates (trees, rock formations, transmission lines, and other structures) within 0.5 miles of proposed facilities. All raptor nests were identified to species, and their locations were recorded with a hand-held Global Positioning System unit. This included all confirmed and potential nests regardless of their activity status. To determine whether a nest was active or inactive, biologists relied on clues that included behavior of adults and presence of eggs, young, or whitewash. Nests built by common ravens (whether active or inactive) were also recorded, since these could be used by raptors in subsequent breeding seasons.

Results and Discussion

Eight active raptor nests were documented within the survey area (Figure 1, submitted separately); all of these were red-tailed hawks. In addition, a single active common raven nest was identified and eleven inactive stick nests (or their remains) were found.

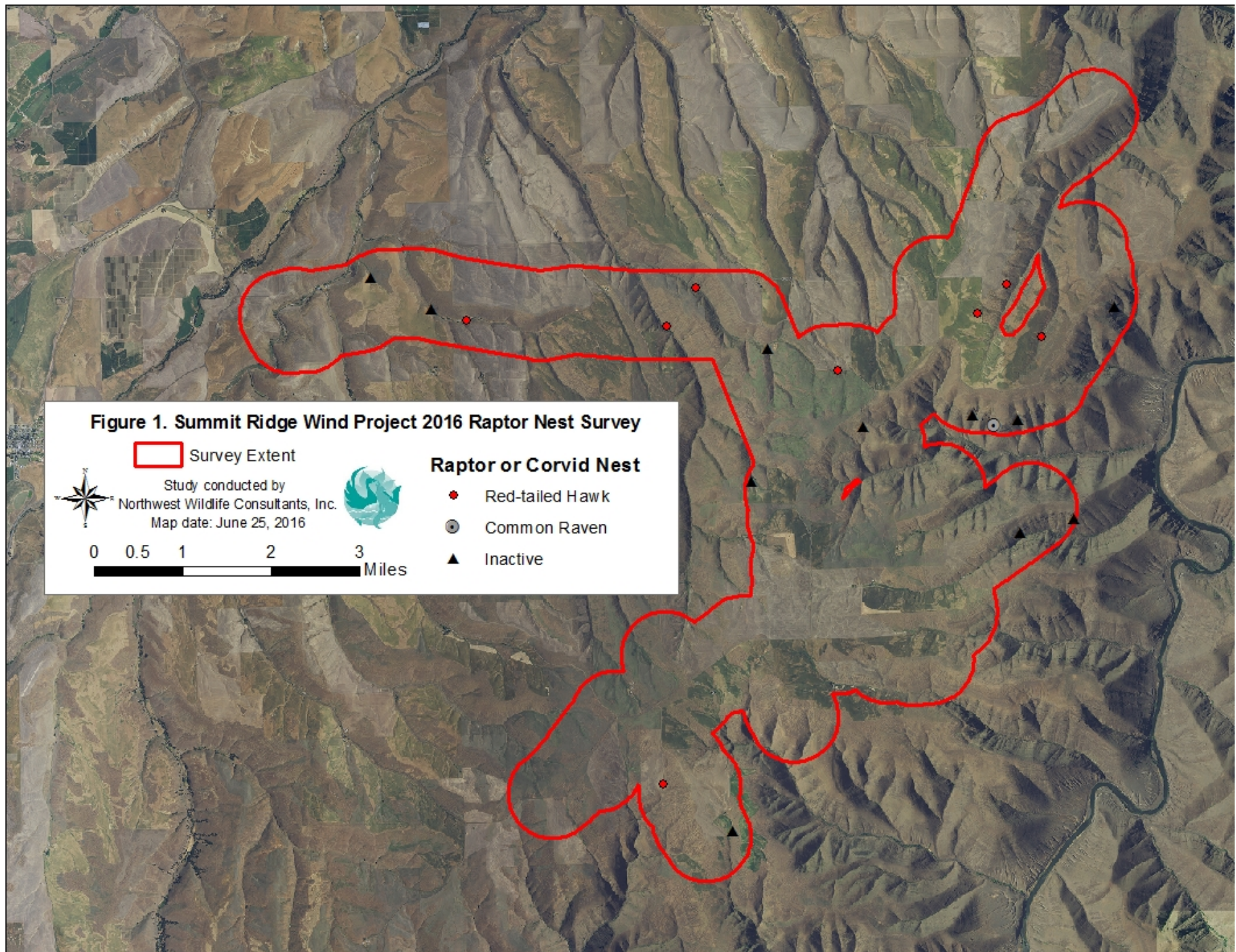
As in the original raptor nest survey (of 2009 and 2010; Gerhardt et al., 2010) and the 2015 supplemental survey (Gerhardt, 2015), no special status raptor species were found breeding within the 2016 raptor nest survey area. The Project area lies west of the breeding range of ferruginous hawk, Swainson's hawk, and burrowing owl. During all wildlife, plant, and habitat surveys conducted at Summit Ridge, a single ferruginous hawk was detected while the surveyor was in transit between avian use plots, individual Swainson's hawks were detected on four occasions (twice during avian use surveys and twice while the surveyor was in transit between plots), and no burrowing owls were detected (Gerhardt et al., 2010).

The Project as currently proposed (LotusWorks, 2014; Summit Ridge, 2016) is smaller than that for which the original Site Certificate was issued (LotusWorks, 2010). Facilities are sited primarily on—and much of the surrounding land is characterized by—active agriculture (dryland wheat). Rimrock, cliffs, and rock outcrops are few and relatively small, and trees are limited to a few riparian areas and around homes or old homesteads. Most of the locusts associated with old homesteads are old and dying, and new recruitment of such trees is not occurring. Thus, suitable hawk nesting substrate is likely to decrease during the life of the proposed Project.

Four of the 2016 active red-tailed hawk nests were within 0.25 mile of proposed facilities, and might have triggered construction restrictions and nest monitoring had construction been initiated during this year's breeding season. Nesting will be completed by the middle of July, however, and construction restrictions will not apply for the remainder of 2016. Should construction of this Project not begin in 2016, then an additional raptor nest survey will be conducted in the spring of the year of construction.

References

- Gerhardt, R. Summit Ridge 2015 supplemental raptor nest survey. Prepared for LotusWorks, Vancouver, Washington. Prepared by Northwest Wildlife Consultants, Inc.
- Gerhardt, R., R. Gritski, and B. Anderson. 2010. Ecological baseline studies and impact assessment for the Summit Ridge Wind Power Project, Wasco County, Oregon, consolidated report. Prepared for LotusWorks, Vancouver, Washington. Prepared by Northwest Wildlife Consultants, Inc., Pendleton, Oregon.
- LotusWorks—Summit Ridge I, LLC. 2010. Site Certificate Application. Submitted to Oregon Energy Facility Siting Council on August 24, 2010.
- LotusWorks—Summit Ridge I, LLC. 2014. Final Request for Amendment No 1 to the Site Certificate for the Summit Ridge Wind Project. Submitted to Oregon Energy Facility Siting Council on August 15, 2014.
- Summit Ridge Wind Holdings, LLC. 2016. Request for Amendment No 2 to the Site Certificate for the Summit Ridge Wind Project. Submitted to Oregon Energy Facility Siting Council on February 16, 2016.





Northwest
Wildlife
Consultants, Inc.

MEMORANDUM

Date: June 25, 2016

To: Steven Ostrowski, Summit Ridge Wind Holdings, LLC

From: Rick Gerhardt, Wildlife Biologist
Northwest Wildlife Consultants, Inc.

Subject: Summit Ridge 2016 Special Status Vertebrate Wildlife Species Survey

As part of comprehensive wildlife, habitat and plant studies conducted in association with the proposed Summit Ridge Wind Project (Project), surveys for special status terrestrial vertebrate wildlife species were conducted in 2009 and 2010 (Gerhardt et al., 2010). In order to ensure that the understanding of the affected area remains as current as possible, Summit Ridge Wind Holdings, LLC contracted Northwest Wildlife Consultants, Inc. (NWC), which conducted the original surveys, to resurvey in spring of 2016 areas within 500 feet of the proposed facilities (as amended; LotusWorks, 2014; Summit Ridge, 2016) for terrestrial vertebrate wildlife species that are federal or state listed or candidate species or Oregon Department of Fish and Wildlife (ODFW) Sensitive species. This memorandum summarizes the results of the 2016 survey.

Methods

Target species for this survey were all special status terrestrial vertebrate wildlife species that may occur in the Project area. These include United States Fish and Wildlife Service (USFWS) Endangered, Threatened, or Candidate Species, Species of Concern (USFWS, 2009), or Birds of Conservation Concern (USFWS, 2008). Also included are species that the ODFW lists as having special status (Threatened, Endangered, or Sensitive; ODFW, 2008). Based upon ODFW, USFWS, and Oregon Biodiversity Information Center (ORBIC) lists and a habitat review of the area utilizing aerial photos, 19 species of birds, 12 species of mammals, and one species of reptile were determined as possibly occurring during all or part of the year within the anticipated development areas of the Summit Ridge Wind Power Project (Appendix D of Gerhardt et al., 2010). These do not include numerous species of fish, turtles, amphibians, or invertebrates (snails) for which there is no suitable riverine habitat on the Project area.

Surveys were conducted April 26-27, which was during the breeding or rearing season for most of the terrestrial vertebrate wildlife species with potential for occurrence on the Project. Biologists walked transects approximately 60 meters apart within corridors representing a 500-foot buffer of all Project facilities. General data recorded included date, time, and weather variables. Locations of species detections were recorded using hand-held Global Positioning System (GPS) units; data recorded in association with these locations included species and number, age and sex, behavior and habitat. A GIS-generated map (Figure 1) shows locations of all special status wildlife species detected.

Results and Discussion

The Project as currently proposed (LotusWorks, 2014; Summit Ridge, 2016) is smaller than that for which the original Site Certificate was issued (LotusWorks, 2010). Facilities are sited primarily on—and much of the surrounding land is characterized by—active agriculture (dryland wheat). Only a fraction of the survey area consisted of non-agricultural lands. Nonetheless, surveys resulted in three detections of loggerhead shrikes, an ODFW Sensitive-Vulnerable species, and 35 detections of grasshopper sparrow, an ODFW Sensitive-Vulnerable species and a federal Bird of Conservation Concern (Figure 1). Twenty-five of the grasshopper sparrow detections were within the survey corridor associated with the proposed transmission line; these were in revegetated grassland, exotic annual grassland, and rabbitbrush/buckwheat shrub-steppe habitats.

Loggerhead shrikes are associated with big sagebrush shrub-steppe, of which there was little within the survey area and less within the area where disturbance is expected from Project construction. Although this species is present in small numbers at most Columbia Plateau wind energy facilities, it has not been detected as a fatality from turbine strikes (Table 14 in Gerhardt et al., 2010).

Concern for grasshopper sparrows is based on conversion (throughout its range) of native grasslands and prairies to agriculture and other development. However, within the Summit Ridge survey area (and elsewhere in the Columbia Plateau), this species is present (and likely breeding) in most habitat types—native perennial grasslands, exotic annual grasslands, rabbitbrush/buckwheat shrub-steppe, and old fields—and is one of the most common avian species during late spring and early summer, as it was on these surveys. Grasshopper sparrows forage and nest on the ground and rarely fly more than a few meters above the ground during the seasons at which they are found in the Columbia Plateau. Despite their presence at many nearby wind energy developments, they are rarely detected as fatalities from turbine strikes (Table 14 in Gerhardt et al., 2010).

References

- Gerhardt, R., R. Gritski, and B. Anderson. 2010. Ecological baseline studies and impact assessment for the Summit Ridge Wind Power Project, Wasco County, Oregon, consolidated report. Prepared for LotusWorks, Vancouver, Washington. Prepared by Northwest Wildlife Consultants, Inc., Pendleton, Oregon.
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- Oregon Department of Fish and Wildlife (ODFW). 2008. Oregon Department of Fish and Wildlife Sensitive Species: frequently asked questions and sensitive species list organized by category. Available at: http://www.dfw.state.or.us/wildlife/diversity/species/docs/SSL_by_category.pdf.
- Summit Ridge Wind Holdings, LLC. 2016. Request for Amendment No 2 to the Site Certificate for the Summit Ridge Wind Project. Submitted to Oregon Energy Facility Siting Council on February 16, 2016.
- United States Fish and Wildlife Service (USFWS). 2008. Birds of Conservation Concern 2008 (BCR 9, Table 7). United States Department of Interior, Fish and Wildlife Service, Division of Migratory Bird Management, Arlington, Virginia. Available at: <https://www.fws.gov/migratorybirds/pdf/management/BCC2008.pdf>.

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**Figure 1. Summit Ridge Wind Project
2016 Special Status Wildlife Species Survey**


 Survey Extent

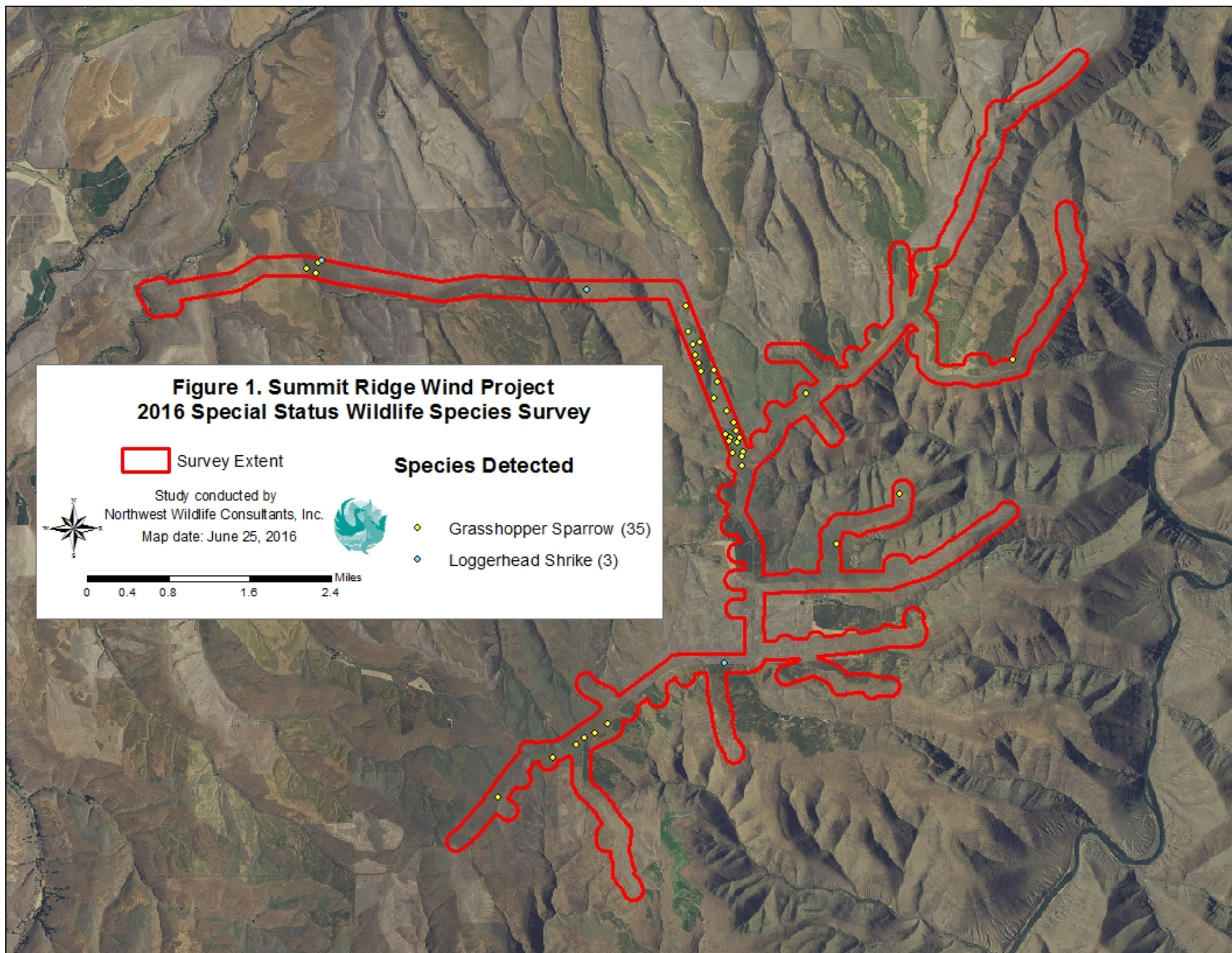
Study conducted by
Northwest Wildlife Consultants, Inc.
Map date: June 25, 2016



Species Detected

-  Grasshopper Sparrow (35)
-  Loggerhead Shrike (3)

 Miles
0 0.4 0.8 1.6 2.4





Northwest
Wildlife
Consultants, Inc.

MEMORANDUM

Date: June 25, 2016

To: Steven Ostrowski, Summit Ridge Wind Holdings, LLC

From: Rick Gerhardt, Wildlife Biologist
Northwest Wildlife Consultants, Inc.

Subject: Summit Ridge 2016 Rare Plant Survey

As part of comprehensive wildlife, habitat and plant studies conducted in association with the proposed Summit Ridge Wind Project (Project), surveys for rare plants were conducted in 2009 (Gerhardt et al., 2010) and again in 2015 (Gerhardt, 2015). In order to ensure that the understanding of the affected area remains as current as possible, Summit Ridge Wind Holdings, LLC contracted Northwest Wildlife Consultants, Inc. (NWC), which conducted the original surveys, to resurvey in spring of 2016 areas near the proposed facilities (as amended; LotusWorks, 2014; Summit Ridge, 2016) for the single state threatened and the four state candidate plant species identified (Gerhardt et al., 2010) as having the potential to occur in the Project area. This memorandum summarizes the pre-field review and results of the 2016 survey.

Methods and Target Species

Methods are described in the ecological baseline studies and impact assessment and in the site certificate application for the Summit Ridge Wind Power Project (Gerhardt et al., 2010; LotusWorks, 2010). Prior to the original field surveys, a literature review yielded a list of 19 plant species of concern with the potential for occurrence within leased lands associated with this Project; of these, one was a state threatened species and four were state candidate species (Appendix C, Gerhardt et al., 2010). Among the 111 species of vascular plant species recorded on the project (Appendix E, Gerhardt et al., 2010), none of these listed or candidate species were found, and none of the 19 species of concern were found. Moreover, no suitable habitat was believed to occur on the Project for three of the four candidate species, and there was low likelihood of occurrence for the remaining candidate species (dwarf evening-primrose) or the threatened species (Tygh Valley milk-vetch).

Prior to the 2016 survey, another literature review was conducted to determine whether there were any changes in species status regarding plants potentially occurring near Summit Ridge and if there were new species added. This review included the national plants database (USDA, 2016) and the Oregon Biodiversity Information Center (ORBIC, 2016). As a result of this review, there were no species status changes and there were no new species of concern added to the list of target species for the supplemental plant survey.

The 2016 rare plant survey was conducted on June 7. Within 200 feet of proposed turbine string center lines, access roads, and other facilities, a survey was conducted in all areas with habitat potentially suitable for the target species. These were Tygh Valley milk-vetch (state threatened) and dwarf evening-primrose, diffuse stickseed, hepatic monkey-flower, and Henderson's ryegrass (all state candidate species). Searches were conducted using an intuitively controlled survey method commonly used for rare plant surveys (USDA BLM, 1998; Elzinga et al., 1998). A more detailed description of the methods employed can be found in Gerhardt et al. (2010).

Results

None of the target plant species were encountered. Since the original surveys were conducted in 2009, there has been no substantive change in land management practices. Facilities were originally proposed mostly on lands where active agriculture (dryland wheat farming) is occurring, and an even greater proportion of the smaller Project as now proposed (Summit Ridge, 2016) is sited in agriculture. Livestock grazing continues to occur on most or all of the remaining Project habitats. Thus, there was very low likelihood that the plant species of concern had colonized portions of the Project since the 2009 survey or since supplemental surveys were conducted in 2015.

References

- Elzinga, C. L., D. W. Salzer, and J. W. Willoughby. 1998. Measuring and monitoring plant populations. TR 1730-1. USDI Bureau of Land Management, Denver, Colorado. 477pp.
- Gerhardt, R. 2015. Summit Ridge 2015 supplemental rare plant survey. Prepared for LotusWorks, Vancouver, Washington. Prepared by Northwest Wildlife Consultants, Inc., Pendleton, Oregon.
- Gerhardt, R., R. Gritski, and B. Anderson. 2010a. Ecological baseline studies and impact assessment for the Summit Ridge Wind Power Project, Wasco County, Oregon, consolidated report. Prepared for LotusWorks, Vancouver, Washington. Prepared by Northwest Wildlife Consultants, Inc., Pendleton, Oregon.
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- Oregon Biodiversity Information Center (ORBIC). 2016. Threatened or endangered plant species list for the Deschutes Basin. <http://orbic.pdx.edu/plants>. Accessed April 27, 2016.
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- US Department of Agriculture (USDA). 2015. The PLANTS Database. National Plant Data Center, Baton Rouge, LA. <http://plants.usda.gov>. Accessed April 27, 2016.