BEFORE THE
ENERGY FACILITY SITING COUNCIL
OF THE STATE OF OREGON

In the Matter of Request for Amendment 1 of Wheatridge Renewable Energy Facility III Site Certificate	))))	DRAFT FINAL ORDER

April 30, 2026

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Attachment 2: Public Comments on Proposed Order
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Wheatridge Renewable Energy Facility III

Attachment A: Draft First Amended Site Certificate (red-line)

Wagon Trail Solar II

Attachment A: Draft Site Certificate (red-line)
Attachment B: Draft Habitat Mitigation Plan
Attachment C-1: Draft Construction Vegetation and Soil Management Plan
Attachment C-2: Draft Operation Vegetation and Soil Management Plan [*Place Holder*]
Attachment D: NEER Emergency Action Plan
Attachment E-1: Draft Construction Wildfire Mitigation Plan
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Attachment F: Decommissioning Cost Estimate and Assumptions

ABBREVIATIONS AND ACRONYMS

ADT	average daily trips
ASC	Application for Site Certificate
BESS	battery energy storage system
BLM	Bureau of Land Management
BMP	best management practice
BPA	Bonneville Power Administration
Certificate holder	Wheatridge Solar Energy Center, LLC
Council or EFSC	Energy Facility Siting Council
CTUIR	Confederated Tribes of the Umatilla Indian Reservation
CTWSRO	Confederated Tribes of Warm Springs Reservation of Oregon
CWPP	Community Wildfire Protection Plan
dBA	A-weighted decibels
Department	Oregon Department of Energy
DOGAMI	Department of Oregon Geology and Mineral Industries
DSL	Department of State Lands
EFU	Exclusive Farm Use
ESCP	Erosion and Sediment Control Plan
facility	Wheatridge Solar Energy Facility III
HMA	Habitat Mitigation Area
HMP	Habitat Mitigation Plan
kV	kilovolt
MCZO	Morrow County Zoning Ordinance
NEER	NextEra Energy Resources, LLC (Certificate Holder owner)
NPDES	National Pollutant Discharge & Elimination System
NRHP	National Register of Historic Places
NSR	noise-sensitive receptor
OAR	Oregon Administrative Rule
ODAg	Oregon Department of Agriculture
ODEQ	Oregon Department of Environmental Quality
ODSL	Oregon Department of State Lands
ODFW	Oregon Department of Fish and Wildlife
ODOE	Oregon Department of Energy
ORBIC	Oregon Biodiversity Information Center
ORS	Oregon Revised Statutes
pRFA	Preliminary Request for Amendment
PV	Photovoltaic
RFA1	Request for Amendment 1
RFPA	Rural Fire Protection Association
SAG	Special Advisory Group
SCADA	Supervisory, Control and Data Acquisition
SHPO	State Historic Preservation Office
SPCC	Spill Prevention Control and Countermeasure

ABBREVIATIONS AND ACRONYMS

T&E	Threatened and Endangered
THPO	Tribal Historic Preservation Office
WOS	Waters of the State
WMMP	Wildlife Monitoring and Mitigation Plan
WWEF	Wheatridge Wind Energy Facility
WREFI	Wheatridge Renewable Energy Facility I
WREFII	Wheatridge Renewable Energy Facility II
WREFIII	Wheatridge Renewable Energy Facility III
WREFE	Wheatridge Renewable Energy Facility East

I. INTRODUCTION

On February 27, 2026, Wheatridge Solar Energy Center, LLC, (certificate holder), filed Request for Amendment 1 of the Wheatridge Renewable Energy Facility III Site Certificate (RFA1).

As described below, the Wheatridge Renewable Energy Facility III (facility or WREFIII), includes an operational 50 megawatts (MW) solar power generation facility located on 357 acres, and up to an additional 100 MW of generating capacity, and related or supporting facilities that have yet to be constructed; located within a 1,935 acre site boundary in Morrow County, Oregon.

As described in Section I.D., *Requested Amendment*, RFA1 seeks Energy Facility Siting Council (EFSC or Council) authorization to split the existing operational facility and remaining approved, unbuilt facility components into two separate facilities; each with independent site boundaries and certificate holders under separate site certificates. The split would amend the current site certificate and create one new site certificate. RFA1 also includes a request to extend the construction deadline for the approved but not yet constructed portion of the facility and amend several conditions consistent with the site certificate split.

To issue an amended site certificate, the Council must find that, after considering any changes in facts or law since the date the current site certificate was executed, the facility complies with all laws and Council standards applicable to an original site certificate application.

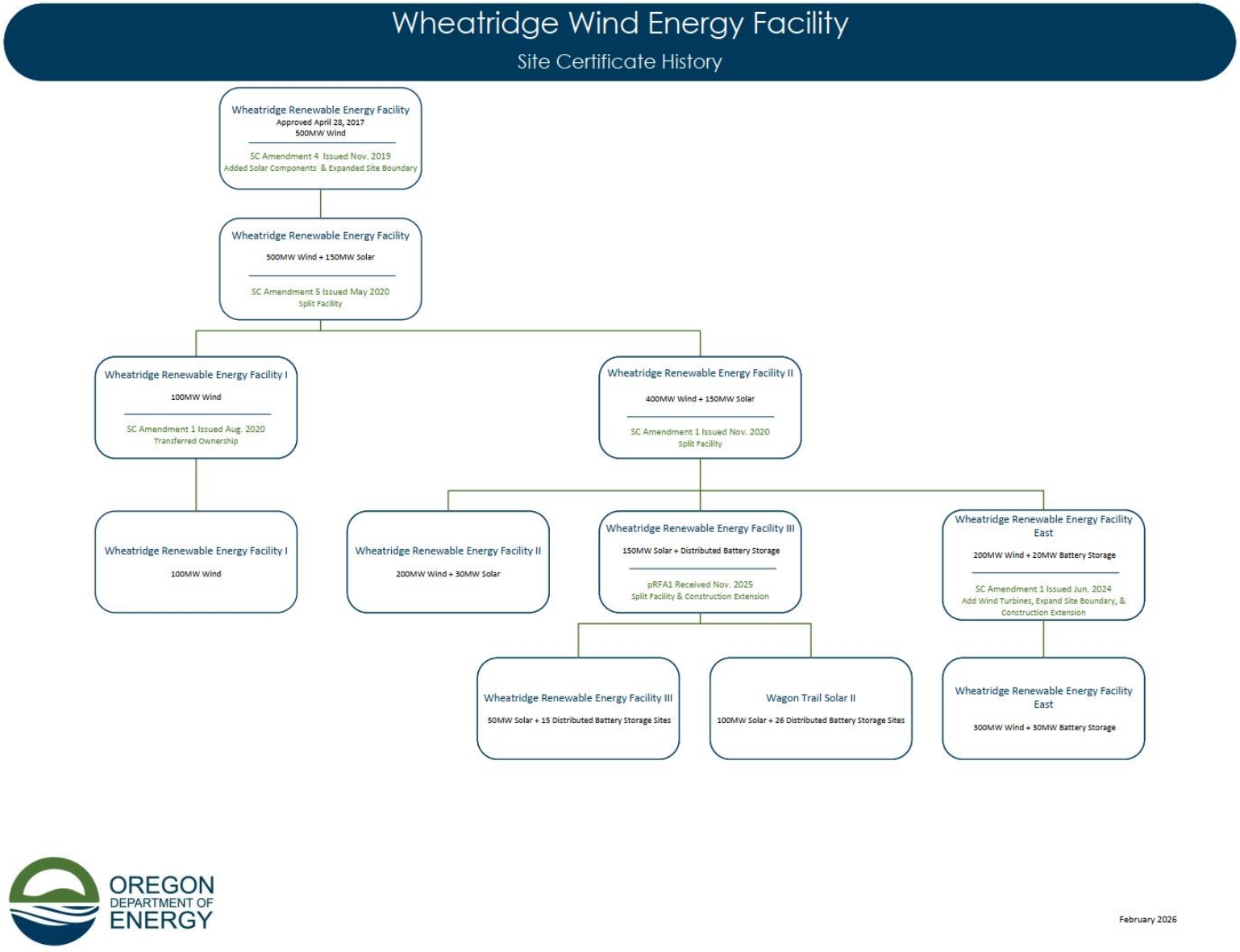
In accordance with OAR 345-027-03710365, the Oregon Department of Energy (Department), as staff to the Energy Facility Siting Council (EFSC or Council), issues tDraft FinaloProposed sed Order recommending approval of RFA1, subject to the existing and recommended new and amended site certificate conditions set forth in this Order. This Order, and the analysis and recommendations contained therein do not constitute a final determination by the Council.

I.A. SITE CERTIFICATE PROCEDURAL HISTORY

The site certificate was issued through the site certificate amendment process for Wheatridge Wind Energy Facility. The Wheatridge Wind Energy Facility Site Certificate was originally approved on May 24, 2017, with a requirement to commence construction within three years of the effective date of the site certificate (May 24, 2020). The construction completion deadline was six years after the effective date of the site certificate (May 24, 2023). Subsequent amendments [AMD2 (2018); AMD4 (2019); and AMD1 (2020)] of the site certificate established construction commencement and completion deadlines for the various energy facilities (ultimately Wheatridge Renewable Energy Facility II, Wheatridge Renewable Energy Facility III, Wheatridge Renewable Energy Facility East). The construction commencement and completion deadlines established for Wheatridge Renewable Energy Facility III were November 22, 2022 and November 22, 2025, respectively.

Figure 1 provides a diagram illustrating the site certificate history for all successor facilities to the Wheatridge Wind Energy Facility.

Figure 1: Wheatridge Wind Energy Facility Site Certificate History



I.B. APPROVED FACILITY DESCRIPTION

The approved facility includes up to 150 MWs of solar photovoltaic power generation components and related or supporting facilities within a 2,294 acre site boundary. These components are presented in Table 1 below, which represents the highest-impact design scenario for the facility. The split of the built and remaining unbuilt facility components into two facilities, each with its own site certificate, is described in Section I.D. *Requested Amendment*, of this order. The allocation of facility components between the two facilities is provided in Table 2.

Table 1: Facility Component Summary

Description	No. of Facility Components/Specification	Unit
Site Boundary/Micrositing Corridor[1]		
Site Boundary/Micrositing Corridor	2,294	acres
Solar Components		
PV Solar Modules		
Approx. total capacity	150	MW
Approx. total number	Modules	417,093
Posts		
Approx. total number	195,000	posts
Cabling		
Combiner Boxes	740	each
Inverter Step Up Transformer Units		
Approx. total number	41	each
Noise Level	79	dBA, each
Transformer oil-containing capacity	1,000	Gallons, each
Related or Supporting Facility Components		
34.5 kV Collection System		
Collector line length, belowground	20.8	miles
Collector line length, overhead (OH)	3.0 (two lines, 2.32 and 0.66 miles each)	miles
Wood Monopoles (max estimate for OH)	Not previously defined	
Battery Energy Storage System (Lithium-ion)		
Approx. total of distributed battery sites/containers on foundations with HVAC and fire suppression systems; SCADA	41	each
Site Size - Permanent Footprint	10	acres
Noise Level	85	dBA, each
Approx. container dimensions	10 X 12 X 36	H x W x L; feet
Facility Roads		

Table 1: Facility Component Summary

Length	13.8	miles
Width	16-20	feet
Acronyms: dBA = A-weighted decibels; HVAC = heating, ventilation and air conditioning; kV = kilovolt; OH = overhead; O&M = operations and maintenance; SCADA = supervisory, control and data acquisition		
Notes: 1. Site Boundary is synonymous with Micrositing Corridor, as previously approved/reviewed by the Council. The entire energy facility footprint is considered a permanent disturbance area for the purposes of evaluating impacts to resources.		

As described in Section I.D., *Requested Amendment*, and provided in Table 3 of this order, the certificate holder requests to split the approved facility site boundary and components into two facilities, each with their own site certificate and certificate holder, but includes some shared facility components.

I.B.1. Energy Facility

As approved, the facility is a solar photovoltaic power generation facility with up to 150 MW of electric generation capacity. 50 MWs of solar PV power generation is currently in operation. Additional details and description of the facility are provided below.[1]

Photovoltaic Modules

Solar photovoltaic (PV) modules, or solar panels, convert sunlight into DC electric power. The typical module contains crystalline silicon photovoltaic cells arranged within glass panels equipped with an anti-reflective coating, a metal frame, and wire connectors. Each solar module is approximately 6 feet by 3 feet.

Racking System

The PV modules are mounted onto a nonspecular, galvanized steel rack, constituting a tracking module. The tracking modules and arranged in strings of approximately 70 racked modules, approximately 5 feet off the ground, and on a single-axis tracker that would rotate 60 degrees to the east and west.

Posts

Each tracker is supported by steel posts; post depth varies depending on soil conditions, but the posts are typically placed 8 feet below the surface.

[1] ORS 469.300(11)(a)(D)(ii).

DC Cabling System

Strings of modules are connected by electrical collector lines and inverters that convert the direct current power generated by panels to alternating current power.

Combiner Boxes, Inverters, and Inverter Step Up (ISU) Transformers

The current produced by solar modules is in the form of direct current (DC). Within each module block, several DC electrical conduits (cables on the back of the modules) aggregate electricity produced from each of the modules into a combiner box. Approximately 18 combiner boxes are located throughout each module block for a total of approximately 740 combiner boxes. The photovoltaic modules are arranged into blocks, with each block connecting via collector lines to approximately 41 modular inverter enclosures. Inverters convert DC current into alternating current (AC) power to then be transmitted to the grid. The inverter AC output voltage (480 volts) is stepped up to a higher voltage (34.5 kilovolts [kV]) by approximately 41 pad-mounted transformers designed to integrate with the inverter.

Transformers placed near the inverters step up power to 34.5 kV for transmission to the Wheatridge West substation.

I.B.2. Related or Supported Facilities

Related or supporting facilities include a battery energy storage system, electrical collection system, and service roads, gates, and fencing. Additional related or supporting facilities are shared with Wheatridge Renewable Energy Facility I and Wheatridge Renewable Energy Facility II, as further described below in Section I.B.3.

Battery Energy Storage System

Solar PV power generation components include approximately 41 distributed sites of sites of lithium-ion batteries housed within concrete containers or similar containment throughout and within the solar array fencelines. Each container measures up to 12 feet wide, 36 feet long and 10 feet tall. Lithium-ion battery storage systems are modular systems. Each module contains multiple smaller battery cells, each measuring up to 3.2 by 7 centimeters. Modules are contained in anchored racks within the concrete containers; typically, each rack houses 12 battery modules along with a switchgear assembly. Cooling equipment is located either on top of the concrete containers or along the side.

34.5 kV Electrical Collection System

Electricity generated from the solar energy facility components are aggregated via underground 34.5 kV cables to an above- or belowground 34.5 kV collector line that interconnect to Wheatridge West collector substation. Underground AC electrical cables are buried to a

minimum of 3 feet. Overhead collector lines are supported by a wooden or steel monopole structure, with foundations extending 6 feet in depth and structure height of approximately 60 feet above ground. The collection system also includes two 34.5 kV collector line routes outside of the perimeter fenceline; one route extends approximately 2.32 miles from Solar Array 1 to Wheatridge West collector substation. The second collector line interconnects Solar Array 1 to Solar Array 2 and extends approximately 0.66 miles along Bombing Range Road.

Access and Service Roads, Security fencing, and Gates

Service roads, approximately 16-feet wide, located within and around the perimeter of the proposed solar arrays, and within the solar micrositing corridors, to facilitate access for construction and maintenance purposes. Vegetation is cleared and maintained along perimeter roads to provide a vegetation clearance area extending 100-feet wide for fire safety. Internal roads are all-weather, compacted gravel and approximately 20 feet wide, with an internal turning radius of 28 feet. Vegetation maintenance along solar array interior roads includes mowing to a height no more than 3 inches.

The perimeter service road is bordered by a 7 or 8-foot-high chain-link security fence. There is also a locked security entrance gates to allow vehicle and pedestrian access.

I.B.3. Shared Related or Supported Facilities

Previously approved facility components that are shared between Wheatridge Renewable Energy Facility II (WREFII) and the operating portions of Wheatridge Renewable Energy Facility III (WREFIII) include a collector substation, access roads, temporary laydown areas and the O&M building, all of which are reflected in both WREFII and WREFIII site certificates.

Sharing of facility components, or use by multiple facilities, is allowable in the EFSC process when the compliance obligation and applicable regulatory requirements for the shared facilities is adequately covered under both site certificates, including under normal operational circumstances, ceasing/termination of operation, emergencies and compliance issues or violations.

The certificate holder is authorized to share related or supporting facilities with the WREFI and WREFII facilities, including the Wheatridge West collector substation, temporary laydown areas, and access roads. These related or supporting facilities are also included in both WREFI and WREFII site certificates. Compliance with site certificate conditions and EFSC standards which apply to these shared related or supporting facilities are shared between certificate holders. In accordance with Organizational Expertise Condition 11 (GEN-OE-05), if either certificate holder substantially modifies a shared related or supporting facility or ceases facility operation, both certificate holders are obligated to submit an amendment determination request or request for amendment to the Department to determine the appropriate process for evaluating the change and ensuring full regulatory coverage under each site certificate, or remaining site certificate if

either is terminated, in the future. Additionally, each certificate holder is obligated to demonstrate to the Department that a "Common Facilities Agreement" or similarly legally binding agreement has been fully executed between certificate holders to ensure approval and agreement of access to the shared resources has been obtained prior to operation of shared facilities.

Additional details on shared facility components are described in Table 2, below, and in Section III.B., *Organizational Expertise*.

Table 2: Shared Related or Supporting Facility Components

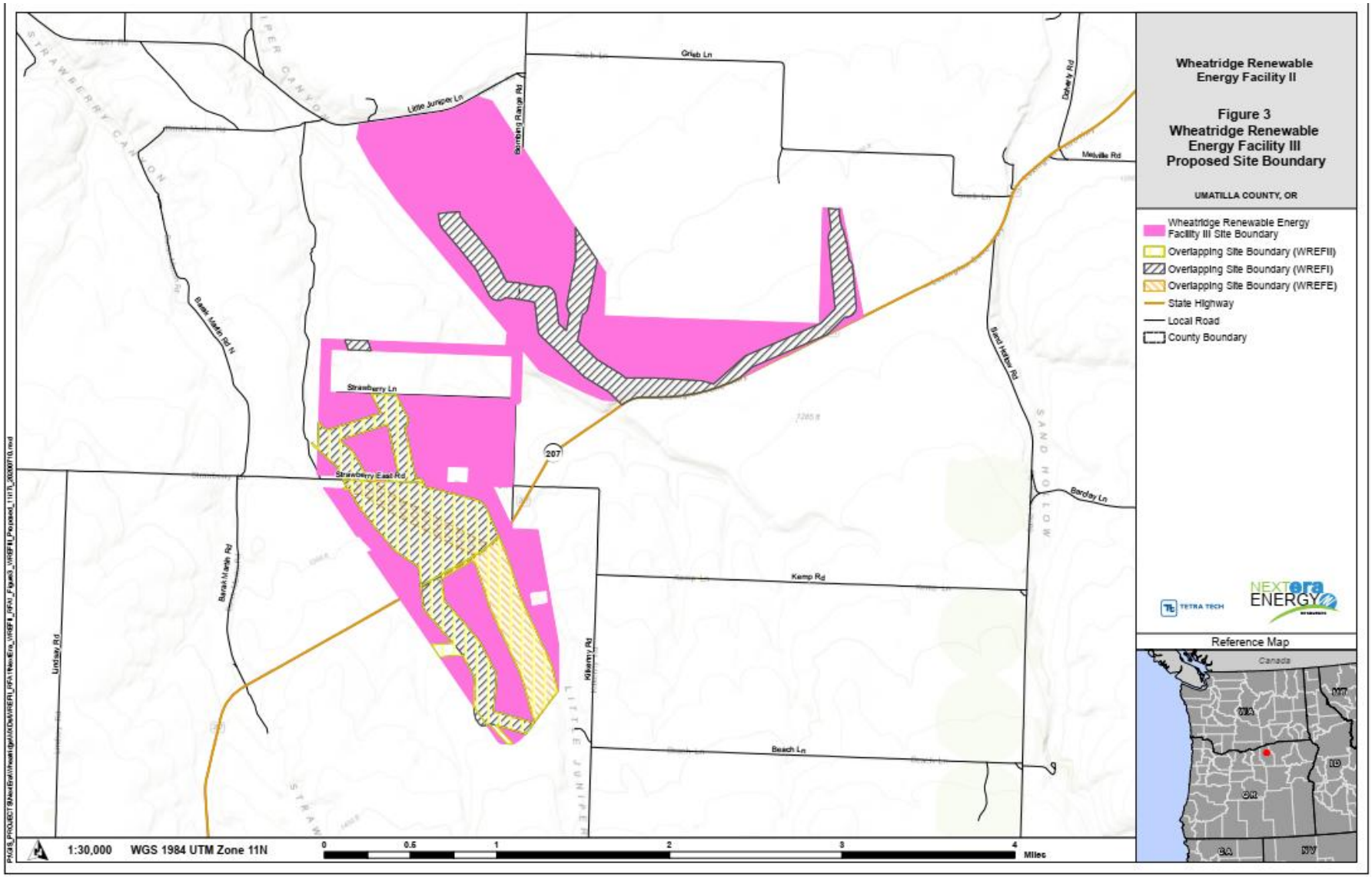
Description	No. of Facility Components/Specification	Unit
Collector Substations		
Substations w SCADA; Generator step-up transformers, each	One; shares with Wheatridge West (now WREFII)	each
O&M Building		
Quantity	Shares with Wheatridge West (now WREFII), not a related or supporting facility for WREFIII or WTSII	each
Temporary Construction Yards		
Quantity	Shares with Wheatridge West (now WREFII), not related or supporting facilities for WREFIII or WTSII	each

I.C. APPROVED SITE BOUNDARY AND MICROSITING CORRIDOR

The facility site includes 2,294 acres in Morrow County, approximately 5 miles northeast of Lexington and 7 miles northwest of Heppner and is sited on entirely privately owned land zoned for Exclusive Farm Use (EFU). The site boundary is presented in Figure 2 below and is approved as a micrositing corridor.[2]

[2] OAR 345-001-0010(21) defines micrositing corridor as, "a continuous area of land within which construction of facility components may occur, subject to site certificate conditions."

Figure 2: Approved WREFIII Site Boundary



I.D. REQUESTED AMENDMENT

RFA1 seeks Council authorization for the following changes to the site certificate:

1. Split the operational facility and remaining unbuilt portions of the approval facility into two separate facilities; each with its own site boundary and certificate holder under separate site certificates.
    - Wheatridge Renewable Energy Facility III would include the operational 50 MW solar facility located on 359 acres.
    - Wagon Trail Solar II would include a 100 MW solar facility located on 1,935 acres.
2. Extend the construction completion deadline for Wagon Trail Solar II (WTSII) by three years from November 22, 2025 to November 22, 2028.
3. Amend site certificate conditions to be consistent with the site certificate split.

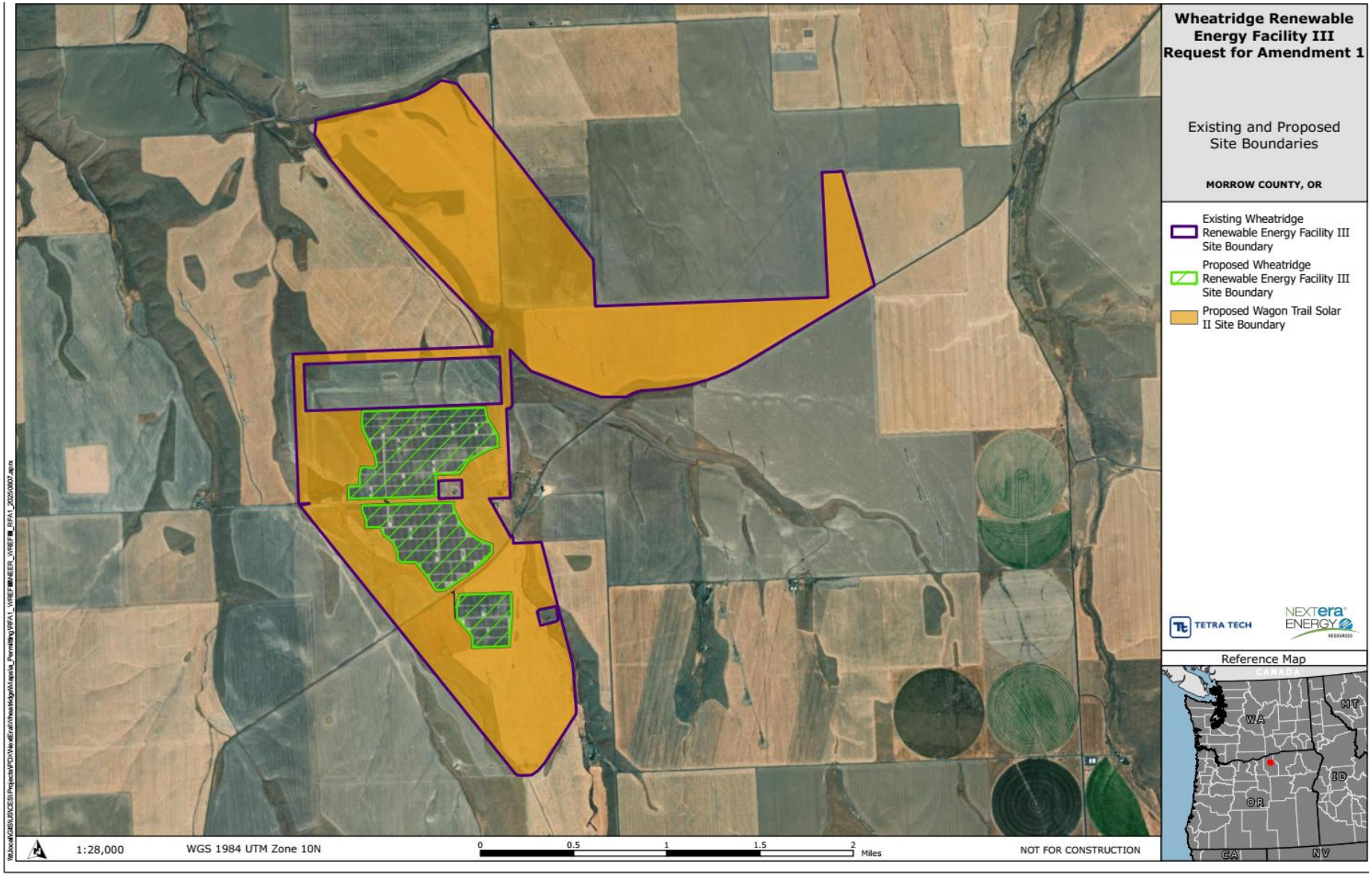
The certificate holder's proposed condition modifications and the Department's recommendations to Council are described in detail in the subsequent sections of this Order.

I.D.1. Proposed Site Boundary, Micrositing Corridor, and Facility Components

Figure 3, below, illustrates the location of the proposed amended site boundary for WREFIII (orange area) and proposed new site boundary for WTSII (green hatched area), both of which are within the previously approved site boundary.

As described in Section I.C *Approved Site Boundary and Micrositing Corridor*, the site boundary is equivalent to the micrositing corridor or micrositing area. A micrositing corridor or area provides siting flexibility because it represents an area that has been fully evaluated under Council standards for potential impacts.

Figure 3: RFA1 Proposed Site Boundary Split



1

Table 3, below, presents the proposed allocation of built to remaining unbuilt facility components for the amended WREFIII Site Certificate and proposed new WTSII Site Certificate. The totals in Table 3 below are represented within the amended and new site certificates, provided as Attachment A for each facility, and included in this order. [3]

Table 3: RFA1 Facility Component Split Summary

Component and Design Standard	Unit	Approved Facility	Operational WREFIII[1]	Proposed WTSII
Site Boundary/Micrositing Corridor[2]				
Site Boundary/Micrositing Corridor	acres	2,294	359	1,935
Solar Components				
PV Solar Modules				
Approx. total capacity	MW	150	50	100
Approx. total number	Modules	417,093	155,912	261,181
Posts				
Approx. total number	posts	195,000	1,839	10,684
Cabling				
Combiner Boxes	each	740	348	392
Inverter Step Up Transformer Units				
Approx. total number	each	41	15	26
Noise Level	dBA	79		
Transformer oil-containing capacity	gallons	1,000		
Related or Supporting Facility Components				
34.5 kV Collection System				
Collector line length, belowground	miles	20.8	13	7.8
Collector line length, overhead (OH)	miles	3.0 (two lines, 2.32 and 0.66 miles each)	0	3.0
Wood Monopoles (max estimate for OH)	each	Not previously defined	N/A	80 (max 200 foot spacing assumed, as previously defined/approved)
Battery Energy Storage System (Lithium-ion)				
Approx. total of distributed battery sites/containers on foundations	each	41	15	26

[3] The facility must be designed, constructed and operated substantially as described in the site certificate Mandatory Condition OAR 345-025-0006(3), see Condition GEN-GS-03.

Table 3: RFA1 Facility Component Split Summary

Component and Design Standard	Unit	Approved Facility	Operational WREFIII[1]	Proposed WTSII
with HVAC and fire suppression systems; SCADA				
Site Size - Permanent Footprint	acres	10	0.5	9.5
Noise Level	dBA	85		
Approx. container dimensions	H x W x L; feet	10 X 12 X 36		
Facility Roads				
Length	miles	13.8	3.2	8.7
Width	feet	16-20		
Acronyms: dBA = A-weighted decibels; HVAC = heating, ventilation and air conditioning; kV = kilovolt; OH = overhead; O&M = operations and maintenance; SCADA = supervisory, control and data acquisition				
Notes: 1. As constructed. 2. Site Boundary is synonymous with Micrositing Corridor/Area, as previously approved/reviewed by the Council. The entire facility footprint is considered a permanent disturbance area for the purposes of evaluating impacts to resources.				

II. COUNCIL REVIEW PROCESS FOR AMENDMENT PROCESS

A site certificate amendment is necessary under OAR 345-027-0350(3) because the certificate holder requests to extend the construction completion deadline. Additionally, OAR 345-027-0385 imposes specific requirements relating to a request for amendment to extend construction deadlines and OAR 345-027-0375 sets the scope of Council's review, as presented below.

II.A. SCOPE OF COUNCIL REVIEW: OAR 345-027-0375

(1) In making a decision to grant or deny issuance of an amended site certificate, the Council must apply the applicable laws and Council standards required under section (2) of this rule and in effect on the dates described in section (3) of this rule.

(2) To issue an amended site certificate, the Council must determine that the preponderance of evidence on the record supports the following conclusions:

(a) The facility as amended complies with all applicable laws and Council standards;

(b) For a request for amendment to extend the deadlines for beginning or completing construction, after considering any changes in facts or law relevant to the proposed amendment since the date the current site certificate was executed, the facility complies with all laws and Council standards applicable to an original site certificate application.

However, for requests to extend completion deadlines, the Council need not find compliance with an applicable law or Council standard if the Council finds that:

(A) The certificate holder has spent more than 50 percent of the budgeted costs on construction of the facility;

(B) The inability of the certificate holder to complete the construction of the facility by the deadline in effect before the amendment is the result of unforeseen circumstances that are outside the control of the certificate holder;

(C) The standard, if applied, would result in an unreasonable financial burden on the certificate holder; and

(D) The Council does not need to apply the standard to avoid a significant threat to the public health, safety or the environment;

*****

(3) In making findings under section (2) of this rule, the Council must apply the applicable laws and Council standards in effect on the following dates, regardless of when the site certificate was previously approved or amended:

(a) For the applicable substantive criteria under the Council's land use standard, as described in OAR 345-022-0030, the date the request for amendment was submitted; and

(b) For all other applicable laws and Council standards, the date the Council issues its final order on the request for amendment.[4]

OAR 345-027-0375(2)(b) provides that an amendment, which seeks a timeline extension, must be evaluated "after considering any changes in facts or law since the date the current site certificate was executed." The Council interprets OAR 345-027-0375(2)(b) as requiring the review of changes to the existing environment, baseline information and changes in law.

The request to extend the construction completion deadline does not apply to the operating facility to be governed by the amended WREFIII Site Certificate. Proposed changes to the operating facility are limited to an administrative split and update of the facility description. Therefore, changes in fact or law are not relevant and not evaluated for the portions of the operational facility to be covered under the amended WREFIII Site Certificate.

II.B. AMENDMENT PROCESS

[4] Permanent Administrative Order EFSC 5-2025, amend filed 10/24/2025, effective 10/24/2025.

II.B.1. Request for Amendment

On November 21, 2025, the certificate holder submitted preliminary Request for Amendment 1 (pRFA1). The Department reviewed pRFA1 to determine whether the request contained sufficient information for the Council to make findings.

On December 2, 2025, the Department issued Public Notice that pRFA1 had been received as required by OAR 345-027-0360(2).[5] On December 19, 2025, the Department notified the certificate holder that pRFA1 was incomplete and issued requests for additional information (RAIs) related to standards potentially impacted by the changes proposed in pRFA1. The Department requested the certificate holder submit the additional information on or before January 19, 2026. Subsequent RAI's were sent to the certificate holder on January 9, 2026.

On February 10, 11, 20, and 23, 2026, the certificate holder responded to the Department's RAIs. On February 25, 2026, the Department notified the certificate holder that pRFA1 was complete.[6] On February 27, 2026, the certificate holder filed a complete RFA1 under OAR 345-027-0363(6) that included all revisions to pRFA1, and all additional information requested by the Department. On February 27, 2026, the Department issued Public Notice of the Proposed Order and Complete Request for Amendment as required by OAR 345-027-0365 and -0367.

The Department received comments on pRFA1 from Morrow County Planning Department, representing the Special Advisory Group; Oregon Department of Fish and Wildlife (ODFW); and Oregon Department of Aviation (ODAv). Copies of all written reviewing agency comments on pRFA1 are included in Attachment B of this Order. Table 4, below, includes a summary of the agency comments and where in the order the comment is addressed, if applicable.

[5] WREFIIIAMD1Doc4 Public Notice of Receipt of pRFA1 2025-12-02

[6] A request for amendment is complete when the Department finds that the certificate holder has submitted information adequate for the Council to make findings or impose conditions on all applicable laws and Council standards. OAR 345-027-0363(5). The completeness letter issued by the Department identified that the proposed order would be issued on March 18, 2026. OAR 345-027-0365(1).

Table 4: Summary of Reviewing Agency Coordination and Comments on pRFA1

Comment Date	Name/Title	Agency	Summary and Location in Order
1-2-2026; 1-5-2026	Steve Cherry; Lindsay Somers	ODFW	Section III.H., Fish and Wildlife Habitat
1-29-2026	Tamra Mabbot	Morrow County	Section III. E., Land Use:
2-5-2026	Brandon Pike	ODAv	Section III.M., Public Services: Confirmation that filing 7460 notices with the FAA and ODAV for WTSII would not be required.

II.B.2. Proposed Order

The Department issued ~~A~~ a Public Notice of the complete RFA1, Proposed Order, and Public Hearing ~~was issued~~ concurrently with ~~this~~ the Proposed Order, and sent via mail or email to individuals identified in OAR 345-027-0367(4) on February 27, 2026.[7] The Public Notice of the Proposed Order ~~initiates~~ initiated a 35-day public comment period on RFA1 and the Proposed Order. The Council conducted a public hearing on the Proposed Order on March 19, 2026, at the SAGE Center in Boardman, Oregon. In addition to oral comments received during the public hearing, the Council also accepted written comments until the close of the public comment period on April 3, 2026.

The comment period includes a new public comment process, based on recently amended rules effective October 24, 2025. The new public comment process includes additional steps and deadlines, as presented in the table below~~.~~:

Table 5: Proposed Order Public Comment Process and Deadlines

Process Step	Explanation	Deadline[1]
Comment Period	Opportunity to provide comments with sufficient specificity.[2]	February 27 - April 3, 2026
Certificate holder/Department responses	Opportunity for certificate holder and Department to identify whether comments were raised with sufficient specificity, and to respond with	April 10, 2026

[7] (A) All persons on the Council's general mailing list as defined in OAR 345-011-0020;
(B) All persons on any special mailing list established for the facility;
(C) The reviewing agencies for the facility, as defined in OAR 345-001-0010(52); and
(D) The property owners on the list provided under OAR 345-027-0360.

Table 5: Proposed Order Public Comment Process and Deadlines

Process Step	Explanation	Deadline[1]
	explanation of deficiencies or additional information, evaluation and proposed conditions.	
Commenter Reply	Opportunity for commenter to supplement their initial comments or determine whether the issue is resolved by the certificate holder or Department's additional information, evaluation or proposed conditions.	April 17, 2026
Certificate holder/Department sur-replies	Final opportunity for certificate holder and Department to resolve issues raised, based on any clarification or supplemental information provided in commenter replies.	April 24, 2026

Notes:
1. If no comments are received by the April 3, 2026 deadline, the subsequent process steps and deadlines will not apply.
2. OAR 345-027-0367(7) explains that to provide comments with "sufficient specificity," comments should reference recommended findings of fact, conclusions of law or conditions of approval identified in the Proposed Order to which you object; identify the Council standard or other applicable state and local requirements on which your objection is based; and/or, present facts or statements supporting your objection.

At the close of the public comment period, the Department received comments from two reviewing agencies[8], the certificate holder[9], and one member of the public[10].

II.B.3. Draft Final Order

~~No later than 21 days after the deadline for sur-replies, or if no comments are received, no later than 21 days after the close of the record of the Proposed Order, the Department must issue a draft of the Final Order (draft Final Order).[11] The draft Final Order will include written analysis of any comments on the Proposed Order, including analysis of any responses, replies, and sur-replies, and indicate whether it recommends any changes to the Proposed Order.[12] If the Department recommends any changes, it will include them in a draft Final Order.~~

On April 30, 2026, the Department issued a draft Final Order. Attachment 2 to this draft Final Order includes the Public Comments received on the Proposed Order, and the Department's written evaluation of the public comments, including all responses, replies, and sur-replies. All recommended changes to the Proposed Order are described in the evaluation and shown in

[8] WREFIIIAMD1Doc12 Proposed Order Comments (ODSL) 2026-03-18; WREFIIIAMD1Doc14 Proposed Order Comments (ODFW) 2026-03-25
[9] WREFIIIAMD1Doc15 Proposed Order Comments (Certificate Holder) 2026-04-03
[10] WREFIIIAMD1Doc13 Proposed Order Comments (Tallman) [Written] 2026-03-19
~~[11] The Department may issue the draft of the final order at a later date, but the Department must post an update of the date by which it will issue the draft of the Final Order on the Department's webpage for the facility. OAR 345-027-0371(2).~~
~~[12] OAR 345-027-0371(1).~~

this draft Final Order in track changes. Of note, the Department has recommended the following changes based on the evaluation of public comments, responses, replies, and sur-replies:

- Recommended Amended Organizational Expertise Condition 6 (GEN-OE-02) (Section III.B. and Attachment A) revised to clarify the intent of the wildlife response and reporting system, and the area for which the response and reporting system apply.
- Draft Habitat Mitigation Plan (Attachment B of the Draft Final Order) revised to include additional details and description of the location, physical and operational characteristics, and duration of the facility. Additionally, as part of plan finalization, the draft plan includes a requirement to finalize a legal instrument to be reviewed and approved by ODOE, in consultation with ODFW. Lastly, a figure of the facility site has been added to the plan, and the monitoring, reporting, and evaluation of success criteria from Sections 6.2 through 6.4 have been consolidated into a single table (Table 6). Additional recommended changes to the draft HMP include the addition of a figure representing temporary and permanent impacts to habitat (Figure 2), and a monitoring report outline (Appendix A).
- Recommended Fish and Wildlife Condition 12 (OPR-FW-01) (Section III.H. and Attachment A) added to require implementation of the HMP during facility operations.
- The Draft Vegetative Management and Soil Management Plan (Attachment C) revised to include revisions to preconstruction and construction requirements for noxious weed surveys, monitoring and reporting.
- Recommended removal of Removal Fill Condition 1 (Section IV.B. and Attachment A) as a result DSL comments, and duplicative requirements imposed by Fish and Wildlife Habitat Condition 8 (PRE-FW-03).

Concurrent~~ly~~ with issuing the draft Final Order, the Department ~~will~~ issued a Notice of the draft Final Order which ~~will be~~was mailed or emailed to all persons, agencies, or organizations who commented during the public comment period.[13] The Department ~~will~~ also posted an announcement of the draft Final Order on the Department's webpage for the facility. ~~The Notice of the Draft Final Order will include the date of Council's review.~~

II.B.4. Final Order

At the meeting designated in the Notice of the draft Final Order, Council will review the draft Final Order including all related comments, responses, replies, sur-replies, and the Department's analysis, if applicable. During Council's review of the draft Final Order, the Department may summarize the analysis it conducted to produce the order.[14] During its review, Council, at its discretion, may pose questions to the Department, the Department of Justice, persons who commented on the Proposed Order, and/or the certificate holder.[15]

[13] OAR 345-027-0371(3).
[14] OAR 345-027-0371(5).
[15] OAR 345-027-0371(6).

After reviewing the written analysis of the comments, responses, replies, and sur-replies, along with the draft Final Order, the Council, based on the considerations described in OAR 345-027-0375[16] must either grant or deny issuance of an amended site certificate in a written Final Order. The Council's Final Order may adopt, modify or reject the Department's draft Final Order. If the Council grants issuance of an amended site certificate, the Council must then issue an amended site certificate, which is effective upon execution by the Council Chair and by the certificate holder.[17]

Judicial review of the Council's final order either granting or denying an amended site certificate is as provided in ORS 469.403(3).[18]

III. EVALUATION OF COUNCIL STANDARDS

As described in Section II.A., Scope of Council Review, all laws and Council standards applicable to an original site certificate application for a solar photovoltaic power generation facility, including all of the Council's general standards in OAR chapter 345, division 22 are applicable to the review of the site and facility components to be included in the proposed new WTSII Site Certificate.

Consistent with OAR 345-027-0360(1)(c)(C)(ii), for all standards that require evaluation of impacts within an analysis area, the analysis areas include the area within and extending from the proposed amended site boundary for the proposed new WTSII facility (see Section II.A. of this Order)

This Order includes the Council's Department's analysis of whether the certificate holder and facility, with proposed RFA1 changes, would continue to meet each applicable Council standard (with mitigation and subject to compliance with existing and recommended new and amended conditions, as applicable), based on the information in the record.

III.A. GENERAL STANDARD OF REVIEW: OAR 345-022-0000

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

(a) The facility complies with the requirements of the Oregon Energy Facility Siting statutes, ORS 469.300 to 469.570 and 469.590 to 469.619, and the standards adopted by the Council pursuant to 469.501 or the overall public benefits of the facility outweigh any adverse effects on a resource or interest

[16] See Section II.A., *Scope of Council Review*, in this Order.
[17] OAR 345-027-0371(7).
[18] OAR 345-027-0371(8).

protected by the applicable standards the facility does not meet as described in section (2);

(b) Except as provided in OAR 345-022-0030 for land use compliance and except for those statutes and rules for which the decision on compliance has been delegated by the federal government to a state agency other than the Council, the 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. If the Council finds that applicable Oregon statutes and rules, other than those involving federally delegated programs, would impose conflicting requirements, the Council shall resolve the conflict consistent with the public interest. In resolving the conflict, the Council cannot waive any applicable state statute.

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(4) In making determinations regarding compliance with statutes, rules and ordinances normally administered by other agencies or compliance with requirements of the Council statutes if other agencies have special expertise, the Department of Energy shall consult with such other agencies during the notice of intent, site certificate application and site certificate amendment processes. Nothing in these rules is intended to interfere with the state's implementation of programs delegated to it by the federal government. [19]

*****[20]

III.A.1. Findings of Fact

OAR 345-022-0000 provides the Council's General Standard of Review and requires the Council to find that a preponderance of evidence on the record supports the conclusion that the portion of the facility where the proposed construction completion deadline extension is requested (WTSII Facility), would continue to comply with the requirements of EFSC statutes, siting standards adopted by the Council, all other Oregon statutes and administrative rules applicable to the issuance of a new site certificate.

The requirements of OAR 345-022-0000 are discussed in the sections that follow. The Department consulted other state agencies as well as the Morrow County Planning Departments (reviewing on behalf of the Special Advisory Group –Morrow County Boards of County Commissioner) during its review of pRFA1 to aid in the evaluation of whether the proposed WTSII Facility, with proposed construction completion deadline extension, would continue to satisfy the requirements of applicable statutes, rules and ordinances otherwise administered by other agencies. Additionally, in many circumstances the Department relies

[19] OAR 345-022-0040, effective April 2, 2025.

[20] The information requirements included in the standard are omitted from the language above but evaluated within recommending findings of fact below.

upon these reviewing agencies' special expertise in evaluating compliance with the requirements of Council standards.

Mandatory Conditions in Site Certificates - OAR 345-025-0006

Approved during the April 17, 2026 EFSC meeting, Council's modernization rulemaking resulted in minor statutory corrections, updates, and rule changes including a change to Mandatory Condition 5 (OAR 345-025-006(5)) that clarified what a construction right is. As a result, the Department recommends Council amend existing Condition GEN-GS-04 to reflect the updated condition language, as presented below:

Recommended Amended Mandatory Condition 3 (GEN):

Except as necessary for the initial survey or as otherwise allowed for wind energy facilities, transmission lines or pipelines under this section, the certificate holder shall not begin construction, as defined in OAR 345-001-0010, or create a clearing on any part of the site until the certificate holder has construction rights on all parts of the site. For the purpose of this rule, "construction rights" means the legal right to engage in construction activities (i.e., the certificate holder has authority to construct in the area, e.g., in the form of a deed, lease or court-approved condemnation right). For ~~wind~~all energy facilities~~, transmission lines or pipelines, if~~regardless of whether the certificate holder ~~does not have~~has construction rights on all parts of the site, the certificate holder may nevertheless begin construction, as defined in OAR 345-001-0010, or create a clearing on a part of the site if the certificate holder has construction rights on that part of the site, is in compliance with the site certificate conditions applicable to that part of the site and:

a. The certificate holder would construct and operate part of the facility on that part of the site even if a change in the planned route of a transmission line or pipeline occurs during the certificate holder's negotiations to acquire construction rights on another part of the site; or
b. The certificate holder would construct and operate part of a wind energy facility on that part of the site even if other parts of the facility were modified by amendment of the site certificate or were not built.

[Final Order on ASC (2017), GEN-GS-04, AMD1 (2026)]
[Mandatory Condition OAR 345-025-0006(5)]

Construction Deadlines

RFA1 seeks to extend the construction completion deadline established in Condition GEN-GS-02 from November 22, 2025 to November 22, 2028, applicable to the portions of the unbuilt facility to be included in the new WTSII Site Certificate. This is the first request to extend the construction completion deadline since the original site certificate was issued for WREFIII through the Final Order on Request for Amendment 4 of the Wheatridge Wind Energy Facility Site Certificate.

OAR 345-027-0385(3) limits the duration of the extension that may be granted to no more than three years from the deadline in effect. Consistent with this provision, the ~~Department recommends~~ Council extends the construction completion deadline by three years, as presented below:

> **Recommended Amended General Standard Condition 2 Condition GEN-GS-02 (GEN):** The certificate holder shall complete construction of ~~solar~~the facility ~~components and its related or supporting facilities, as approved in the Fourth Amended Site Certificate,~~ by November 22, 2028~~5~~. On or before November 22, 2028~~5~~, the certificate holder shall promptly notify the Department of the date of completion of construction.
> [Final Order on ASC (2017), ~~General Standard Condition 2~~GEN-OE-02 (2018); AMD2 (2018); AMD4 (2019); AMD1 (2020); AMD1 (2026)]
> [Mandatory Condition OAR 345-025-0006(4)]

Existing Condition GEN-GS-01 establishes the construction commencement deadline as November 22, 2022. This commencement deadline was satisfied in April 2021 with the construction of 50 MWs of solar PV power generating components (i.e., the facility components to be included in the amended WREFIII Site Certificate), which represents a portion or phase of the approved facility. The WREFIII Site Certificate authorizes the facility to be constructed in phases and is reflected through site certificate conditions (e.g., Condition PRE-LU-03, PRE-FW-02, PRE-FW-04) and in the Final Order on Request for Amendment 4 of the Wheatridge Wind Energy Facility Site Certificate, but was not abundantly clear in the language of Condition GEN-GS-01.[21] To avoid compliance confusion related to the construction commencement deadline for the remaining unbuilt portions of WREFIII (to be included in the new WTSII Site Certificate), ~~the Department recommends~~ Council administratively amends Condition GEN-GS-01 to reflect the previously authorized phasing of construction, as presented below:

> **Recommended Amended Condition General Standard Condition 1 (GEN)GEN-GS-01:** The certificate holder shall begin construction of the facility, facility component or phase, as applicable ~~solar facility components and its related or supporting facilities, as approved in the Fourth Amended Site Certificate,~~ by November 22, 2022. On or before November 22, 2022, the certificate holder shall provide written notification to the Department that it has met the construction commencement deadline. Construction is defined in OAR 345-001-0010.
> [Final Order on ASC (2017), ~~General Standard Condition 1~~GEN-GS-01; AMD2 (2018); AMD4 (2019); AMD1 (2020); AMD1 (2026)]
> [Mandatory Condition OAR 345-025-0006(4)]

The proposed amended and new site certificates will be procedurally and substantively connected such that the status of satisfying the construction commencement deadline with the April 2021 commencement of 50 MWs of the facility remains the same – previously satisfied

[21] WRWAMD4 Final Order on Request for Amendment 4 2019-11-22, p.16, lines 7-10.

and continues to be satisfied for the proposed amended and new site certificates, ~~if~~ once Council approves RFA1.

III.A.2. Conclusions of Law

Based on the foregoing analysis, recommended findings of fact, conclusions of law, and subject to compliance with existing and recommended new and amended site certificate conditions described above, and in sections III through IV, ~~the Department recommends the~~ Council finds that the facility, with proposed RFA1 changes, complies with all laws and Council standards applicable to an original site certificate application, and would continue to comply with the Council's General Standard of Review.

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

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

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

(4) If the applicant relies on a permit or approval issued to a third party and the third party does not have the necessary permit or approval at the time the Council issues the site certificate, the Council may issue the site certificate subject to the condition that the certificate holder shall not commence construction or operation as appropriate until the third party has obtained the necessary permit or approval and the applicant has a contract or other arrangement for access to the resource or service secured by that permit or approval.[22]

*****[23]

III.B.1. Findings of Fact

Subsections (1) and (2) of the Council's Organizational Expertise standard require that the proposed new certificate holder demonstrate its ability to design, construct operate and retire portions of the unbuilt facility (WTSII) in compliance with Council standards and all site certificate conditions, and in a manner that protects public health and safety, as well as its ability to restore the site to a useful, non-hazardous condition. In determining compliance with the Council's Organizational Expertise standard, Council may consider the proposed certificate holders' experience and past performance in constructing, operating and retiring other facilities.

Relevant Experience and Access to Technical Expertise

The current certificate holder of the WREFIII facility is Wheatridge Solar Energy Center, LLC, which is not proposed to change. RFA1 proposes a new certificate holder, Wagon Trail Energy Center, LLC for the proposed WTSII facility. Wagon Trail Energy Center, LLC is a project-specific LLC wholly owned by NextEra Energy Resources, LLC (NEER, new certificate holder owner), and relies upon the organizational expertise and experience of its parent company to meet the standard. NEER is the same parent company of the existing certificate holder. NEER will retain ownership of and support the organizational expertise of both the existing and new certificate holders, and respective Site Certificates.[24]

NEER is a regionally diversified company with approximately 5,100 employees dedicated to the production of approximately 34,000 MW, from 189 facilities in 41 states and four Canadian provinces. With more than 10,000 wind turbines in its fleet, NEER's wind generation capacity totals more than 19,000 MW. NEER is also capable of generating more than 1,800 MW of electricity from natural gas facilities, operates three nuclear power plants with a capacity of more than 1,200 MW, and operates more than 8,000 MW of solar energy. Within Oregon, NEER

[22] OAR 345-022-0040, effective April 2, 2025.

[23] The information requirements included in the standard are omitted from the language above but evaluated within recommending findings of fact below.

[24] WREFIIIRFA1 Request for Amendment 1 2026-02-27; Section 6.1.2, p. 24

subsidiaries own and operate Stateline 1 and 2 wind energy facilities; the Vansycle II Wind Energy Facility; and Wheatridge Renewable Energy Facility II, III, and East.

The Vice President of NEER affirmed that, "Wagon Trail Energy Center, LLC, will have access to sufficient resources and expertise to construct, own, operate, and maintain the Facility, which resources and expertise may be obtained as services provided by NextEra Energy Resources, LLC."[25]

Compliance with Council Standards and Site Certificate Conditions

NEER's Oregon subsidiaries (certificate holders) have received two recorded citations within the last three years.[26] Specifically, in 2023, Vansycle II, LLC received an Oregon Department of Environmental Quality (ODEQ) Pre-Enforcement Notice 2023-PEN-7580 for erosion and sediment control issues at the Vansycle II Wind Repower Project. Corrective actions were undertaken site wide, and as of June 2024, resolution to the non-compliance issue was confirmed by the Department.

In 2025, Wheatridge Solar Energy Center, LLC received an ODEQ Pre-Enforcement Notice 2025-PEN-9727 associated with erosion and sediment control issues at the WREFIII Facility.[27] To return the site to a compliant state, the certificate holder is implementing corrective actions and best management practices. Controls have been installed including compacting berms and maintaining berm height, consistent with the approved ESCP and the 1200-C BMP manual. Corrective actions including implementation of an updated Erosion and Sediment Control Plan; a Site-Specific Stabilization Plan incorporating perimeter and source control measures, soil stabilization, seeding, weed control, and monitoring; and commitment to additional site specific measures are currently being applied at the facility.

Given the above compliance history and the new certificate holder's reliance on the parent company, ~~the Department recommends that~~ the Council supplements site certificate conditions to authorize the Department and Council to adjust the facility decommissioning estimate and the associated amount of financial assurance the certificate holder must provide, should non-compliance and operability issues lead to a circumstance where the certificate holder is unable to fulfil its obligation to decommission the facility based on a Council approved retirement plan and set of EFSC site certificate conditions.

The process of designing, constructing and operating a facility in compliance with an EFSC issued Site Certificate is costly. Resolving compliance issues is costly. Decommissioning the

[25] WREFIIIRFA1 Request for Amendment 1 2026-02-27, RAI Responses Attachment D.
[26] WREFIIIRFA1 Request for Amendment 1 2026-02-27; Section 6.1.2.6, p. 26
[27] WREFIIIRFA1 Request for Amendment 1 2026-02-27; Section 6.1.2.6, p. 27

WTIIS facility and restoring the site to a useful, nonhazardous condition is estimated at approximately $9.5 million.

To protect the State from risk that $9.5 million is no longer adequate to decommission the facility and restore the site due to failure to comply and or operate the facility in a manner that protects public health and safety, ~~the Department recommends~~ Council amends Organizational Expertise Condition 6 (GEN-OE-02), as presented below:[28]

Recommended Amended Organizational Expertise Condition 6 (GEN): ~~In addition to the requirements of OAR 345-026-0170, within 72 hours after discovery of incidents or circumstances that violate the terms or conditions of the site certificate, the certificate holder must report the conditions or circumstances to the Department.~~

The certificate holder shall, as soon as reasonably possible:

a. Report incidents of ~~incidental~~ wildlife ~~observations~~injury or fatality discovered within the facility perimeter fenceline.

b. Report incidents or circumstances that may violate the terms or conditions of the site certificate to the Department. In the report to the Department, the certificate holder shall provide all pertinent facts including an estimate of how long the conditions or circumstances existed, how long they are expected to continue before they can be corrected, and whether the conditions or circumstances were discovered as a result of a regularly scheduled compliance audit;

c. Initiate and complete appropriate action to correct the conditions or circumstances and to minimize the possibility of recurrence;

d. Submit a written report within 30 days of discovery to the Department. The report must contain:

   i. A discussion of the cause of the reported conditions or circumstances;

   ii. The date of discovery of the conditions or circumstances by the responsible party;

   iii. A description of immediate actions taken to correct the reported conditions or circumstances;

   iv. A description of actions taken or planned to minimize the possibility of recurrence; and

   v. For conditions or circumstances that may violate the terms or conditions of a site certificate, an assessment of the impact on the resources considered under the standards of OAR Chapter 345 Divisions 22 and 24 as a result of the reported conditions or circumstances.

e. Upon receipt of the written report in sub(c) of this condition, the Department may review the facility record for incidents or circumstances reported or reportable

[28] As described in Section III.H. Fish and Wildlife Habitat of this Order, ~~the Department recommends~~ Council removed previously imposed Fish and Wildlife Habitat Condition 4 (PRE-FW-02) requiring the certificate holder finalize and implement a Wildlife Monitoring and Mitigation Plan (WMMP) based on lack of necessity. But, ~~recommends that the~~maintains the existing requirement of the certificate holder to report incidental wildlife observations within the perimeter fenceline to the Department ~~be maintained~~. That requirement has been incorporated into the above condition in sub(a).

under sub(a) related to public health and safety, the environment, or other resources protected under Council standards. If these incidences are determined by the Department to impact the adequacy of the facility decommissioning cost, the Department or Council may adjust the contingencies identified in Final Order on RFA1 Table 8 and request that the certificate holder promptly provide an updated bond or letter of credit in the adjusted amount.
[OAR 345-029-0010, GEN-OE-02; ~~RFA1~~ AMD1 (2026)]

As presented in Section III.G., *Retirement and Financial Assurance*, the Department recommends Council also amend Retirement and Financial Assurance Condition 4 to provide the Department and Council authority to adjust the contingencies applied to the retirement estimate, consistent with amended Organizational Expertise Condition 5(d) above.

Shared Facility components

As discussed in Section I.B.3. *Shared Related or Supporting Facilities*, Section I.D. *Requested Amendment*, and in Section III.G. *Retirement and Financial Assurance*, the previously approved facility components are proposed to be allocated within the site boundaries and site certificates of WREFIII and WTSII. All infrastructure and facility components of the WREFIII and WTSII facilities are shown in Table 2, and in each of the attached draft amended and new site certificates, consistent with the allotment of components associated for each facility for the respective facility decommissioning cost estimates.

Organizational Expertise Condition 11 (GEN-OE-05) allows the shared use of operational facility components between the certificate holders of the WREFII and WREFIII facilities. As proposed in RFA1, the certificate holder requests Council amend condition GEN-OE-05 to authorize the sharing of operational related or supporting facility components including the WREFIII collector substation, O&M building, access roads, and temporary staging areas, between the WREFI, WREFII, WREFIII and WTSII facilities, as governed by each facility's respective site certificate.

To support splitting the approved site certificate into two site certificates, the ~~Department recommends~~ Council includes these representations in Condition GEN-OE-05, as presented below:

Recommended Amended Organizational Expertise Condition 11 (GEN): The certificate holder is authorized to operationally share related or supporting facilities including the WREFII~~Wheatridge West~~ collector substation, O&M building, access roads, temporary staging areas, all of which are governed under the~~both~~ WREFI, ~~and~~ WREFII, WREFIII or WTSII site certificates.

a. Within 30 days of use by both certificate holders of the shared facilities, the certificate holder must provide evidence to the Department that the certificate holders of the shared facilities have an executed agreement for shared use of any constructed shared facilities. The Shared Use Agreements must allow operation and maintenance personnel and contractors access to the shared

facilities of WREFI, WREFII, WREFIII or WTSII.

~~b. If WREFI, WREFII propose to substantially modify any of the shared facilities listed in sub(a) of this condition, each certificate holder shall submit an amendment determination request or request for site certificate amendment to obtain a determination from the Department on whether a site certificate amendment is required or to process an amendment for both site certificates in order to accurately account for any significant change in the decommissioning amount required under Retirement and Financial Assurance Condition 5.~~

c. ~~Prior to facility decommissioning or if facility operations cease, each certificate holder shall submit an amendment determination request or request for site certificate amendment to document continued ownership and full responsibility, including coverage of full decommissioning amount of the shared facilities in the bond or letter of credit pursuant to Retirement and Financial Assurance Condition 5, for the operational facility, if facilities are decommissioned at different times.~~

[GEN-OE-05, Final Order on AMD5 (2020), AMD1 (2020); AMD1 (2026)]

RFA1 also proposed to remove (b) and (c) of the above condition, which requires that changes or decommissioning of shared facilities be evaluated by each certificate holder through the Council's Amendment Determination Request process. The ~~Department recommends~~ Council ~~agree to~~ removes sub(b) and (c) of the condition because while the facility components may be shared, the compliance and decommissioning obligations are not shared – these responsibilities have been allocated within individual site certificates. Therefore, there is no need to have each certificate holder evaluate changes in shared facilities.

III.B.2. Conclusions of Law

Based on the foregoing findings of fact, and subject to compliance with the existing and recommended amended conditions presented above, the ~~Department recommends that the~~ Council finds that the existing and proposed certificate holders would continue to satisfy the requirements of the Council's Organizational Expertise standard.

III.C. STRUCTURAL STANDARD: OAR 345-022-0020

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

(a) The applicant, through appropriate site-specific study, has adequately characterized the seismic hazard risk of the site; and

(b) The applicant can design, engineer, and construct the facility to avoid dangers to human safety and the environment presented by seismic hazards affecting the site, as identified in subsection (1)(a);

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

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

(2) The Council may not impose the Structural Standard in section (1) to approve or deny an application for an energy facility that would produce power from wind, solar or geothermal energy. However, the Council may, to the extent it determines appropriate, apply the requirements of section (1) to impose conditions on a site certificate issued for such a facility.

(3) The Council may not impose the Structural Standard in section (1) to deny an application for a special criteria facility under OAR 345-015-0310. However, the Council may, to the extent it determines appropriate, apply the requirements of section (1) to impose conditions on a site certificate issued for such a facility. [29]

***** [30]

III.C.1. Findings of Fact

The analysis area for the review of seismic and geologic hazards evaluated under the Council's Structural Standard, is the area within the proposed WTSII site boundary.[31] To inform the evaluation of seismicity within the site, the certificate holder also assessed earthquakes within 50-miles of the site boundary, and faults outside of the site boundary.

For amendments requesting to extend construction deadlines, the Department and Council evaluate whether there have been "changes in fact or law" since the site certificate was issued to determine whether, based on changes in fact or law, the facility would continue to satisfy requirements of the standard.

In October 2020, a Site-Specific Geotechnical Investigation was completed at the site by Barr Engineering Co., and authorized by registered professional engineer, Joel E. Bahma (PE: 75488).

Based on the Site-Specific Geotechnical Investigation, the site is located in a moderately active seismic region. Seismic and Nonseismic Hazards at the site include the potential for moderate

[29] OAR 345-022-0040, effective April 2, 2025.

[30] The information requirements included in the standard are omitted from the language above but evaluated within recommending findings of fact below.

[31] OAR 345-001-0010(35)(c)(C)(ii).

to strong shaking, and a limited risk of potential soil collapse due to its composition. Geotechnical borings identified both Loess and the Alkali Canyon Formation at all boring locations. Borings indicated that the Loess at the site was silt and silty sand, and after standard penetration tests (SPT) was found to generally range from 7 to 10 blows per foot (bpf), indicating a loose to medium dense relative density. The Alkali Canyon Formation consisted of cemented, poorly-graded, basaltic gravels and interbedded tuffaceous sand and silt. The SPT values conducted in the Alkali Canyon Formation typically exceeded 30 bpf with many results greater than 50 blows for 6 inches of penetration. These results indicate that the soils have a dense to very dense relative density.

The Department consulted with DOGAMI in February 2026, where DOGAMI confirmed that the October 2020 Geotechnical Investigation provides geotechnical analyses and recommendations that can be applied to both the WREFIII facility and WTSII facility.

Council previously imposed Structural Standard Condition 1 (PRE-SS-01), Structural Standard Condition 3 (PRE-SS-02), Structural Standard Condition 4 (PRE-SS-03), and Structural Standard Condition 5 (PRE-SS-04). Structural Standard Conditions 1 - 4 (PRE-SS-01 - 04) require that, prior to construction, the certificate holder obtain approval of a geotechnical investigation protocol from the Department; conduct the site-specific geotechnical investigation based on the protocol; and submit the final report to the Department.

Structural Standard Condition 2 (GEN-SS-01) establishes general parameters for the certificate holder to design, engineer, and construct the facility in accordance with the current versions of the latest International Building Code, Oregon Structural Specialty Code, and building codes as adopted by the State of Oregon at the time of construction. The certificate holder represents that "all previously imposed Structural Standard] conditions or portions of the conditions are applicable to one or both facilities as proposed."[32]

The ~~Department recommends that the~~ Council finds that compliance with the aforementioned Structural Standard conditions 1 through 5 (GEN-SS-01, PRE-SS-01 through PRE-SS-04), and compliance with General Standard conditions GEN-GS-08, GEN-GS-09, and GEN-GS-10, will ensure seismic and geologic hazards at the WTIIS site are adequately characterized and that the facility is designed, engineered and constructed to avoid dangers to human safety and the environment presented by those hazards. Additionally, the ~~Department recommends~~ Council imposes Soil Protection Conditions 11 and 12, further discussed in Section III.D *Soil Protection* of this order, which require~~s~~ that the certificate holder conduct all construction activities in compliance with best management practices as provided in the ~~Comprehensive Rev~~Vegetation and Soil Management Plan required under Condition PRE-SP-05.

III.C.2. Conclusions of Law

[32] WREFIIIAMD1 RFA1 2026-02-27, Section 6.1.3., p. 31

Based on the foregoing recommended finding of fact, and in compliance with OAR 345-022-0220(2), the ~~Department recommends~~ Council continues to apply previously imposed conditions in the site certificate to address the Structural Standard.

III.D. SOIL PROTECTION: OAR 345-022-0022

> *To issue a site certificate, the Council must find that the design, construction and operation of the facility, taking into account mitigation, are not likely to result in a significant adverse impact to soils including, but not limited to, erosion and chemical factors such as salt deposition from cooling towers, land application of liquid effluent, and chemical spills.* [33]
> *****[34]

III.D.1. Findings of Fact

The analysis area for the Soil Protection standard is the area within the proposed WTSII site boundary.[35] Soils and their characteristics, within the analysis area, were identified based on data from the 2025 NRCS USDA Web Soil Survey database and map viewer.[36]

Table 6, below presents the major soil types within the analysis area, where the main soil types within the WTSII site boundary are Willis silt loam and Ritzville silt loam.[37] Willis silt loam makes up 54 percent of the WTSII site boundary, has a moderately high runoff potential, and severe hazard for erosion.[38] Ritzville silt loam makes up 19 percent of the WTSII site boundary, has a low runoff potential, and a low hazard for erosion.[39] RFA1 states that these soils have a K factor (erosion factor that indicates the susceptibility of a soil to sheet and rill erosion by water) that ranges from 0.15 to 0.55, which could be considered moderate to highly erodible, and subject

[33] OAR 345-022-0040, effective April 2, 2025.

[34] The information requirements included in the standard are omitted from the language above but evaluated within recommending findings of fact below.

[35] The existing site boundary includes 2,294 acres. RFA1 proposes to amend the site boundary, resulting in two separate site boundaries for the operational Wheatridge Renewable Energy Facility III (359 acres), and the not yet constructed Wagon Trail Solar II facility (1,935 acres). While the site boundary is proposed to be amended, there are no underlying changes to the site/area included within the site boundaries for the facilities to be governed by the amended and new site certificates.

[36] WREFIIIRFA1 Request for Amendment 1 2026-02-27, Section 11.

[37] As described in Section II.A Scope of Council Review, under OAR 345-027-0375(2)(a), to issue an amended site certificate, the Council must determine that the preponderance of evidence on the record supports that facility, as amended complies with all applicable laws and Council standards, where Council must apply the *applicable* laws and Council standards in effect on the date the Council issues its final order on the request for amendment. [Emphasis added] The WREFIII facility is not being amended other than to reduce its site boundary and limit its development to the current operations.

[38] WRWAMD4Doc15-11 RFA4 Complete RFA4 Exhibit I. Soil Conditions Final 2019-07-01, Table I-1. General Description of Mapped Soil Units in Analysis Area.

[39] *Id*.

to sheet erosion and rill erosion by water.[40] Figure 4, below, illustrates the location of the soil categories within the amended site boundaries and shows Willis silt loam which has severe hazard for erosion in light link and grey.

Table 6: Soil Types in Analysis Area

Soil Unit	Percent Slope	Percent of Proposed Wagon Trail Solar II Site Boundary
Willis silt loam	2 to 5 percent	54
Ritzville silt loam	2 to 7 percent	19
Gravden very gravelly loam	20 to 40 percent	8
Ritzville silt loam	0 to 2 percent	7
Lickskillet very stony loam	7 to 40 percent	3
Ritzville silt loam	7 to 12 percent	3
Xeric Torriorthents	Nearly level	3
Ritzville silt loam	20 to 40 percent south slopes	2
Willis silt loam	5 to 12 percent	1
Warden silt loam	2 to 5 percent	0.4
	Total	100

[40] The K factor, or soil erodibility factor, is a quantitative measure of the susceptibility of soil particles to detachment and transport by rainfall and runoff. It reflects the inherent erodibility of a particular soil and is a measure of the rate of erosion per unit erosion index from a standard plot. The K factor ranges from 0.02 to 0.69 and is influenced by factors such as texture, mineralogy, organic matter, structure, permeability, and depth to a limiting layer. Source: https://biologyinsights.com/how-to-determine-k-factor-methods-and-examples/

Figure 4: Soil Classification in Analysis Area



1

~~Wagon Trail Solar II~~ Construction

WTSII construction activities include clearing and grubbing vegetation and conducting earthwork such as grading, excavating, and filling. These construction activities disturb soils and increase the potential for erosion. Operation of heavy machinery and equipment compacts soils, which can reduce water infiltration and impede plant growth and revegetation. Vehicle and equipment fueling and maintenance activities, as well as the use and storage of small quantities of fuel and other chemicals, increase the risk of spills and soil contamination.

While impacts within the perimeter fenceline (the 1,935 acre site boundary) are treated as a permanent impact under the Fish and Wildlife Habitat standard, and mitigated in the HMP, onsite vegetation and soils are not actually permanently impacted except in areas where permanent infrastructure is located. For instance, the area under the solar panels and along roads are not considered a permanent impact from the perspective of soil restoration, weed management and revegetation to aid with soil reclamation and weed management.

To reduce the potential for soil erosion during Wagon Trail Solar II construction, the certificate holder would obtain and comply with an Erosion and Sediment Control Plan (ESCP), part of the National Pollutant Discharge Elimination System (NPDES) 1200-C construction permit. An ESCP includes procedures and BMPs necessary to meet local erosion and sediment control requirements or stormwater management requirements, such as:

- The preservation of existing vegetation and/or root systems, to the extent practicable.
- The installation of silt fencing throughout the construction area as a perimeter control, material stockpile perimeter control, and on the contour downgradient of excavations.
- The use of straw wattles to decrease the velocity of sheet flow stormwater to prevent erosion along the downgradient edge of access roads adjacent to slopes or sensitive areas.
- The use of mulch, stabilization matting, soil binders, and tackifiers to stabilize areas of soil disturbance quickly and during reseeding.
- Scheduling construction activities to minimize erosion and compaction of soils.
- Measures to stockpile and protect topsoil removed from areas where grading or excavation is required for use in site reclamation and restoration.

Council previously imposed Soil Protection Condition 1 (CON-SP-01) requiring the certificate holder to conduct all work during construction in compliance with the NPDES 1200-C construction permit and ESCP; to minimize impacts from erosion to waters of the state during construction. Under the 1200-C permit, an ESCP can be revised throughout construction to address numerous changes. However, the language of Soil Protection Condition 1 (CON-SP-01) could be interpreted to limit the ESCP to one version – a singular version finalized prior to construction. The existing condition also does not provide the Department the authority to require that changes be implemented in an ESCP. Therefore, the ~~Department recommends~~ Council impose<u>s</u> Soil Protection Condition 9 provided below, to authorize the Department to

require revisions to the ESCP if determined necessary by the certificate holder, certificate holder's contractor(s) or the Department. Because Council relies on the ESCP to ensure that erosion impacts are minimized, the ~~Department recommends~~ Council deletes/removes CON-SP-01 (Soil Protection Condition 1) and replaces it with Soil Protection Conditions 8 and 9 (PRE-SP-04 and GEN-SP-01 respectively) as presented below:[41]

> **Recommended Soil Protection Condition 8 (PRE)**: Prior to construction of the facility, facility component or phase, as applicable, the certificate holder shall obtain a NPDES 1200-C Permit from DEQ. A copy of the approved permit and attached Erosion and Sediment Control Plan (ESCP) must be submitted to the Department.
> [PRE-SP-04, Final Order on AMD1 (2026)]
>
> **Recommended Soil Protection Condition 9 (GEN)**: During construction or operation of the facility, facility component or phase, as applicable, the certificate holder shall conduct all work in compliance with the NPDES 1200-C Permit and Erosion and Sediment Control Plan (ESCP) or revised ESCP if applicable. The ESCP shall be revised if determined necessary by the certificate holder, certificate holder's contractor(s) or the Department. Any Department-required ESCP revisions shall be implemented within 14-days, unless otherwise agreed to by the Department based on a good faith effort to address erosion issues.
> [GEN-SP-01, Final Order on AMD1 (2026), ~~GEN-SP-01~~]

The certificate holder relies upon previously adopted Soil Protection Condition 3 (PRE-SP-01), requiring a Spill Prevention Control and Countermeasures (SPCC) Plan be implemented to protect soils from spill related impacts. The condition requires that the construction SPCC be based off of representations made in ASC Exhibit I, which indicate that lubricating oil or hydraulic fluids for construction equipment will not be stored in substantial quantities on-site, but would instead be delivered on an as-needed basis using a specialized vehicle by a licensed contractor. Construction vehicles would be fueled and maintained to the extent practicable in dedicated areas with secondary containment, and away from streams or wetlands. Spill kits containing items such as absorbent pads will be located on equipment and on-site temporary storage to ensure a quick response to spills.[42] Soil Protection Condition 3 (PRE-SP-01) references that the SPCC be approved by DEQ, however, DEQ does not approve SPCCs, but relies on established SPCC requirements to be included in any SPCC and has regulatory authority over sites within an SPCC and can conduct inspections. Additionally, Soil Protection Condition 3 (PRE-SP-01) references pre-construction and construction phases, which complicates implementation. Therefore, the ~~Department recommends that the~~ Council amends Soil Protection Condition 3 (PRE-SP-01) and add Soil Protection Condition 10 to be applicable during construction, as provided below:

[41] The recommended removal of the previously-imposed condition is shown in Attachment A, the draft site certificate for WTSII.

[42] WRWAPPDoc139-8 Wheatridge ASC Exhibit I Soils, Section 4.1.5.

Recommended Amended Soil Protection Condition 3 (PRE): Prior to beginning construction, the certificate holder shall provide a copy of ~~a DEQ approved~~ the construction Spill Prevention Control and Countermeasures (SPCC) plan to the Department~~, to be implemented during facility construction~~. The SPCC plan shall include the measures described in Exhibit I of ASC and in the final order approving the site certificate.
[PRE-SP-01; Final Order on ASC (2017), Soil Protection Condition 3, AMD1 (2026)]

Recommended Soil Protection Condition 10 (CON): The construction Spill Prevention Control and Countermeasures (SPCC) plan approved under PRE-SP-01 shall be implemented during facility construction.
[CON-SP-03, Final Order AMD1 (2026)]

During review of pRFA1, the Department provided the certificate holder with an example of a Comprehensive Revegetation and Soil Management Plan, which aims to consolidate revegetation, weed and soil management plans into one comprehensive plan. The certificate holder updated the plan, calls it a draft Vegetation and Soil Management Plan (VSMP) and submits it as Attachment C to RFA1.

Council previously imposed Soil Protection Condition 4 (PRE-SP-02) which required that a Revegetation Plan (imposed under Fish and Wildlife Habitat Condition 11 in the 2017 Final Order on ASC) include a program to protect and restore agricultural soils temporarily disturbed during facility construction. As discussed below and in Section III.H., *Fish and Wildlife Habitat*, the Department recommends these conditions be removed and replaced with conditions requiring the finalization and implementation of the VSMP, attached to this order as Attachment C. The recommended removal of the previously-imposed conditions is shown in Attachment A to this order. Because soil management and soil restoration are directly associated with successful revegetation of impacted areas, and vegetation management is related to the successful management of weeds at the site, ~~the Department recommends~~Council ~~combining~~ combines all the BMPs into one comprehensive plan, the VSMP, rather than several separate plans with overlapping requirements (e.g. Noxious Weed Plan, Fugitive Dust Plan, and Revegetation Plan). Also, while the NPDES 1200-C Permit and ESCP outline BMPs to protect soils and waters of the state from erosion and runoff, because the soils at the site have moderately high runoff potential, and severe hazard for erosion, the ~~Department recommends~~ Council imposes the below conditions requiring VSMP be finalized and implemented during construction and operation of the WTSII facility.

~~The~~ Prior to issuing the Proposed Order on AMD1, Department ~~makes~~ made recommended revisions to the certificate holders VSMP which were shown in redline/strikeout in Attachment C to the~~is~~ Proposed O~~o~~rder. One of the primary changes made to the VSMP ~~is~~ was the removal and reconciliation distinguishing different actions and success criteria depending on if the impact is considered temporary or permanent and within habitat or agricultural lands. As highlighted above, for solar facilities, the area within the fenceline is considered a permanent impact for Fish and Wildlife Habitat and mitigated because of the removal of the area from

functional use. However, restoration and health of soils, revegetation to support soil restoration, and weed management are not dependent on the categorization of temporary or permanent impacts or the type of habitat or agricultural lands. All areas where there is soil that isn't occupied by a permanent facility component can be management for soil, vegetation, and weeds. The Department revised Tables 1, 3, 4, and 5 to clarify the actions that are associated with finalizing the VSMP, actions necessary to complete prior to construction, during construction and prior to operation. Other changes made to the VSMP include removing duplicative requirements and specifying what the compliance deliverable is and when it must be provided. Unnecessary narrative text is also removed to reduce the length of the document. During the Proposed Order Public Comment Process for RFA1, the certificate holder requested and the Department also made additional revisions to the VSMP, which are described below.[43] ~~Finally, to assist with compliance and implementation the Department has separated the VSMP into a draft Construction Vegetation and Soil Management Plan and draft Operational Vegetation and Soil Management Plan, so operational requirements are removed from the construction plan and vice versa.~~

The BMPs and reclamation measures in the VSMP apply to anywhere that will be impacted by construction of the facility, within the fenceline or outside of the fenceline.[44]

Appendix D~~E~~ (Environmental Monitoring Methods) of the ~~Comprehensive Plan~~VSMP provides soil monitoring methods that would be used to identify whether construction activities resulted in significant compaction of soils. Pre- and post-construction field measurements of subsurface soil compaction would be collected for all areas where significant vegetation removal or grading activities occur. VSMP Table 5: Operations Checklist and Compliance Verification and Appendix D, Table D-2 include the timing and frequency that monitoring will occur. For instance, within 90 days of reseeding the certificate holder will initiate soil compaction, noxious weed and revegetation monitoring and then the monitoring will occur once per season for the first two years of operation.[45]

While the NPDES 1200-C Permit and ESCP includes some measures that address construction-related fugitive dust at the site, Appendix C~~D~~ of the VSMP includes a Fugitive Dust Control Plan which includes specific measures to monitor and mitigate fugitive dust including use of U.S. Environmental Protection Agency (EPA) Method 22 measure and monitor dust based on weather and construction activities.

Appendix E~~F~~ (Revegetation and Soil Stabilization Methods) of the VSMP describes the methods that will be used to stabilize disturbed areas following construction activities. This may include

[43] WREFIIIAMD1Doc17 Cert Holder Responses 2026-04-10 and WREFIIIAMD1Doc15-1 Proposed Order Comments (Certificate Holder) [draft VSMP redline] 2026-04-03.

[44] See VSMP Attachment C to this order, Table 2. Definitions – Disturbance area is defined as any area impacted by construction of the facility within and outside the fence of a solar array.

[45] See May 15, 2026 EFSC Meeting Agenda Item F Staff Report. WREFIIIAMD1Doc16 ODOE Public Comment Evaluation Cover Letter and Response 2026-04-10 and WREFIIIAMD1Doc17 Cert Holder Responses 2026-04-10.

the use of straw, hydromulch, or tackifier, or planting areas with winter wheat or sterile triticale. Disturbed areas would then be revegetated using approved seed mix and methods as soon as is practicable following construction.

The treatment methods, monitoring procedures, and management objectives that will be used to control the introduction and spread of weeds are included in Appendix F~~G~~ (Weed Control Plan) of the ~~Comprehensive Plan~~VSMP. Weed Control BMPs required under the plan include flagging and treating areas of noxious weed infestations prior to construction, cleaning vehicles and equipment prior to ground disturbance, strategic use of herbicide, mechanical removal and revegetation of disturbed soils. Additional steps may include monitoring areas of disturbance for noxious weeds after construction, training construction and operations staff and limiting vehicle traffic in noxious weed-infested areas.

Department reviewed the certificate holder proposed changes to Appendix D which reorganized and revised preconstruction and construction requirements for noxious weed surveys, monitoring and reporting and recommends that they are made to support the overall re-organization of the VSMP. The Department agrees that the revisions to the soil, revegetation, and weed monitoring protocols and record management add clarification for monitoring locations on site and what must be tracked for reporting. The Department recommends Council accept these changes.[46]

The ~~Department recommends the~~ Council finds that the methods, monitoring protocols, and reporting requirements related to revegetation, soil management, dust control, stormwater management, included in the draft VSMP Attachment C~~-1 and C-2~~ to this Order, demonstrate that the WTSII facility can be designed, constructed, and operated, in a manner that are not likely to result in a significant adverse impact to soils from erosion, compaction, or topsoil loss. To ensure the certificate holder finalizes and implements the plan, the ~~Department recommends the~~ Council imposes the following conditions:

Recommended Soil Protection Condition 11 (PRE): Before beginning construction of the facility, facility component or phase, as applicable, the certificate holder shall:

a. Finalize the draft ~~Construction~~ Vegetation and Soil Management Plan included as Attachment C~~-1~~ to the Final Order on AMD1 based on the measures identified in the plan, final facility design, and the approved National Pollutant Discharge Elimination System (NPDES) General Permit 1200-C for the facility. The final Vegetation and Soil Management Plan shall be submitted to the Department for review and approval.
b. Complete all items included in the Pre-Construction Actions and Compliance Submittals in the final plan, as applicable to the facility components or phase. [PRE-SP-05, Final Order on AMD1 (2026)]

[46] WREFIIIAMD1Doc15 Proposed Order Comments (Certificate Holder) 2026-04-03 and WREFIIIAMD1Doc15-1 Proposed Order Comments (Certificate Holder) [draft VSMP redline] 2026-04-03.

Recommended Soil Protection Condition 12 (CON): During and following construction of the facility, facility component or phase, as applicable, the certificate holder shall conduct all work in compliance with the ~~Construction~~ Vegetation and Soil Management Plan required under Condition PRE-SP-05.
[CON-SP-04; Final Order on AMD1 (2026)]

Recommended Soil Protection Condition 13 (PRO): Before beginning operation of the facility, facility component or phase, as applicable, the certificate holder shall ~~finalize~~ update the ~~draft Operation~~ Vegetation and Soil Management Plan approved by the Department under PRE-PS-05 ~~included as Attachment C-2 to the Final Order on AMD1~~ based on the applicable operational measures identified in the plan and final facility design. The ~~final~~ updated Vegetation and Soil Management Plan shall be submitted to the Department for review and approval.
[PRO-SP-02; Final Order on AMD1 (2026)]

Recommended Soil Protection Condition 14 (OPR): During operation of the facility, the certificate holder shall monitor and maintain vegetation, weeds, and any necessary erosion controls in compliance with the Vegetation and Soil Management Plan required under Condition PRO-SP-02.
[OPR-SP-02; Final Order on AMD1]

As noted above and in Section III.H., *Fish and Wildlife Habitat,* and Section III.E., *Land Use*, the Department recommends the following previously imposed conditions be removed from the site certificate because the requirements of the conditions would be required in the ~~Comprehensive Plan~~VSMP described above. The removal of the conditions is shown in Attachment A to this order in strikeout.

- Fish and Wildlife Habitat Condition 11 (PRE-FW-05), requires the finalization and implementation of a Revegetation Plan.
- Land Use Condition 6 (PRE-LU-03) requires the finalization of a Weed Control Plan in coordination with Morrow County and the implementation of the plan during construction and operation.

~~*Wagon Trail Solar II*~~ *Operation*

Previously-imposed Soil Protection Condition 5 (PRE-SP-01) requires the submission of an operational SPCC plan. The ~~Department recommends~~ Council finds that this condition remain applicable to the WTSII facility as written, because it appropriately requires an operational SPCC to protect soil from possible spills.

Previously-imposed Soil Protection Condition 5 (OPR-SP-01) requires inspection and maintenance of roads and other facility components to manage erosion and sediment control, restricts vehicle use to constructed access roads, and requires that if certificate holder intends to substantially modify an existing road or construct a new road, the certificate holder must

submit and receive Council approval of an amendment to the site certificate prior to the modification or construction. The requirements outlined in OPR-SP-01 applicable to erosion and sediment control for roads would be more effectively implemented in the Comprehensive Plan discussed above. The condition was originally imposed for the wind facility and references turbine pads and includes a sub (c) which applied to the intraconnection line associated with the wind facilities and is no longer applicable. Therefore, the Department recommends Council delete this condition, as shown below and in Attachment A:

Recommended Deleted Soil Protection Condition 6: ~~During facility operation, the certificate holder shall:~~

~~a. Routinely inspect and maintain all facility components including roads, pads, and other facility components and, as necessary, maintain or repair erosion and sediment control measures and reduce potential facility contribution to erosion.~~

~~b. Restrict vehicles to constructed access roads, and ensure material laydown or other maintenance activities occur within graveled areas to avoid unnecessary compaction, erosion, or spill risk to the area surrounding the facility.~~

c. ~~If in order to serve the operational needs of the energy facility, or related and supporting facilities, the certificate holder intends to substantially modify an existing road or construct a new road, the certificate holder must submit and receive Council approval of an amendment to the site certificate prior to the modification or construction.~~ Deleted in *Final Order on Amendment 1* (2026).

[Final Order on ASC (2017), OPR-SP-01, AMD1 (2020), AMD1 (2026)]

III.D.2. Conclusions of Law

Based on the foregoing analysis, and subject to compliance with the existing and recommended site certificate conditions described above, the ~~Department recommends the~~ Council finds that the facility, with proposed construction completion deadline extension, is not likely to result in a significant adverse impact to soils.

III.E. LAND USE: OAR 345-022-0030

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

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

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

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

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

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

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

(3) As used in this rule, the "applicable substantive criteria" are criteria from the affected local government's acknowledged comprehensive plan and land use ordinances that are required by the statewide planning goals and that are in effect on the date the applicant submits the application. If the special advisory group recommends applicable substantive criteria, as described under OAR 345-021-0050, the Council shall apply them. If the special advisory group does not recommend applicable substantive criteria, the Council shall decide either to make its own determination of the applicable substantive criteria and apply them or to evaluate the proposed facility against the statewide planning goals.

(4) The Council may find goal compliance for a proposed facility that does not otherwise comply with one or more statewide planning goals by taking an exception to the applicable goal. Notwithstanding the requirements of ORS 197.732, the statewide planning goal pertaining to the exception process or any rules of the Land Conservation and Development Commission pertaining to the exception process, the Council may take an exception to a goal if the Council finds:

(a) The land subject to the exception is physically developed to the extent that the land is no longer available for uses allowed by the applicable goal;

(b) The land subject to the exception is irrevocably committed as described by the rules of the Land Conservation and Development Commission to uses not allowed by the applicable goal because existing adjacent uses and other relevant factors make uses allowed by the applicable goal impracticable; or

(c) The following standards are met:

(A) Reasons justify why the state policy embodied in the applicable goal should not apply;

(B) The significant environmental, economic, social and energy consequences anticipated as a result of the proposed facility have been identified and adverse impacts will be mitigated in accordance with rules of the Council applicable to the siting of the proposed facility; and

(C) The proposed facility is compatible with other adjacent uses or will be made compatible through measures designed to reduce adverse impacts.[47] *****[48]

III.E.1. Findings of Fact

The analysis area for potential land use impacts is the area within and extending one-half mile from the proposed site boundary of WTSII.[49]

The WTSII site is in Morrow County, entirely within Exclusive Farm Use (EFU) zoned land. For the purpose of the Land Use standard, the WTSII facility is evaluated as Commercial Utility Facilities for the Purpose of Generating Power for Public Use by Sale.

Local Applicable Substantive Criteria

For amendments requesting to extend construction deadlines, the Department and Council evaluate whether there have been "changes in fact or law" since the site certificate was issued or most recently amended to determine whether, based on changes in fact or law, the facility (WTSII facility) would continue to satisfy requirements of the standard. Changes in the Morrow County Zoning Ordinance (MCZO) have occurred between the date Request for Amendment 4 of the Wheatridge Wind Energy Facility Site Certificate was submitted (December 21, 2018) and the date the preliminary RFA1 currently under review (November 21, 2025) was submitted.[50] However, none of these changes substantively affect the applicable substantive criteria for the

[47] OAR 345-022-0040, effective April 2, 2025.

[48] The information requirements included in the standard are omitted from the language above but evaluated within recommending findings of fact below.

[49] OAR 345-001-0010(35)(c)(C)(ii).

[50] Under the Council's Land Use standard at OAR 345-022-0030, the "applicable substantive criteria" are criteria from the affected local government's acknowledged comprehensive plan and land use ordinances that are required by the statewide planning goals and that are in effect on the date the applicant submits the application. For Council review of a request for amendment, pursuant to OAR 345-027-0375(3)(a) the Council shall apply the applicable substantive criteria under the Land Use standard in effect on the date the certificate holder submitted the request for amendment.

WTSII facility.[51] Because there are no proposed changes to the site or facility that would affect the facilities compliance with the applicable substantive criteria from the affected local government's acknowledged comprehensive plan and land use ordinance that are required by the statewide planning goals, and because there have been no significant changes to the applicable substantive criteria enacted since the issuance of Fourth Amended Site Certificate of the Wheatridge Wind Energy Facility, the ~~Department recommends that~~ Council continues to rely on its previous findings and conditions with regard to the requirements of the Morrow County Comprehensive Plan and Zoning Ordinance.

Directly Applicable State Rules and Statutes

Under OAR 345-027-0375(3)(b), any administrative rules and goals adopted by the Land Conservation and Development Commission (LCDC) and any land use statutes directly applicable to the facility under ORS 197.646(3) that are in effect as of the date the Council makes its final decision are applicable to the review of RFA1. In the Final Order on RFA4 of the Wheatridge Wind Energy Facility, the Council found that the minimum standards for siting solar facilities in an exclusive farm use zone under OAR 660-033-0130(38) were directly applicable to the facility.[52]

On December 6, 2024, LCDC adopted rules that, among other things, supplement OAR 660-033-0130(5) to describe the steps needed to provide a sufficient analysis under the "farm impacts test" required under ORS 215.296 and OAR 660-033-0130(5). The new rules, set forth in OAR 660-033-0130(5)(c), became effective on January 1, 2025. The intent of the rule change was to incorporate case law guidance from the courts about how to conduct a sufficient farm impacts test analysis. While that common law was in effect at the time the Council issued the Final Order on Amendment 4, because LCDC has since placed these criteria in rule, the ~~Department recommends the~~ Council evaluates the new provisions in OAR 660-033-0130(5)(c) as directly applicable standards under ORS 197.646(3).

OAR 660-033-0130

* * * * *

(5) Approval requires review by the governing body or its designate under ORS 215.296. Uses may be approved only where such uses:

(a) Will not force a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest use; and

[51] WREFIIIAMD1 Request for Amendment 1, Attachment 4. The certificate holder provided email correspondence from the Morrow County Planning Director Tamra Mabbot dated August 8, 2025, confirming that there had been no substantive changes to the applicable substantive criteria since the approval of RFA4.

[52] Morrow County amended MCZO based on LCDC's new eastern Oregon Solar Siting Rules under OAR 660-033-0130(44).

(b) Will not significantly increase the cost of accepted farm or forest practices on surrounding lands devoted to farm or forest use.

The above provisions have often been referred to as the "farm impacts test." MCZO Section 6.025.A(1) and (2) incorporate this test by requiring a demonstration that a proposed use would not force a significant change in accepted farm or forest practices or significantly increase the cost of accepted farm or forest practices on surrounding lands. Therefore, Council previously analyzed the farm impacts test criteria in its analysis of those local ordinances. Council noted that potential impacts to accepted farm practices from construction and operation of the facility include noxious weed dispersal, topsoil loss, erosion, compaction and dust generation, reviewed the certificate holder's analysis of these potential impacts and found that the facility would not significantly change the accepted farming practices or significantly increase the cost of accepted farming practices within the surrounding area, and therefore would comply with MCZO Section 6.025.A(1) and (2).[53]

As noted above, LCDC has now supplemented its rules to include the following subsection (c) describing the steps needed to provide a sufficient analysis under the farm impacts test. Because local governments have not yet incorporated the new rules in their land use ordinances, they need to be analyzed here, as part of the Council's evaluation of directly applicable state rules and statutes.

(c) For purposes of subsection (a) and (b), a determination of forcing a significant change in accepted farm or forest practices on surrounding lands devoted to farm and forest use or a determination of whether the use will significantly increase the cost of accepted farm or forest practices on surrounding lands devoted to farm or forest use requires:

(A) Identification and description of the surrounding lands, the farm and forest operations on those lands, and the accepted farm practices on each farm operation and the accepted forest practices on each forest operation;

(B) An assessment of the individual impacts to each farm and forest practice, and whether the proposed use is likely to have an important influence or effect on any of those practices; and

(C) An assessment of whether all identified impacts of the proposed use when considered together could have a significant impact to any farm or forest operation in the surrounding area in a manner that is likely to have an important influence or effect on that operation.

(D) For purposes of this subsection, examples of potential impacts for consideration may include but are not limited to traffic, water availability and delivery, introduction of

[53] WRWAMD4 Final Order on Request for Amendment 4 2019-11-22, p. 40-42.

weeds or pests, damage to crops or livestock, litter, trespass, reduction in crop yields, or flooding.

(E) For purposes of subsection (a) and (b), potential impacts to farm and forest practices or the cost of farm and forest practices, impacts relating to the construction or installation of the proposed use shall be deemed part of the use itself for the purpose of conducting a review under subsections (a) and (b).

(F) In the consideration of potentially mitigating conditions of approval under ORS 215.296(2), the governing body may not impose such a condition upon the owner of the affected farm or forest land or on such land itself, nor compel said owner to accept payment to compensate for the significant changes or significant increases in costs described in subsection (a) and (b).

Per OAR 660-033-0130(5)(c)(A) and (B), when assessing whether an activity will force a significant change in accepted farm or forest practices on surrounding lands, the surrounding lands must be identified and the individual impacts to each farm and forest practice on those lands assessed.

In RFFA1, the certificate holder identified the accepted farming practices on surrounding lands as cultivated crop production of dryland winter wheat. The certificate holder then identified the potential adverse impacts arising from availability of irrigation water, increased traffic, increased dust, and spread of invasive weed species, the same impacts previously identified and evaluated by Council in the Final Order on Request for Amendment 4 of the Wheatridge Renewable Energy Facility. The certificate holder then evaluated whether these potential adverse impacts would be considered serious interference with accepted farming practices. As described throughout this Order, the Council previously imposed Land Use Condition 11 (GEN-LU-04) and Land Use Condition 8 (CON-LU-01), requiring the certificate holder to minimize unnecessary impacts on agricultural operations by using the minimum land area necessary for safe construction and operation, siting facilities to minimize disturbance of farm practices, and using existing roads where possible. In addition, the Council imposed Land Use Condition 12 (PRE-LU-05) requiring the certificate holder to consult with surrounding landowners on measures to reduce avoid impacts on farming practices.

To address erosion, the Council previously imposed Soil Protection Condition 1 and 2 (CON-SP-01 and CON-SP-02), requiring the certificate holder to conduct work in compliance with an Erosion and Sediment Control Plan (ESCP) required as part of the DEQ's 1200-C National Pollutant Discharge Elimination System Construction Stormwater Discharge Permit. As discussed in Section III.D. *Soil Protection*, ~~the Department recommends that~~ these conditions ~~be~~ are updated, but the underlying controls remain the same.

As discussed in Section III.D, to address the impacts of noxious weeds, the ~~Department recommends~~Council finds that the requirements of the previously imposed condition for a

Noxious Weed Plan be incorporated into a Comprehensive Vegetation and Soil Management Plan under Soil Protection Conditions 11, 12, 13 and 14.

The accepted farm practices on agricultural lands surrounding the site identified in RFA1 are the same as previously evaluated by Council. Therefore, the ~~Department recommends~~ Council continues to rely on its previously imposed conditions, as summarized above, to find that the facility, with proposed construction completion deadline extension, would not significantly affect surrounding farm practices. Therefore, the Department recommends that Council find the updated requirements of OAR 660-033-0130(5) have been satisfied.

The ~~Department recommends the~~ Council finds that the updated requirements of OAR 660-033-0130(5) have been satisfied because RFA1 identifies and describes the accepted farm practices on agricultural lands surrounding the site, assesses the potential impacts the construction and operation of the facility could have on those uses, and explains why those impacts will not force a significant change in accepted farm or forest practices on surrounding lands nor significantly increase the cost of accepted farm or forest practices on surrounding lands devoted to farm or forest use. Further, the existing site certificate imposes conditions on the certificate holder that will serve to minimize impacts to and ensure that any farm practices will not be significantly affected.

III.E.2. Conclusions of Law

Based on the foregoing recommended findings and the evidence in the record, and subject to compliance with existing and recommended amended site certificate conditions, the ~~Department recommends that the~~ Council finds that the facility, with proposed construction completion deadline extension, continues to comply with the Land Use standard.

III.F. PROTECTED AREAS: OAR 345-022-0040

(1) To issue a site certificate, the Council must find:

(a) The proposed facility will not be located within the boundaries of a protected area designated on or before the date the application for site certificate or request for amendment was determined to be complete under OAR 345-015-0190 or 345-027-0363;

(b) The design, construction and operation of the facility, taking into account mitigation, are not likely to result in significant adverse impact to a protected area designated on or before the date the application for site certificate or request for amendment was determined to be complete under OAR 345-015-0190 or 345-027-0363.

(2) Notwithstanding section (1)(a), the Council may issue a site certificate for:

(a) A facility that includes a transmission line, natural gas pipeline, or water pipeline located in a protected area, if the Council determines that other reasonable alternative routes or sites have been studied and that the proposed route or site is likely to result in fewer adverse impacts to resources or interests protected by Council standards; or

(b) Surface facilities related to an underground gas storage reservoir that have pipelines and injection, withdrawal or monitoring wells and individual wellhead equipment and pumps located in a protected area, if the Council determines that other alternative routes or sites have been studied and are unsuitable.

(3) The provisions of section (1) do not apply to:

(a) A transmission line routed within 500 feet of an existing utility right-of-way containing at least one transmission line with a voltage rating of 115 kilovolts or higher; or

(b) A natural gas pipeline routed within 500 feet of an existing utility right of way containing at least one natural gas pipeline of 8 inches or greater diameter that is operated at a pressure of 125 psig.

(4) The Council shall apply the version of this rule adopted under Administrative Order EFSC 1-2007, filed and effective May 15, 2007, to the review of any Application for Site Certificate or Request for Amendment that was determined to be complete under OAR 345-015-0190 or 345-027-0363 before the effective date of this rule. Nothing in this section waives the obligations of the certificate holder and Council to abide by local ordinances, state law, and other rules of the Council for the construction and operation of energy facilities in effect on the date the site certificate or amended site certificate is executed. [54]

***** [55]

III.F.1. Findings of Fact

The analysis area for protected areas is within and extending 20 miles from the proposed site boundary of WTSII. [56]

[54] OAR 345-022-0040, effective April 2, 2025.

[55] The information requirements included in the standard are omitted from the language above but evaluated within recommending findings of fact below.

[56] OAR 345-027-0360(1)(c)(C)(ii)

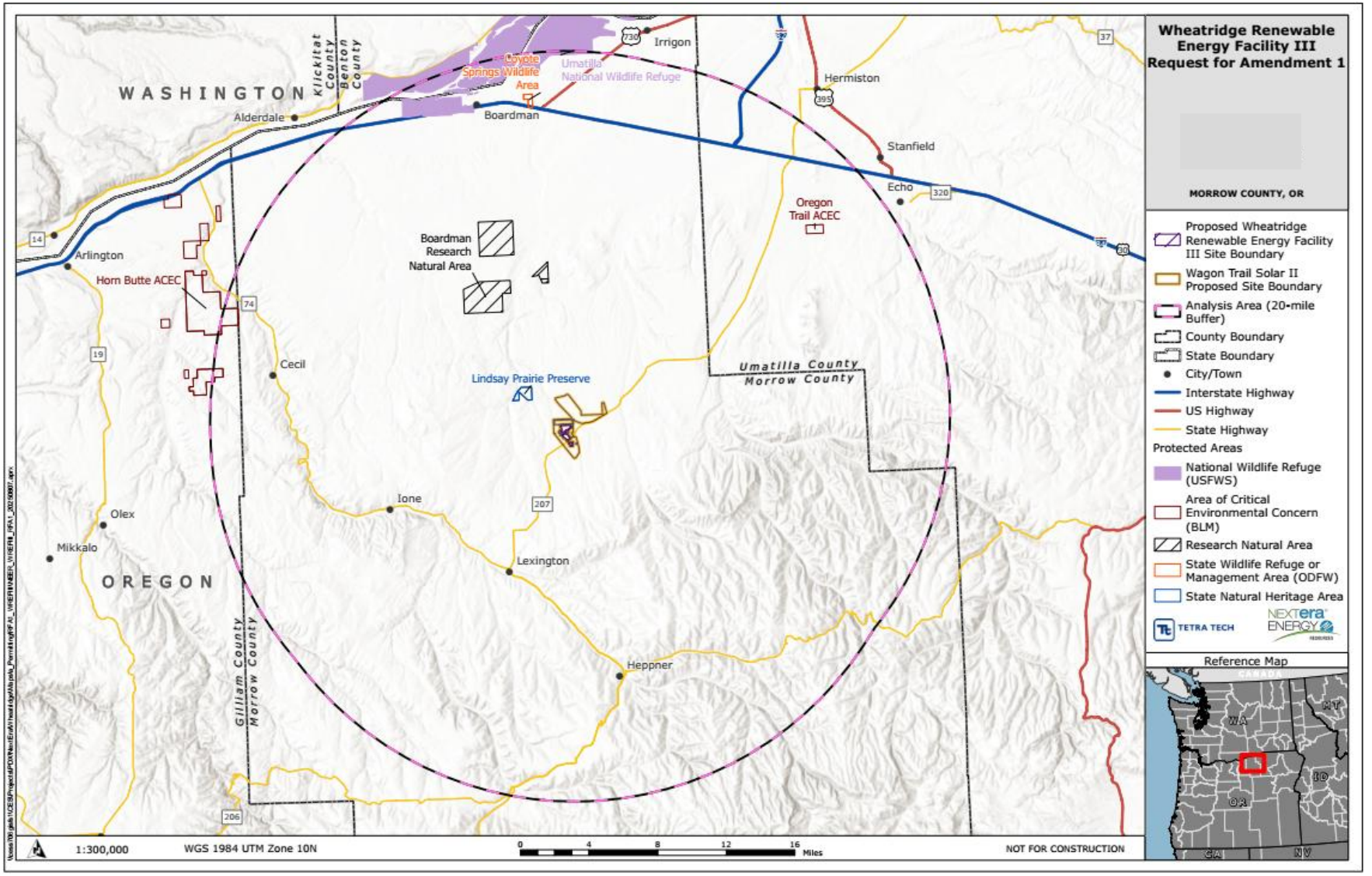
Protected Areas in the Analysis Area

There are 6 protected areas in the analysis area, all of which were previously evaluated by Council.

Table 7: Protected Areas in RFA1 Analysis Area

Protected Area per OAR 345-001-0010	Protected Area	Distance/Direction from Site Boundary	Previously Evaluated by EFSC?
345-022-0040(1)(l)	Lindsay Prairie Preserve	1.4 miles; West	Yes
345-022-0040(1)(i)	Boardman RNA (Research Natural Area)	5.9 miles; Northwest	Yes
345-022-0040(1)(i)	Oregon Trail ACEC (Area of Critical Environmental Concern)	15.4 miles; Northeast	Yes
345-022-0040(1)(o)	Coyote Springs Wildlife Management Area	16.8 miles; North	Yes
345-001-0010(26)(e)	Umatilla National Wildlife Refuge	17.3 miles; North	Yes
345-022-0040(1)(i)	Horn Butte ACEC	18.9 miles; Northwest	Yes

Figure 5: Protected Areas Within the Analysis Area



Potential Impacts on Protected Areas

Council previously evaluated the potential impacts of the facility on protected areas in the Final Order on RFA4 and found that no significant impacts to Protected Areas.

RFA1 does not propose any changes to the facility or components from what has already been approved by Council. The ~~Department recommends that the~~ Council continues to rely on its previous findings of fact and analysis.

III.F.2. Conclusions of Law

Based on the foregoing analysis, the ~~Department recommends the~~ Council finds that the design, construction and operation of the facility, with proposed construction completion deadline extension, are not likely to result in significant adverse impact to any protected areas.

III.G. RETIREMENT AND FINANCIAL ASSURANCE: OAR 345-022-0050

To issue a site certificate, the Council must find that:

(1) The site, taking into account mitigation, can be restored adequately to a useful, non-hazardous condition following permanent cessation of construction or operation of the facility.

(2) The applicant has a reasonable likelihood of obtaining a bond or letter of credit in a form and amount satisfactory to the Council to restore the site to a useful, non-hazardous condition. [57]
***** [58]

III.G.1. Findings of Fact

Restoration of the Site Following Cessation of Construction or Operation

RFA1 does not include changes that would alter the design, construction, or operation of the WTSII facility, nor result in any changes to the tasks and actions previously determined adequate to restore the site following cessation of construction or operation.

The decommissioning tasks and actions previously reviewed by Council for the WREFIII facility include removal of all facilities and foundations, site restoration and revegetation. These same tasks and actions would apply to the WTSII, as a subset area/facility of the previously reviewed WREFIII facility. Specifically, perimeter fencing, module supports, modules, inverters,

[57] OAR 345-022-0040, effective April 2, 2025.

[58] The information requirements included in the standard are omitted from the language above but evaluated within recommending findings of fact below.

transformers, distributed energy storage systems and inverter and transformer foundations would be entirely removed from the site and transported to a licensed recycling or disposal facility.[59] Underground collector lines at depths of 3 feet or greater would be abandoned in place, but lateral runs would be removed. All permanently and temporarily disturbed areas would be revegetated to a vegetation level comparable with surrounding land uses.

RFA1 Attachment 9 provides an updated decommissioning cost estimate for the WTSII facility. The decommissioning cost estimate was prepared by TetraTech, the certificate holder's consultant using the same methods and assumptions as reviewed and approved by Council in the Final Order on Request for Amendment 4 of the Wheatridge Wind Energy Facility. Labor and equipment rates were obtained based on U.S. Department of Labor wage determinations and are based on rates as of 4th Quarter 2025.

Estimated Costs of Site Restoration

RFA1 Attachment 9 presents the decommissioning cost estimate for the WTSII facility, including contractor and Department contingencies, at $9,474,000 in fourth quarter 2025 dollars (Q4 2025). Contingencies including 10 percent for administrative and management expenses have been included in the estimate. The contingencies cover direct costs that would be borne by the State in the course of managing site restoration and would include the preparation and approval of a final retirement plan, obtaining legal permission to proceed with demolition of the facility, legal expenses for protecting the State's interest, preparing specification bid documents and contracts for demolition work, managing the bidding process, negotiations of contracts, and other tasks. Council typically imposes a 20 percent future development contingency on costs associated with battery energy storage system components given the additional uncertainty and potential environmental hazards associated with battery technologies; 20 percent contingency for the BESS is included in the estimate below.

[59] WRWAMD4doc 24-1 Final Order on Request for Amendment 4 2019-11-22, Section III.G.

1

Table 8: WTSII Facility Component Retirement Cost Estimate

Task or Component	Quantity	Unit	Unit Cost ($)	Estimate ($)
1.1 Mobilization / Demobilization				
1.1.1 Equipment Mob	1	Lump Sum	61,200.00	61,200.00
1.1.2 Site Facilities	1	Lump Sum	2,200.00	2,200.00
1.1.3 Crew - Mob & Site Setup	3	Day	13,548.63	40,645.89
1.1.4 Crew - Demob & Site Cleanup	2	Day	13,548.63	27,097.26
			Subtotal	***131,143.15***
1.2 Project Site Support				
1.2.1 Site Facilities	6	Month	2,205.00	13,230.00
1.2.2 Field Management	6	Month	54,496.60	326,979.60
			Subtotal	***340,209.60***
1.3. AG Collection Removal				
1.3.1 Conductor Removal	3	Mile	2,790.34	8,371.02
1.3.2 Wood Pole Removal	80	Each	168.72	13,497.60
			Subtotal	***21,868.62***
1.4 BESS Unit Removal				
1.4.1 BESS Unit Removal	26	Each	6,640.08	172,642.08
1.4.2 Inverter Removal	11	Each	2,558.24	28,140.64
1.4.3 Concrete Pad Removal - BESS Units	182	Cubic Yard	41.54	7,560.28
1.4.4 Concrete Pad Removal - Inverters	11	Cubic Yard	41.54	456.94
1.4.5 UG Cable Removal	1	Day	1,969.92	1,969.92
			Subtotal	***210,769.86***
1.5 Inverter / Transformer Removal				
1.5.1 Disconnect Electrical	26	Each	111.39	2,896.14
1.5.2 Loadout Inverter & Transformer	26	Each	208.83	5,429.58
1.5.3 Trucking - Per Load	26	Per Load	1,500.00	39,000.00
			Subtotal	***47,325.72***
1.6 Inverter / Transformer Pad Removal				
1.6.1 Excavate / Remove Foundation - Various Depth	193	Cubic Yard	29.52	5,697.36
1.6.2 Concrete Transport Offsite	193	Cubic Yard	12.02	2,319.86
			Subtotal	***8,017.22***
1.7 Solar Array Retirement				
1.7.1 Fence Removal	72,864	Linear Feet	1.31	95,451.84
1.7.2 Solar Panel Removal & Recycling	261,181	Each	7.03	1,836,102.43
1.7.3 Solar Rack (Trackers) & Post Removal	10,684	Each	295.08	3,152,634.72

Table 8: WTSII Facility Component Retirement Cost Estimate

Task or Component	Quantity	Unit	Unit Cost ($)	Estimate ($)
			Subtotal	***5,084,188.99***
1.8 Site Restoration - Partial Site Seeding				
1.8.1 Strip & Decompact Roads	45,936	Linear Feet	1.43	65,688.48
1.8.2 Spot Grade Disturbed Areas	516	Acre	281.33	145,166.28
1.8.3 Solar Rack & Post Removal	516	Acre	1,000.00	516,000.00
			Subtotal	***726,854.76***
			Total Decommissioning Cost	***6,570,377.92***
Contractor Markups				
Home Office, Project Management (5%)			0.05	328,518.90
Contractor OH & Fee (13%)			0.13	896,856.59
			Subtotal	***1,225,375.48***
			Total Decommissioning Cost	***7,795,753.40***
Performance Bond			0.01	77,957.53
			Gross Cost	***7,873,710.94***
	Basis (% of Cost)	**Basis ($)**	**Contingency**	**Estimate ($)**
Administration and Project Management	100%	7,873,710.94	0.10	787,371.09
Future Development (Exclude Battery)	97%	7,621,131.71	0.10	762,113.17
Future Development (Battery Only)	3%	252,579.22	0.20	50,515.84
			Subtotal	***1,600,000.11***
TOTAL ESTIMATED COST ($Q12023)				**9,473,711.05**
ROUNDED				9,474,000.00

Notes:

1. See ASC RFA1 Attachment 9 for detailed breakdown of tasks, actions and unit costs for the sum total costs presented in this Table.
2. To allow continued use of the land for agricultural or other purposes deemed appropriate at the time of decommissioning purposes, all subsurface features including underground collector lines and concrete foundations associated with the O&M, Solar, Battery, will be removed as described in the Final Order on RFA1 and Final Order on WREFII RFA4, or as agreed with the landowner, in a final Retirement Plan
3. Tasks associated with a Lump Sum unit cost may be calculated using a fraction (in decimal form) of the actual quantities constructed or by using the more detailed breakdown of unit costs associated with the Lump Sum task identified in the cost estimating worksheet in RFA1, Attachment 9.

1

Ability of the Certificate Holder to Obtain a Bond or Letter of Credit

As described in Section III.B, *Organizational Expertise*, NextEra Energy Resources, LLC (NEER), is the parent company of both Wheatridge Solar Energy Center, LLC and the proposed Wagon Trail Energy Center, LLC.

RFA1 Attachment 10 includes a financial assurance letter with a Travelers Casualty and Surety Company of America and its affiliates (Travelers) letterhead dated January 28, 2026. The letter indicates that Travelers, a Council-approved financial institution,[60] has represented NextEra Energy Resources for its surety bonding for over 10 years. Over that time Travelers has worked with NEER in bonding approximately $100,000,000 in projects. Travelers indicate that Wagon Trail Energy Center, LLC is qualified to perform for the project, and it would be favorable to providing the bond with an estimated value of approximately $10,000,000. The letter includes a Power of Attorney granted to the signatory of the letter, Elizabeth Marrero, designating her as true and lawful Attorney(s)-in-Fact to sign, execute, seal and acknowledge any and all bonds, conditional undertakings and other writings obligatory in the nature thereof on behalf of the Companies in their business. The ~~Department recommends that the~~ financial assurance from a Council-approved financial institution supports a finding that the new certificate holder has a likely ability to obtain a bond or letter of credit in the amount estimated to retire the WTSII facility to a useful, non-hazardous condition.

Under OAR 345-25-0006(8), the Council must impose a condition in each site certificate requiring the certificate holder to submit and maintain a bond or letter of credit in a form and amount satisfactory to the Council to restore the site to a useful, non-hazardous condition. To meet this requirement, Council imposed Retirement and Financial Assurance Conditions 4 and 5 (PRE-RF-01 and PRE-RF-02) in the Final Orders for Wheatridge Wind Facility and Final Order on WREFII AMD1. For WTSII~~,~~. ~~the Department recommends~~The Council removes and replaces these conditions ~~be deleted and replaced~~ with the below~~-recommended~~ conditions because the previously-imposed conditions apply to preconstruction, construction, and operation of the facility and to support implementation and compliance with the retirement bonding and adjusting. ~~The Department recommends~~Council imposes separate conditions for each phase, as described below. Because WREFIII has been constructed and is in ongoing compliance with Retirement and Financial Assurance Condition 5, the ~~Department~~ Council does not ~~recommend~~ amend~~ing~~ or ~~deleting~~ delete this condition for the WREFIII site certificate. See Attachment A~~s to~~ of this order~~,~~ for the First Draft Amended Site Certificate for the WREFIII facility and the Draft Site Certificate for the WTSII facility.

As described above, based on maximum buildout of the facility, facility retirement and site restoration are estimated to cost approximately $9.5 million in Q4 2025 dollars, imposed under Retirement and Financial Assurance Condition 7, below. Retirement and Financial Assurance Condition 8 and 9, below, apply during construction and operation of the facility and outline the process to annually update the bond or letter of credit for the facility.

[60] 2025 EFSC Approved Financial Institution List.

The Council has approved recent site certificates that include subsection (c) in Retirement and Financial Assurance Conditions applicable to construction and operation, which designates that the Department and Council have "the right to adjust the contingencies, as appropriate and necessary to ensure that costs to restore the site are adequate to maintain health and safety of the public and environment." The intent of this clause is to provide the Council the ability to adjust contingencies in the event the established decommissioning estimate may no longer be sufficient for site restoration (e.g., because the facility is not operated in compliance with the terms and conditions of the site certificate). To ensure that the certificate holder has the ability to restore the site to a useful, nonhazardous condition, the ~~Department recommends~~ Council authorizes review and adjustment of contingencies applied to the decommissioning estimate, based on the Department's ongoing review of site certificate compliance and the decommissioning estimate. The circumstances that would merit the Department or Council adjusting the contingencies would be if the Department learns of circumstances that demonstrate the existing contingency estimates may not be enough to restore the site to a useful, non-hazardous condition, such as recurring, ongoing, and/or compliance issues related to facility operation that may impact the underlying and/or surrounding land, or issues with health and safety of the public or the environment.

Recommended Retirement and Financial Assurance Condition 7 (PRE): Prior to construction of the facility, facility component, or phase, the certificate holder shall:

a. Submit to the Department Table 8 (Retirement Table with tasks/unit/unit costs) of the Final Order on AMD1, updated based on final design and phased construction, if applicable. Certificate holder may not make changes to the unit cost without review and approval by the Department. Certificate holder must also request that the Department confirm the present-day inflation adjusted decommissioning estimate, rounded to the nearest $1,000, to be reflected in the bond or letter of credit in sub c of this condition.
b. Incorporate any additional decommissioning costs for facility changes which have been determined by t
c. e Department not to require a site certificate amendment.
d. Submit to the Department a bond or letter of credit, in the amount affirmed by the Department under (a), based on the Council's current pre-approved financial institution list and form.

[PRE-RF-03; Final Order on AMD1 (2026)]

Recommended Retirement and Financial Assurance Condition 8 (CON): If construction of the facility, facility component, or phase extends more than 12 months, the certificate holder shall:

a. Annually adjust the amount of the bond or letter of credit to present dollar value, as determined by the Department.
b. Incorporate any additional decommissioning costs for facility changes which have been determined by the Department not to require a site certificate amendment.
c. The Department and Council reserve the right to adjust the contingencies, as appropriate and necessary to ensure that costs to restore the site are adequate to

maintain health and safety of the public and environment.
[CON-RF-01; Final Order on AMD1 (2026)]

Recommended Retirement and Financial Assurance Condition 9 (OPR): During operation, the certificate holder shall:

a. Annually adjust the amount of the bond or letter of credit to present dollar value, as determined by the Department.
b. Incorporate any additional decommissioning costs for facility changes which have been determined by the Department not to require a site certificate amendment.
c. The Department and Council reserve the right to adjust the contingencies, as appropriate and necessary to protect public health and safety or the environment and ensure the certificate holder's bond or letter of credit is sufficient to restore the site to a useful, non-hazardous condition.

[OPR-RF-02; Final Order on RFA1 (2026)]

The Council previously imposed the following conditions that relate to the certificate holder's ability to restore the facility site to a useful, non-hazardous condition following permanent cessation of construction or operation. Because these conditions apply to operation and retirement, they continue to apply to both the WTSII and WREFIII facilities.

- Land Use Condition 27 (OPR-LU-06) requires the certificate holder to follow specific site restoration activities in its retirement plan including removing and restoring private access roads unless the landowners directs otherwise, following removal of facility components, grade disturbed areas as close as reasonably possible to the original contours and restore soils to a condition compatible with farm uses or other resources uses, and providing landowner letters if landowners would like to retain specific facility components such as roads, pads, etc.
- Retirement and Financial Assurance Condition 1 (GEN-RF-01) requires the certificate holder to prevent the development of any conditions on the site that would preclude restoration of the site to a useful, non-hazardous condition.
- Retirement and Financial Assurance Condition 2 (RET-RF-01) requires the certificate holder to retire the facility in accordance with a retirement plan approved by the Council.
- Retirement and Financial Assurance Condition 3 (RET-RF-02) outlines requirements and a process to follow if Council finds that the certificate holder has permanently ceased construction or operation of the facility without retiring the facility according to a final retirement plan.
- Retirement and Financial Assurance Condition 6 (OPR-RF-01) requires the certificate holder to conduct monthly inspections of the BESS and provide evidence of insurance coverage in its annual report.

III.G.2. Conclusions of Law

Based on the foregoing analysis, and subject to compliance with the existing and recommended new site certificate conditions described above, the ~~Department recommends the~~ Council finds that the amount of the bond or letter of credit is sufficient to adequately restore the site to a useful, non-hazardous condition following permanent cessation of construction or operation of the facility, and that the new certificate holder has a reasonable likelihood of obtaining a bond or letter of credit.

III.H. FISH AND WILDLIFE HABITAT: OAR 345-022-0060

To issue a site certificate, the Council must find that the design, construction and operation of the facility, taking into account mitigation, are consistent with:

(1) The general fish and wildlife habitat mitigation goals and standards of OAR 635-415-0025(1) through (6) in effect as of February 24, 2017, and

(2) For energy facilities that impact sage-grouse habitat, the sage-grouse specific habitat mitigation requirements of the Greater Sage-Grouse Conservation Strategy for Oregon at OAR 635-415-0025(7) and OAR 635-140-0000 through -0025 in effect as of February 24, 2017. [61]

***** [62]

III.H.1. Findings of Fact

Consistent with the Oregon Department of Fish and Wildlife's (ODFW) habitat mitigation goals and standards under OAR 635-415-0025, the Fish and Wildlife Habitat standard requires the mitigation of impacts to fish and wildlife habitat based on the quantity and quality of the habitat impacted as well as the nature, extent, and duration of the impact. Habitat quality is measured using a habitat classification system based on the function and value the habitat provides to species or groups of species likely to use it. ODFW policy identifies six habitat categories, with Category 1 being the most valuable, and Category 6 the least valuable.

The analysis area for fish and wildlife habitat is the area within the proposed site boundary of the proposed WTSII.[63]

Fish and Wildlife Habitat within the Analysis Area

RFA1 relies upon the Council's prior evaluation in the Final Order on Request for Amendment 4 of the Wheatridge Renewable Energy Facility as well as 2021 preconstruction survey data.

[61] OAR 345-022-0040, effective April 2, 2025.
[62] The information requirements included in the standard are omitted from the language above but evaluated within recommending findings of fact below.
[63] OAR 345-001-0010(35)(c)(C)(ii).

Based on a January 7, 2026 between ODOE and ODFW, ODFW confirmed that there have not been any known changes in habitat or vegetation at the site that could impact the prior evaluation.

Table 9 below summarizes the habitat categorization and habitat subtypes previously identified within the WTSII Analysis Area. Figures 6 and 7 below provide habitat type and categorization maps for the area within the existing site boundary.[64]

Table 9: Habitat Category and subtype within Analysis Area

Habitat Category	Habitat Subtype	Acres within Approved Site Boundary
1	Grassland – Native Perennial	20.9
Category 1 Total		20.9
2	Grassland – Native Perennial	70.7
Category 2 Total		70.7
3	Grassland – Native Perennial	56.2
	Revegetated or other Planted Grassland	141
Category 3 Total		197
4	Grassland – Exotic Annual	316
Category 4 Total		316
6	Developed – Dryland Wheat	1,284
	Developed - other	45.9
Category 6 Total		1,330
Grand Total		**1,935**
Category 1, 2, 3 and 4 Total		**605**
Note: Totals in this table may not appear to sum correctly due to rounding.		

[64] Figures 6 and 7 also denote the division of the existing site boundary into the two proposed, new site boundaries correlated with the WREFIII facility and WTSII facility.

Figure 6: Habitat Types within the RFA1 Analysis Area



Figure 7: Habitat Categories within the RFA1 Analysis Area



1

Potential Habitat Impacts and Mitigation

The mitigation goal for Category 2 habitat is no net loss of either habitat quantity or quality and a net benefit of habitat quantity or quality. To achieve this goal, impacts must be avoided or unavoidable impacts must be mitigated through "reliable in-kind, in-proximity" habitat mitigation to achieve no net loss; and a net benefit of habitat quantity or quality must be provided. The mitigation goal for Category 3 habitat is no net loss of either habitat quantity or quality. The goal is achieved by avoidance of impacts or by mitigation of unavoidable impacts through "reliable in-kind, in-proximity" habitat mitigation. The mitigation goal for Category 4 habitat, similar to the mitigation goal for Category 3 habitat impacts, is no net loss of either habitat quantity or quality. The Category 4 mitigation goal differs from the Category 3 mitigation goal in that achievement may be reached through avoidance of impacts or by mitigation of unavoidable impacts through "reliable in-kind or out-of kind," and "in- or off-of proximity" habitat mitigation.

Construction and operation of the WTSII facility would result in temporary and permanent habitat impacts to Category 2, Category 3, Category 4, and Category 6 habitat. As presented in Table 10 below, the WTSII facility would temporarily disturb 0.3, 1.3, 0.7, and 6.3 acres of Category 2, 3, 4, and 6 habitats, respectively. WTSII would permanently disturb 1.3, <0.1, 54, and 578 acres of Category 2, 3, 4, and 6 habitat respectively. Impacts to Category 6 habitat do not require compensatory mitigation under the Council's Fish and Wildlife Habitat standard.

Table 10: WTSII Habitat Disturbance

Habitat Category	Habitat Subtype	Disturbance Acres	
		Temporary	Permanent
2	Grassland – Native Perennial	0.3	1.3
Category 2 subtotal		**0.3**	**1.3**
3	Grassland – Native Perennial	0.7	<0.1
	Revegetated or other Planted Grassland	0.7	0
Category 3 subtotal		**1.3**	**<0.1**
4	Grassland – Exotic Annual	0.7	54
Category 4 subtotal		**0.7**	**54**
6	Developed – Dryland Wheat	4.5	577
	Developed - other	1.8	0.8
Category 6 subtotal		***6.3***	***578***
Category 2, 3, and 4 Total =		**2.4**	**55**
Note: Totals in this table may not appear to sum correctly due to rounding; <0.1 = greater than zero but less than 0.05.			

Potential Impacts of RFA1 to Habitat and Species

As presented in Table 10 above, approximately 55 acres of habitat categories 2, 3 and 4 would be permanently impacted. To mitigate permanent and temporary habitat impacts, Council previously imposed Fish and Wildlife Habitat Condition 10 (PRE-FW-04), requiring the certificate holder to, prior to construction, submit a final Habitat Mitigation Plan (HMP) for review and approval by the Department. A draft HMP for WTSII is provided in Attachment B of this order, which identifies 79.6 acres of suitable in-kind and in-proximity habitat that would be available for mitigating WTSII facility impacts. The draft HMP proposes to meet the Category 2 mitigation goal for quantity based on a 2:1 acreage ratio; and proposes to meet the Category 3 mitigation goal for quantity based on a 1:1 acreage ratio. This results in a mitigation obligation to secure a mitigation area of at least 56 acres. RFA1 includes email correspondence from landowner Karen Kronner confirming that Wheatridge East Wind LLC executed a Conservation Easement in April 2024 that includes 56 acres available for WTSII. The draft HMP includes a description of the location, physical and operational characteristics, and duration of the proposed development action also includes proposed enhancement actions that include restricted grazing practices; weed control; native bunchgrass seeding on approximately 2.6 acres; fire control and habitat protection.

As described in Section II.B.3. and in Attachment 2, comments were received from ODFW during the public comment period on the Proposed Order. ODFW's comments requested several revisions to the draft HMP including a description of the location, physical and operational characteristics, and duration of the proposed development action. In response to ODFW's comments, the Department identified that implementation of the draft HMP during operations was not already established or imposed by an existing condition. Therefore, the Department recommends Council impose Fish and Wildlife Condition 12, as provided below:

> **Department's Recommended Fish and Wildlife Condition 12 (OPR-FW-01):** During operation of the solar facility, the certificate holder shall implement the Habitat Mitigation Plan finalized under Condition PRE-FW-04. The HMP may be amended from time to time, subject to Department approval.
> [OPR-FW-01; Final Order on Amendment 1]

~~The Department recommends that the~~ Council finds that the mitigation ratios and enhancement actions proposed are consistent with the mitigation goals by category.

To mitigate temporary habitat impacts, Council previously imposed Fish and Wildlife Habitat condition 11 (PRE-FW-05) requiring revegetation and reclamation of areas temporarily disturbed, in accordance with a Revegetation Plan. As described in Section III.D., *Soil Protection*, the ~~Department recommends the~~ draft VSMP will be finalization and implementation ~~of a Vegetation and Soil Management Plan (VSMP)~~, and is included as Attachment C to this order. The VSMP includes measures to record, monitor and mitigate impacts to soils from construction and operation the facility. Because soil management and soil restoration are directly associated with successful revegetation of impacted areas, and vegetation

management is related to the successful management of weeds at the site the ~~Department recommends~~Council ~~combining~~ combines all the BMPs into the ~~one Comprehensive~~ VSMP~~Plan~~, rather than several separate plans with overlapping requirements (e.g. Noxious Weed Plan, Fugitive Dust Plan, and Revegetation Plan). Therefore, to support this condition and to remove duplicative site certificate conditions, the ~~Department recommends~~ Council deletes condition PRE-FW-05. Removal of the condition is shown in Attachment A, the draft site certificate for WTSII. Similarly, to avoid duplication in condition requirements, the ~~Department recommends~~ Council removes the obligation in Fish and Wildlife Habitat Condition 10 (PRE-FW-04), sub (e)(i) requiring that the final HMP address restoration and revegetation of temporary impacts, as presented in Attachment A, draft WTSII Site Certificate.

The Council previously imposed Fish and Wildlife Habitat Condition 4 (PRE-FW-02) requiring the certificate holder finalize and implement a Wildlife Monitoring and Mitigation Plan (WMMP). The WMMP requires short- and long-term raptor nest monitoring; WGS monitoring; and reporting of incidental wildlife observations. Other than reporting of incidental wildlife observations, the other monitoring requirements are not needed or justified for the site given the results of desktop and field surveys, as described in this Order. Reporting, by the certificate holder to the Department, of incidental wildlife observation at the site has been incorporated into recommended Amended Organizational Expertise Condition 6 (GEN-OE-02), as presented in Section III.B. Organizational Expertise of this Order. Therefore, the ~~Department recommends~~ Council removes Fish and Wildlife Habitat Condition 4 (PRE-FW-02) from the WTSII Site Certificate as presented below:[65]

> **Recommended Deleted of Fish and Wildlife Condition 4 (PRE-FW-02)**: ~~Prior to construction of the facility, the certificate holder shall finalize and implement the Wildlife Monitoring and Mitigation Plan (WMMP) provided in Attachment F-1 of the *Final Order on Request for Amendment 1 of Wheatridge Renewable Energy Facility II Site Certificate* (November 2020), based on the final facility design, as approved by the department in consultation with ODFW.~~
>
> ~~a. The final WMMP must be submitted and ODOE's concurrence received prior to the beginning of construction. ODOE shall consult with ODFW on the final WMMP. The certificate holder shall implement the requirements of the approved WMMP during all phases of construction and operation of the facility.~~
>
> ~~b. The WMMP 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~~

[65] In its Proposed Order, the Department inadvertently removed Fish and Wildlife Habitat Condition 1 (PRE-FW-01). Whilst evaluating ODFW's comments on the Proposed Order, the proposed deletion of PRE-FW-01 was recognized, and the condition is again included in the WTSII Site Certificate. No changes were made to the condition language, as previously imposed.

~~Council of all amendments, and the Council retains the authority to approve, reject, or modify any amendment of the WMMP agreed to by the Department.~~

Deleted in *Final Order on Amendment 1* (2026).

[Final Order on ASC (2017), Fish and Wildlife Habitat Condition 4; AMD5 (2020), AMD1 (2020); AMD1 (2026)]

The ~~Department also recommends~~ Council also removes ~~previously imposed~~ Threatened and Endangered Species Condition 2 (PRE-TE-02) which included duplicate WGS and raptor nest monitoring requirements as required in the above recommended deleted condition.

Similarly, Council previously imposed Fish and Wildlife Habitat Condition 2 (GEN-FW-01) establishing a 20-mile per hour speed limit on new and private access roads associated with the facility. This condition was imposed for the original Wheatridge Wind Energy Facility, which includes 400 MW of wind facility components and associated roads. Because the WTSII facility and associated construction and operation will predominately occur within a perimeter fenceline, there is not a reason to limit construction traffic within the fenceline for the purpose of minimizing wildlife vehicular collision risk. ~~The Department maintains that m~~Maintaining vehicular speed is important for fugitive dust control, ~~which~~ and is addressed under the Vegetation and Soil Management Plan imposed under Soil Protection Conditions 11, 12, 13 and 14, as described in Section I.D. Soil Protection of this Order.

Recommended Deleted Fish and Wildlife Habitat Condition 1 (GEN): ~~During construction and operation, the certificate holder shall impose a 20-mile per hour speed limit on new and improved private access roads, which have been approved as a related and supporting facility to the energy facility.~~

Deleted in *Final Order on Amendment 1* (2026)

[Final Order on ASC (2017), Fish and Wildlife Habitat Condition 2, AMD1 (2026)]

Council previously imposed Fish and Wildlife Habitat Condition 5 (CON-FW-02) requiring that, during construction, the certificate holder limit construction activities within ¼-mile of raptor nests for specifically identified State Sensitive species, during sensitive nesting and breeding seasons. The condition confirms that both pre-construction nest surveys and nest monitoring be based on an ODFW-approved protocol as presented below. ODFW's review of RFA1 identified the buffer size for Ferruginous hawks to be less than what is currently recommended, and therefore, the ~~Department recommends~~ Council amends Fish and Wildlife Condition 5 (CON-FW-02) for WTSII to update the buffer size to match current recommendations, as presented below.

Recommended Amended Condition CON-FW-02: Prior to construction, the certificate holder shall develop a construction plan that demonstrates construction activities within 0.25-mile or 0.5-mile of previously identified active nest sites are scheduled to avoid the sensitive nesting and breeding season, as specified in the table directly below. Previously identified active nest sites are those identified through the pre-construction raptor nest

survey as required through Condition PRE-FW-01 and may also include any previously identified active nest sites from previous surveys.

During construction within the time periods listed below, the certificate holder shall implement buffer zones around active nest sites of the species listed below. Active nest sites shall be identified based on the Condition PRE-FW-01 pre-construction nest survey and be monitored during construction by a biological monitor, both of which shall be based on a protocol approved by the Department in consultation with ODFW-specifying methodology and frequency of monitoring. No ground-disturbing activities within the buffer zone shall occur during the seasonal restrictions. The construction workforce and facility employees must be provided maps with the locations of the buffer zones and be instructed to avoid ground-disturbing activity within the buffer zone during construction activities.

Sensitive Status Species	Buffer Size (Radius Around Nest Site):	Sensitive Nesting and Breeding Season :
Western burrowing owl	0.25 mile	April 1 to August 15
Ferruginous hawk	~~0.25~~0.5 mile	March 15 to August 15
Swainson's hawk	0.25 mile	April 1 to August 15

If avoidance within the buffer restrictions cannot be maintained, the certificate holder may request approval from the Department in consultation with ODFW on a mitigation and conservation strategy for condition compliance.
[Final Order on ASC (2017), Fish and Wildlife Habitat Condition 5; ~~AMD3 (2018); AMD4 (2019);~~ AMD1 (2026)]

III.H.2. Conclusions of Law

Based on the foregoing analysis, and subject to compliance with the existing and recommended amended conditions described above, the ~~Department recommends~~ Council finds that the design, construction, and operation of the facility, with the requested extension of the construction completion deadline, will continue to be consistent with the mitigation goals and requirements of ODFW's Fish and Wildlife Habitat Mitigation Policy under OAR 635-415-0025.~~Based on the foregoing analysis, and subject to compliance with the existing and recommended amended and deleted conditions described above, the Department recommends Council find that the design, construction, and operation of the facility, with the requested extension of the construction completion deadline, will continue to be consistent with the mitigation goals and requirements of ODFW's Fish and Wildlife Habitat Mitigation Policy under OAR 635-415-0025.~~

III.I. THREATENED AND ENDANGERED SPECIES: OAR 345-022-0070

To issue a site certificate, the Council, after consultation with appropriate state agencies, must find that:

(1) For plant species that the Oregon Department of Agriculture has listed as threatened or endangered under ORS 564.105(2), the design, construction and operation of the proposed facility, taking into account mitigation:

(a) Are consistent with the protection and conservation program, if any, that the Oregon Department of Agriculture has adopted under ORS 564.105(3); or

(b) If the Oregon Department of Agriculture has not adopted a protection and conservation program, are not likely to cause a significant reduction in the likelihood of survival or recovery of the species; and

(2) For wildlife species that the Oregon Fish and Wildlife Commission has listed as threatened or endangered under ORS 496.172(2), the design, construction and operation of the proposed facility, taking into account mitigation, are not likely to cause a significant reduction in the likelihood of survival or recovery of the species.[66]
*****[67]

III.I.1. Findings of Fact

The analysis area for threatened or endangered (T&E) plant and wildlife species is the area within and extending 5 miles from the proposed site boundary of the WTSII facility.[68]

Threatened and Endangered Species with Potential to Occur within the Analysis Area

One listed T&E mammal, the Washington Ground Squirrel (WAGS), and one listed T&E plant species, Lawrence's milkvetch (*Astragalus collinus var. laurentii*) were previously identified as having the potential to occur within the analysis area. There have been no changes to the threatened and endangered species expected to occur within the analysis area since the Council's Final Order on Request for Amendment 4 of the Wheatridge Wind Energy Facility in November 2019.[69]

Washington Ground Squirrel

[66] OAR 345-022-0040, effective April 2, 2025.
[67] The information requirements included in the standard are omitted from the language above but evaluated within recommending findings of fact below.
[68] OAR 345-001-0010(35)(c)(C)(ii).
[69] WREFIIIRFA1 Request for Amendment 1 2026-02-27; Section 6.1.9, p. 55

Washington Ground Squirrel (WAGS) are a small ground squirrel associated with shrub-steppe habitats of the Columbia Basin ecoregion. In Oregon, the WAGS range extends from Umatilla County, west through Gilliam and Morrow counties, to the John Day River.

As discussed in Section III.H. *Fish and Wildlife Habitat*, a special status vertebrate wildlife species survey was conducted in 2018, within the WREFIII site boundary. Additional WAGS surveys were conducted during WREFIII preconstruction, to satisfy the requirements of Threatened and Endangered Species Condition 1 (PRE-TE-01) in 2020. WAGS activity was not observed. This condition will apply to the WTSII facility.

Lawrence's milkvetch

Lawrence's milkvetch is a state-listed threatened plant species under ORS 564.105. Lawrence's milkvetch is a perennial in the pea (Fabaceae) family. It occupies sandy or rocky soils overlying basalt on dry slopes of the Columbia Plateau in northern Oregon.

Potential impacts from construction and operation of the WREFIII facility were evaluated in WREFII RFA4 Exhibit Q including botanical surveys conducted in 2018 within the analysis area. Threatened and Endangered Species Condition 3 (PRE-TE-03) requires a preconstruction plant survey for Lawrence's milkvetch within 100-feet of temporary and permanent disturbance from all facility components, unless extent of survey area within suitable habitat from temporary and permanent disturbance is otherwise agreed upon by the Department on consultation with the Oregon Department of Agriculture. The certificate holder conducted the plant surveys in 2020, prior to construction of WREFIII, did not observe any individuals of Lawrence's milkvetch. This condition will apply to the WTSII facility.

III.I.2. Conclusions of Law

Based on the foregoing recommended findings of fact and conclusions, and subject to compliance with the existing site certificate conditions, the ~~Department recommends that the~~ Council finds that the facility, with the requested extension of the construction completion deadline, would continue to comply with the Council's Threatened and Endangered Species standard.

III.J. SCENIC RESOURCES: OAR 345-022-0080

(1) To issue a site certificate, the Council must find that the design, construction and operation of the facility, taking into account mitigation, are not likely to result in significant adverse visual impacts to significant or important scenic resources.

(2) The Council may issue a site certificate for a special criteria facility under OAR 345-015-0310 without making the findings described in section (1). In

issuing such a site certificate, the Council may impose conditions of approval to minimize the potential significant adverse visual impacts from the design, construction, and operation of the facility on significant or important scenic resources.

(3) A scenic resource is considered to be significant or important if it is identified as significant or important in a current land use management plan adopted by one or more local, tribal, state, regional, or federal government or agency.

(4) The Council shall apply the version of this rule adopted under Administrative Order EFSC 1-2007, filed and effective May 15, 2007, to the review of any Application for Site Certificate or Request for Amendment that was determined to be complete under OAR 345-015-0190 or 345-027-0363 before the effective date of this rule. Nothing in this section waives the obligations of the certificate holder and Council to abide by local ordinances, state law, and other rules of the Council for the construction and operation of energy facilities in effect on the date the site certificate or amended site certificate is executed. [70]

*** [71]

III.J.1. Findings of Fact

Scenic Resources in the Analysis Area

The analysis area for the Scenic Resources standard includes the area within and extending 10 miles from the proposed site boundary of the WTSII facility. [72]

For amendments requesting to extend construction deadlines, the Department and Council evaluate whether there have been "changes in fact or law" since the site certificate was issued to determine whether, based on changes in fact or law, the facility would continue to satisfy requirements of the standard. The evaluation provided in RFA4 Exhibit R and Council's previous findings and conclusions provided in the Final Order on RFA4, were the basis of the evaluation provided in RFA1.

As summarized in Table 11 below, no new significant or important scenic resources were identified as a result of RFA1. Table 11 identifies the land use management plans evaluated for RFA1, and whether any significant or important scenic resource was identified in the plan. If

[70] OAR 345-022-0040, effective April 2, 2025.
[71] The information requirements included in the standard are omitted from the language above but evaluated within recommending findings of fact below.
[72] OAR 345-027-0360(1)(c)(C)(ii)

identified, the Table indicates whether the scenic resource(s) is located within the RFA1 analysis area.

Table 11: Land Management Plans and Scenic Resources

Managing Jurisdiction	Management Plan	Scenic Resources Specified in Plan	Scenic Resource identified in Analysis Area
Counties			
Morrow County	Morrow County Comprehensive Plan (2018)	No	No
Umatilla County	Umatilla County Comprehensive Plan (2018)	Yes	No
Cities and Towns			
Ione	City of Ione Comprehensive Plan (1999) and Zoning Ordinance #158	No	No
Lexington	City of Lexington Comprehensive Plan (1979)	No	No
State			
Oregon Department of State Lands	Real Estate Asset Management Plan (2021)	Yes	No
Oregon Parks and Recreation Department	Oregon Natural Areas Plan (2015)	No	No
Oregon Department of Transportation	Oregon Highway Plan (1999)	Yes	Yes
Federal			
US Navy	Integrated Natural Resource Management Plan for the Boardman Bombing Range (2012)	No	No
National Parks Service	Comprehensive Management and Use Plan Final Environmental Impact Statement, California National Historic Trail, Pony Express National Historic Trail; Management and Use Plan Update Final Environmental Impact Statement, Oregon National Historic Trail, Mormon Pioneer Trail (1999)	Yes	Yes

Table 11: Land Management Plans and Scenic Resources

Managing Jurisdiction	Management Plan	Scenic Resources Specified in Plan	Scenic Resource identified in Analysis Area
USFS/ODOT	Blue Mountain Scenic Byway Interpretive Management Plan (1993)	Yes	No

Based upon review of the applicable land management plans presented in Table 11, there are no new important or significant scenic resources within the RFA1 analysis area.

Council previously found that potential visibility of the facility would not be likely to result in a significant, visual impact to any of the important or significant resources listed in Table 11 above.[73]

III.J.2. Conclusions of Law

Based on the foregoing recommended findings of fact, the ~~Department recommends the~~ Council finds that the that the design, construction and operation of the facility, with the requested extension of the construction completion deadline, are not likely to result in significant adverse visual impacts to significant or important scenic resources.

III.K. HISTORIC, CULTURAL AND ARCHAEOLOGICAL RESOURCES: OAR 345-022-0090

(1) Except for facilities described in sections (2) and (3), to issue a site certificate, the Council must find that the construction and operation of the facility, taking into account mitigation, are not likely to result in significant adverse impacts to:

(a) Historic, cultural or archaeological resources that have been listed on, or would likely be listed on the National Register of Historic Places;

(b) For a facility on private land, archaeological objects, as defined in ORS 358.905(1)(a), or archaeological sites, as defined in 358.905(1)(c); and

(c) For a facility on public land, archaeological sites, as defined in ORS 358.905(1)(c).

(2) The Council may issue a site certificate for a facility that would produce power from wind, solar or geothermal energy without making the findings

[73] WRWAMD4 Final Order on Request for Amendment 4 2019-11-22, pg. 101-102.

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

(3) The Council may issue a site certificate for a special criteria facility under OAR 345-015-0310 without making the findings described in section (1). However, the Council may apply the requirements of section (1) to impose conditions on a site certificate issued for such a facility. [74]

*** [75]

III.K.1. Findings of Fact

The analysis area for the Historic, Cultural and Archaeological Resources standard includes the area within the proposed site boundary of the WTSII facility. [76]

No new surveys or cultural resources have been documented within the analysis area since the Council prior review in 2019 through the Final Order on Request for Amendment 4 of the Wheatridge Wind Energy Facility. Because RFA1 does not change the location or size of the previously approved site boundary, and the entire site boundary was previously surveyed, the ~~Department recommends~~ Council finds that it is appropriate to rely on previously recorded surveys and that it is not likely that there is a change on the ground that would necessitate any additional surveys. Resources identified during 2018/2019 surveys included 4 historic sites, 1 archeological site, and 2 archeological objects, described further below. [77]

- Archeological object (6B2H-MC-ISO-17) is a small agricultural cache of three hay mowers within the proposed solar micrositing corridor
- Archeological object (WRII-BB-IS-01) is an isolated horseshoe
- Archeological site (WRII-DM-04) is a historic agricultural access road.

For RFA4, the certificate holder recommended these resources be not likely eligible for listing on the National Register of Historic Places (NRHP), however, to be conservative, Council assumed that these resources are likely eligible for listing on the NRHP and amended Historic, Cultural and Archeological Resources Condition 3 (CON-HC-01) to require that 200-foot avoidance buffers be observed unless SHPO concurs that he resources are not likely eligible or a resource mitigation plan is proposed and submitted to the Department and SHPO for approval.

[74] OAR 345-022-0040, effective April 2, 2025.

[75] The information requirements included in the standard are omitted from the language above but evaluated within recommending findings of fact below.

[76] OAR 345-027-0360(1)(c)(C)(ii).

[77] Other cultural resource investigations within 1-mile of the analysis area for WRWAMD4 identified 15 archeological sites and 8 archeological objects; these were evaluated in the 2017 Final Order on ASC. WRWAMD4doc 24-1 Final Order on Request for Amendment 4 2019-11-22, Section III.K.

Historic, Cultural and Archaeological Resources Conditions 1 (PRE-HC-01) and 2 (PRE-HC-02) are associated with CON-HC-01 and require the submission of maps and buffer area marking prior to construction. Historic, Cultural, and Archeological Resources Condition 5 (CON-HC-02) requires that all ground-disturbing activities in the immediate area of any archeological or cultural resources found during construction of the facility be halted until a qualified archeologist can evaluate the significance of the find; these conditions remain applicable to WTSII.

Historic, Cultural, and Archeological Resources Condition 4 (PRE-HC-03) requires that construction personnel are trained by a qualified archaeologist to identify sensitive historic, cultural, and archaeological resources present onsite and on measures to avoid accidental damage to identified resource sites.

The 2019 surveys and Final Order on AMD4 also evaluated four built historic properties including an in-use, modernized segment of historic road (Lexington-Echo Highway); two in-use modernized segments of historic road (Bombing Range Road; Strawberry Lane); and, historic buildings within a modern farm (Starvation Farms). Based on concurrence from SHPO, none of the four built historic properties are likely eligible for NRHP-listing and are not protected under the Council's standard.[78]

III.K.2. Conclusions of Law

Based on the foregoing analysis, and subject to compliance with the existing site certificate conditions described above, the ~~Department recommends the~~ Council finds that the construction and operation of the facility, with the requested extension of the construction completion deadline, are not likely to result in significant adverse impacts to historic, cultural or archaeological resources that have been listed on, or would likely be listed on the National Register of Historic Places or other archaeological objects or sites identified under OAR 345-022-0090.

III.L. RECREATION: OAR 345-022-0100

(1) To issue a site certificate, 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 important recreational opportunities.

(2) The Council must consider the following factors in judging the importance of a recreational opportunity:

(a) Any special designation or management of the location;

[78] WRWAMD4Doc8 pRFA Reviewing Agency Comment SHPO 2019-07-09 and WRWAMD4Doc7 pRFA Reviewing Agency Comment SHPO 2019-01-19.

(b) The degree of demand;

(c) Outstanding or unusual qualities;

(d) Availability or rareness;

(e) Irreplaceability or irretrievability of the opportunity.

(3) The Council may issue a site certificate for a special criteria facility under OAR 345-015-0310 without making the findings described in section (1). In issuing such a site certificate, the Council may impose conditions of approval to minimize the potential significant adverse impacts from the design, construction, and operation of the facility on important recreational opportunities.

(4) The Council must apply the version of this rule adopted under Administrative Order EFSC 1-2002, filed and effective April 3, 2002, to the review of any Application for Site Certificate or Request for Amendment that was determined to be complete under OAR 345-015-0190 or 345-027-0363 before the effective date of this rule. Nothing in this section waives the obligations of the certificate holder and Council to abide by local ordinances, state law, and other rules of the Council for the construction and operation of energy facilities in effect on the date the site certificate or amended site certificate is executed. [79]

***** [80]

III.L.1. Findings of Fact

The analysis area for the Recreation Standard is 5 miles from the proposed site boundary of the WTSII facility. [81]

Recreational opportunities within the Analysis Area

In the Final Order on Request for Amendment 4 of the Wheatridge Renewable Energy Facility, the Council evaluated recreational opportunities, and determined six would be considered important under OAR 345-022-0100(2), including:

- Oregon National Historic Trail High-Potential Segment (1.2 miles from site boundary)

[79] OAR 345-022-0040, effective April 2, 2025.

[80] The information requirements included in the standard are omitted from the language above but evaluated within recommending findings of fact below.

[81] OAR 345-027-0360(1)(c)(C)(ii)

- Oregon Trail Well Spring Interpretive Site (1.2 miles from site boundary)
- Echo Meadows Site/Oregon Trail Area of Critical Environmental Concern (2.5 miles from site boundary)
- Blue Mountain State Scenic Byway (OR-74) (2.6 miles from site boundary)
- Morrow County Fairgrounds (3.0 miles from site boundary)
- Willow Creek Water Park (3.0 miles from site boundary)[82]

Neither the certificate holder nor the Department identified any new or previously unevaluated recreational opportunities in the 5-mile analysis area since the Council's prior evaluation.

Potential Impacts to Important Recreation Opportunities

In the Final Order on Request for Amendment 4 of the Wheatridge Renewable Energy Facility, the Council found that the construction and operation of the RFA4 facility components (i.e. the solar arrays) would not be expected to result in any potentially significant impacts to important recreational opportunities. The ~~Department recommends~~ Council ~~rely~~ relies upon and incorporates by reference its evaluation as presented in Section III.M of the 2018 Final Order on RFA4.[83]

III.L.2. Conclusions of Law

Based on the foregoing analysis, the ~~Department recommends the~~ Council finds that the design, construction and operation of the facility, with the requested extension of the construction completion deadline, are not likely to result in a significant adverse impact to important recreational opportunities.

III.M. PUBLIC SERVICES: OAR 345-022-0110

> *(1) Except for facilities described in sections (2) and (3), to issue a site certificate, the Council must find that the construction and operation of the facility, taking into account mitigation, are not likely to result in significant adverse impact to the ability of public and private providers within the analysis area described in the project order to provide: sewers and sewage treatment, water, storm water drainage, solid waste management, housing, traffic safety, police and fire protection, health care and schools.*
>
> *(2) The Council may issue a site certificate for a facility that would produce power from wind, solar or geothermal energy without making the findings*

[82] WRWAPPDoc196. Final Order on ASC. 2016-05-24. In the Final Order on ASC, the Council disagreed with the certificate holder's representation that Willow Creek Water Park met the criteria for an "important" recreational opportunity. However, the Council included an evaluation of potential impacts to this recreational opportunity.
[83] WRWAMD4 Final Order on Request for Amendment 4 2019-11-22, pg. 109-116.

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

(3) The Council may issue a site certificate for a special criteria facility under OAR 345-015-0310 without making the findings described in section (1). However, the Council may apply the requirements of section (1) to impose conditions on a site certificate issued for such a facility. [84]

*** [85]

III.M.1. Findings of Fact

The analysis area for potential impacts to public services is the area within and extending 10-miles from the proposed site boundary of the WTSII facility. [86] The analysis area includes the cities of Lexington and Heppner, as well as portions of unincorporated Morrow and Umatilla counties. Other communities within the vicinity of the site including, but not limited to Ione and Heppner, could be affected by increased demand for housing and traffic impacts associated with the construction and operation of the WTSII facility.

Impact Assessment Assumptions

In RFA1, the certificate holder relies on its analysis and assumptions conducted for WRW RFA4 and maintains that its maximum impact analysis done for RFA4 remains applicable for construction of WTSII and operation of WREFIII and WTSII. Construction of facility components would last up to 12 months. [87] To complete construction of the solar arrays and battery systems it is estimated that a maximum of 250 workers would be onsite at one time.

For purposes of the Public Services impact assessment, the certificate holder relies upon the assumptions provided in RFA4 and on the 2017 Final Order on ASC, assuming that approximately 80 percent of the construction workforce hired for construction of the solar arrays will be hired locally (i.e., from within commuting distance of the facility), and the remaining 20 percent of the workforce will be from out of state or longer distance and will temporarily relocate to the facility vicinity. [88]

The operations and maintenance (O&M) of the proposed solar arrays will require up to two staff. The certificate holder maintains that O&M staff will be hired locally, to the extent that skilled workers are available.

[84] OAR 345-022-0040, effective April 2, 2025.

[85] The information requirements included in the standard are omitted from the language above but evaluated within recommending findings of fact below.

[86] OAR 345-027-0360(1)(c).

[87] WRWAMD4doc 24-1 Final Order on Request for Amendment 4 2019-11-22, p. 114

[88] Certificate holder relies on assumptions about the labor force for its assessment under the Public Services standard. The Department notes that these assumptions do not guarantee the assumptions are correct.

Sewers and Sewage Treatment

During construction, portable toilets will be provided by a licensed subcontractor, who will be responsible for servicing the toilets at regular intervals and dispose of wastewater in accordance with local jurisdictional regulations.

The O&M building would have an on-site septic system which would be serviced by licensed companies. The facility would not require sewage treatment, nor require construction or expansion of public stormwater drainage facilities. Therefore, construction and operation of the WTSII facility would not impact public and private providers of sewer, sewage treatment or stormwater drainage.

Water Supply

During construction of the remaining WTSII facility components, a maximum of 36.3 million gallons (Mgal) of water would be used for dust suppression, road compaction, site preparation, mixing concrete for foundations, fire prevention, and on-site worker drinking and sanitation use. Construction-related water is expected to be obtained from the City of Ione and the City of Lexington the City of Maupin and the City of Wasco[89] under an existing municipal water right. RFA1 Attachment 9 includes letters from the City of Ione indicating its ability to provide the 36.3 Mgal of construction-related water and the City of Lexington indicating it could provide water approximately 1 Mgal a month with seasonal constraints during the summer.

To confirm the source for construction-related water and to ensure that impacts to public or private water sources are not impacted by construction of the WTSII facility, the ~~Department recommends~~ Council imposes Public Services Condition 24, below. Public Services Condition 24 requires the certificate holder to confirm the final water demand based on final facility build out and requires the certificate holder to provide evidence that the final water sources for construction-related water are adequate, and have been legally secured under existing water rights or third-party permits:

> **Recommended Public Services Condition 24 (GEN)**: Prior to and during facility construction, as applicable, the certificate holder shall:
>
> a. Identify all water-related needs and estimate daily and annual water demand for facility construction.
>
> b. Provide evidence such as a contract or purchase agreement demonstrating that adequate water supply to meet facility construction demand has been secured and

[89] WREFIIIAMD1 RFA1 Attachment 9, 2027-02-27. Letters from City of Ione indicating its ability to provide the 36.3 Mgal of construction-related water and the City of Lexington indicating it could provide water approximately 1 Mgal a
month with seasonal constraints during the summer.

that water for all construction activities will be legally obtained by service providers or third-party permits.
[GEN-PS-04; Final Order on AMD1 (2026)]

Operational water use is estimated to be up to 650,250 gallons of water per year for solar panel washing, assuming panels are washed twice a year.[90] As discussed in Section IV.C., *Water Rights*, WREFIII and WTSII share the O&M building with WREFII and operational water use at the O&M building(s) would be served by onsite, permit-exempt wells and would not result in impacts on the ability of public or private providers of water to deliver services. The O&M building is not a related or supporting facility for WREFIII and WTSII, therefore, site certificate conditions applicable to the O&M building are not applicable to WREFIII or WTSII. The certificate holder does not include verification from water service providers for operation of the WTSII facility, therefore, similar to recommended Public Services Condition 24 above, the ~~Department recommends~~ Council imposes Public Services Condition 25, below, to apply during operation~~a similar condition during operation as provided below~~:

Recommended Public Services Condition 25 (OPR): During every year of operations, the certificate holder shall:

a. Identify all water-related needs and estimate daily and annual water demand for facility operations.
b. Provide evidence of water sources such as a well log from O&M building(s), or contract or purchase agreement demonstrating that adequate water supply to meet facility operational demand has been secured off-site and that water for all operational activities will be legally obtained by service providers or third-party permits.

[OPR-PS-05; Final Order on AMD1 (2026)]

Because the certificate holder demonstrates that it can obtain adequate water supply for the construction and operation of the facility, and subject to the conditions described above, the ~~Department recommends~~ Council finds that the construction and operation of the WTSII facility are not likely to result in significant adverse impact to the ability of any public or private water providers to provide services.

Stormwater Drainage

No drainage district or developed stormwater drainage facilities serve the site except those associated with public roads maintained by Morrow County. Because the WTSII facility will not connect to any developed stormwater drainage system and will not be located within the boundaries of a drainage district, the ~~Department recommends~~ Council finds that the facilities are not likely to result in adverse impacts on the ability of any community to provide stormwater drainage services.

[90] WRWAMD4Doc15-16 RFA4 Complete RFA4 Exhibit O. Water Req Final 2019-07-01, Section 2.1.3.

Solid Waste Management

The certificate holder estimates that approximately 14,000 cubic yards of non-hazardous waste will be generated during construction of WTSII.[91] Waste materials generated by construction of the WTSII solar components will primarily consist of concrete waste and packaging materials. Non-hazardous solid waste will be disposed of following the Construction Waste Management Plan in Public Service Condition 3 (CON-PS-01) and Waste Minimization Condition 2 (PRE-WM-01).[92] Solid waste generated from construction also includes dirt and soil excess from access road construction, grading and excavation for the solar array foundations, support structures, and the collector substation expansion. Existing condition Waste Minimization Condition 1 (CON-WM-01) requires that the certificate holder provide agreements between contractors and other parties off-site that would receive the earth materials and confirm that all disposal sites have been inspected and approved by the certificate holder's environmental personnel.

The certificate holder assumes that no more than 2 cubic yards of waste would be produced monthly during operation, which would not impact the capacity at the local landfill. RFA1 Attachment 5 includes correspondence with Finley Butte Landfill, where a representative confirms that the landfill will be able to accept the quantities proposed for construction and that the landfill has a lifespan (capacity) and other 175 years.

Council previously imposed Public Services Condition 5 (GEN-PS-01) requiring that the certificate holder coordinate with its solid waste handler to provide information solicited through DEQ Recycling Survey to the Morrow County waste shed representative. However, in implementing this condition for the other Wheatridge descendent facilities, the Department has never been able to reach a Morrow County waste shed representative for which to require certificate holders to report. Therefore, the condition is not effective nor necessary to ensure that waste materials are recycled to the maximum extent practicable. The ~~Department recommends~~ Council removes this condition from the WTSII site certificate.

> **Recommended Deleted Public Services Condition 5 (GEN~~-PS-01~~)**: ~~During construction and operation, the certificate holder shall coordinate with its solid waste handler to provide the information solicited through the Oregon Department of Environmental Quality's Recycling Collector Survey to the Morrow County waste shed representative on an annual basis.~~ Deleted in *Final Order on Amendment 1* (2026).
> [Final Order on ASC (2017), ~~Public Services Condition 5~~GEN-PS-01]

Lithium-ion system will require regular change out of batteries as they degrade over time, and batteries will be replenished at a rate depending on usage where a battery cycled frequently will need to be replaced more often. The certificate holder explains that a group of

[91] In RFA1 the certificate holder relies upon the facts/impact assumptions from the Final Order on RFA4, however, in RFA1 Attachment 5, in correspondence with Finley Butte Landfill, the certificate holder represents 14,000 cubic yards of waste generated from construction and not the 2,000 cubic yards presented in RFA4.
[92] WRWAMD4Doc14-23 RFA4 Complete RFA4 Exhibit V. Waste Final Section 2.1.1. 2019-07-01.

approximately 11 lithium-ion battery cells per 1 MW will be replaced approximately every three years over the life of the facility (50 years), and at this replacement rate, approximately 27,500 battery racks will be used over operation term of the battery storage systems.[93] Council previously imposed Organizational Expertise Condition 10 (GEN-OE-04) to ensure the certificate holder utilizes a licensed hauler for battery transport and that the handling guidelines of 49 Code of Federal Regulations 173.185 – Department of Transportation Pipeline and Hazardous Material Administration related to the transport of lithium ion batteries is followed.

Based on the small quantities of waste generated and the local landfill has capacity to accept waste, and in compliance with previously imposed conditions, the ~~Department recommends~~ Council finds that the WTSII would not be likely to result in a significant adverse impact on the ability of public and private providers of solid waste management to deliver services.

Traffic Safety

The primary transportation routes used for construction are I-84 and OR-207, and the following major county roads would convey significant amounts of construction traffic: Bombing Range Road, Big Butter Creek Road, Little Butter Creek Road, Baseline Road, Juniper Lane, Strawberry Lane, and Sand Hollow Road in Morrow County.[94]

The certificate holder relies upon the assumptions provided in RFA4 which largely rely on information from the 2017 Final Order on ASC, which assumes that approximately 80 percent of the construction workforce hired for construction of the solar arrays will be hired locally (i.e., from within commuting distance of the facility), and the remaining 20 percent of the workforce will be from out of state or longer distance and will temporarily relocate to the facility vicinity. [95]

I-84 and OR-207 are managed by the Oregon Department of Transportation (ODOT) and depending on the segment of these highways, they experience high average annual daily traffic (AADT) volume and have the capacity to add any additional drivers associated with construction of the facility. Regardless of the location where workers reside at, almost all workers local or who move from out of the area, will use the County-managed roads to get to the site (Bombing Range Road, Big Butter Creek Road, Little Butter Creek Road, Baseline Road, Juniper Lane, Strawberry Lane, and Sand Hollow Road in Morrow County). Therefore, assuming a worst case scenario of no carpooling), there would be 250 one way trips and 500 round trips for construction workers a day. Construction traffic relied upon in RFA4 is approximately 5-10 trucks per day, primarily related to the delivery of solar module and tracker components and concrete.[96]

[93] WRWAMD4Doc14-9 RFA4 Complete RFA4 Exhibit G. Materials Analysis Final, Section 3.2. 2019-07-01.
[94] WRWAMD4doc 24-1 Final Order on Request for Amendment 4 2019-11-22, Section III.M. Public Services; Traffic Safety.
[95] Certificate holder relies on assumptions about the labor force for its assessment under the Public Services standard. The Department notes that these assumptions do not guarantee the assumptions are correct.
[96] WRWAMD4Doc14-22 RFA4 Complete RFA4 Exhibit U. Public Services Final, Section 3.2.1. 2019-07-01.

Council previously imposed Public Services Condition 6 (PRE-PS-01) requiring that, prior to construction, the certificate holder coordinate with ODOT and county road officials to develop and implement a Traffic Management Plan, as approved by the Department, that would include best management practices (BMP's) to minimize potential construction-related traffic impacts. BMP's include maintaining emergency vehicle access to private property, using chase vehicles if required by ODOT, and notifying nearby landowners prior to the start of construction.

In its comments on pRFA1, Morrow County requests that, ~~as a legal precaution, the county requests that~~ a new RUA be promulgated to ensure the parties responsible are the same as those listed in the new and separate site certificate holders.[97] Public Services Condition 7 (PRE-PS-02) requires the certificate holder to enter into road use agreements with counties that will outline, at a minimum, a pre-construction assessment of road surfaces, construction monitoring, and post-construction inspection and repair. Council previously imposed Public Services Condition 8 (PRE-PS-03), which requires new road construction to be compliant with the applicable county road design standards.

The operations and maintenance of the proposed solar arrays and battery storage facilities associated with RFA4 will require up to two additional staff. The certificate holder maintains that O&M staff will be hired locally, to the extent that skilled workers are available. The additional staff hired to operate the solar facilities are not expected to significantly impact existing traffic volumes.

Based on the findings presented here and compliance with previously imposed conditions, the ~~Department recommends~~ Council finds that the construction of WTSII facility would not be likely to result in a significant adverse impact to the ability of public or private providers of traffic safety.

Air Traffic

The Morrow County Lexington Airport is a County-managed public airport located in Lexington, Oregon approximately 7.5 miles southwest of the southern facility site boundary. The West Buttercreek airfield is a private airfield located approximately 9.5 miles northeast of the northern site boundary.[98] The tallest facility structure would be the poles associated with the 34.5 kV overhead collector lines which would be approximately 60 feet tall. Council previously imposed Public Services Condition 9 (PRE-PS-04) which requires the certificate holder to submit a FAA form 7460-1 to the FAA and the Oregon Department of Aviation (ODAv) in accordance with ORS 836.535(2)(a) requesting a determination of No Hazard in order to allow the agency to evaluate the effect of construction on air safety and navigable airspace. However, because the facility far proximity to airports and the lack of tall facility structures, the Department

[97] WREFIIIAMD1 pRFA SAG - Morrow County Comments 2026-01-29.

[98] Distances from the site boundary estimated by Department using ORESA Oregon Renewable Energy Siting Assessment. The Department was unable to confirm if the West Buttercreek airfield is open and operational.

requested confirmation from ODAv during the review of pRFA1. ODAv confirmed that filing 7460 notices with the FAA and ODAV would not be required for construction of the WTSII facility.[99] Therefore, the ~~Department recommends~~ Councill removes PRE-PS-04 as shown below in the draft site certificate:

> **Recommended Deleted Public Services Condition 9 (PRE~~-PS-04~~)**: ~~Before beginning construction of the facility, facility component or phase, as applicable, the certificate holder shall:~~
> ~~a. Complete the Federal Aviation Administration (FAA) Notice Criteria Tool for solar facility coordinates to determine applicability of the FAA 7460 filing. If the FAA Notice Criteria Tool requires FAA filing, the certificate holder will submit to the FAA and the Oregon Department of Aviation an FAA Form 7460-1 Notice of Proposed Construction or Alteration.~~
> ~~b. Submit to the Oregon Department of Aviation the solar facility coordinates for purposes of an aeronautical study and determination. If the Department, in consultation with the Oregon Department of Aviation, determines that the facility would adversely impact an airport's ability to provide service by obstructing the airport's primary or horizontal surface, the department, in consultation with the Oregon Department of Aviation and the certificate holder, shall determine appropriate mitigation, if any, prior to construction.~~ Deleted in *Final Order on Amendment 1* (2026).
> [Final Order on ASC (2017), ~~Public Services Condition 9~~PRE-PS-04; AMD1 (2020); AMD1 (2026)]

The ~~Department recommends~~ Council finds that the WTSII facility would not be likely to result in a significant adverse impact to the ability of public or private providers of air traffic safety.

Fire and Police Providers

During construction, the greatest risk of fire on the site is from welding and metal cutting for foundation rebar frames, and vehicles and construction equipment use in areas of tall, dry grass.[100] Other fire hazards associated with construction can result from workers smoking, refueling vehicles and equipment, and operating or parking vehicles and other equipment off roadways in areas of dry grass that could ignite upon contact with hot vehicle parts.

Fire protection providers for the facility are the Boardman Fire Rescue District (BFRD) location approximately 18 miles away in Boardman, Oregon and Echo Rural Fire Protection District (Echo RFPD) located approximately 23 miles from the facility. RFA1 Attachment 5 includes correspondence from the Fire Chief at BFRD indicating that BFRD would continue to provide emergency services and fire response in conjunction with other local fire agencies for the facility. RFA1 Attachment 5 also includes a letter from Echo RFPD stating that the RDPD does

[99] WREFIIIAMD1 pRFA Reviewing Agency ODAv Comments 2026-02-05.
[100] WRWAMD4Doc14-3 RFA4 Complete RFA4 Exhibit B. Project Desc Final, Section 2.4. 2019-07-01.

not have any concerns with the facility, and they will respond to any fires or initial emergency response at the site. They continue by stating that a 100-foot vegetative-free area must be maintained around structures, however, it is unclear if they are referring to wind or solar facility components.

As discussed in Section III.N., *Wildfire Prevention and Risk Mitigation*, the Council's Wildfire Prevention and Risk Mitigation standard is applicable to the WTSII facility during construction and operation of the facility. Construction and operational Wildfire Mitigation Plans (WMPs) are attached to this order as Attachments E-1 and E-2 and are imposed under Wildfire Prevention and Risk Mitigation Conditions 1 through 4. The WMPs include steps to finalize the plans prior to construction and operation of the facility where facility design features would be finalized, including vegetative-free areas around electrical equipment which would reduce wildfire risk from and to the facility. The WMP's include pre-construction and operational trainings, with invitation provided to local fire departments and emergency service providers.

The WMPs also include restrictions on activities that can occur onsite during fire season and red flag warning events such as restrictions on hot work like welding, vegetation management protocols, agency and landowner consultation, and specifications for fire protection equipment. Because the WMPs include measures that are required in previously-imposed CON-PS-05 and PRO-PS-02, the ~~Department recommends~~ Council removes these conditions ~~be removed~~ from the site certificate:

> **Recommended Deleted Public Services Condition 17 (CON~~-PS-05~~)**: ~~During construction the certificate holder must maintain an area clear of vegetation for fire prevention around construction sites, including towers and any areas where work includes welding, cutting, grinding, or other flame- or spark-producing operations.~~ Deleted in *Final Order on Amendment 1* (2026).
> [Final Order on ASC (2017), ~~Public Services Condition 17~~CON-PS-05, AMD1 (2020); AMD1 (2026)]
>
> **Recommended Deleted Public Services Condition 19 (PRO~~-PS-02~~)**: ~~Before beginning operation of the facility, the certificate holder must provide a final site plan to the identified fire protection districts and first responders included in the Emergency Management Plan.~~ Deleted in *Final Order on Amendment 1* (2026).
> [Final Order on ASC (2017), ~~Public Services Condition 19~~PRO-PS-02, AMD1 (2020); AMD1 (2026~~)~~)]

The Department recommends that the WMPs for facility construction and operation would reduce potential impacts to fire service providers. However, in the conditions addressed below, the Department also recommends that the Construction and Operational Emergency and Safety Management plans would also reduce potential impacts to fire service providers because they require and include agency coordination and copies of any mutual aid agreements entered into.

RFA1 Attachment 5 includes a letter from the Morrow County Sheriff's Office indicating that they are the agency that provides primary law enforcement to the facility. The Sheriff states that they will response to any complaints from the facility and that they do not expect the facility to impact their staff workload.

Previously imposed Public Services Condition 18 (GEN-PS-03) requires that, prior to construction and operation, the certificate holder provide employee fire prevention and response training for facility fire hazards, fire safety, emergency notification procedures, and the use of fire safety equipment. The condition cites to the agencies identified in the Emergency Management Plan developed under Public Services Condition 13. Public Services Condition 13 (PRE-PS-05) is coded as a pre-construction condition, requiring the finalization of an Emergency Management Plan which includes coordination with local fire protection districts; however, the condition also states that the plan shall be maintained onsite and implemented throughout construction and operation of the facility. Similarly, Public Services Condition 20 (PRE-PS-06) is coded for pre-construction and requires the development and implementation of a site health and safety plan that would be applicable to construction, while also stating that the site health and safety plan must be updated on an annual basis, maintained throughout the construction and operation of the facility. The health and safety plan includes information about first aid techniques, what to do in case of an emergency, important telephone numbers, the locations of onsite fire extinguishers, contact information of nearby hospitals, and training on these items. The ~~Department recommends~~Council imposes separate conditions that would be applicable ~~to~~ during construction and operation of the facility, because the safety and fire risks differ during each phase; this also facilitates implementation and compliance with the conditions. As described above, Public Services Condition~~s~~ 18, 13, and 20 have related and overlapping information training requirements.

Previously imposed Public Services Condition 21 (PRE-PS-07) and Public Services Condition 22 (PRO-PS-03) require that all construction and operational workers are certified in first aid, cardiopulmonary resuscitation (CPR), and the use of an automated external defibrillator (AED), and that an AED is available at all times during construction and operation of the facility. Because this is a typical requirement that appears in contractor and certificate holder emergency and safety management plans, the ~~Department also recommends~~Council removes Public Services Condition 21 (PRE-PS-07) and Public Services Condition 22 (PRO-PS-03), ~~be removed and~~ adding the same requirements ~~be added~~ to the Construction and Operational Emergency and Safety Management plans addressed below~~.~~:

> **Recommended Amended Public Services Condition 13 (PRE~~-PS-05~~)**: Prior to construction, the certificate holder shall submit ~~prepare~~ an Emergency and Safety Management Plan to the Department for review and approval. The Construction Emergency and Safety Management may be the certificate holder or contractors corporate Plan but must include, at a minimum: ~~that includes the procedures and actions described in this order and in ASC Exhibit U. The certificate holder shall submit the plan to ODOE for review and approval in consultation with the appropriate local fire protection districts (including the City of Heppner Volunteer Fire Department and Ione~~

~~Rural Fire Protection District) prior to construction. The plan shall be maintained onsite and implemented throughout construction and operation of the facility. Any updates to the plan shall be provided to the department within 30 days. All onsite workers shall be trained on the fire prevention and safety procedures contained in the plan prior to working on the facility. Additional information that shall be included in the plan:~~

a. ~~Current c~~Contact information of ~~at least two~~ facility personnel available to respond on a 24-hour basis in case of an emergency on the facility site. The contact information must include name, telephone number(s), physical location, and email address for the listed contact(s). ~~An updated list must be provided to the fire protection agencies immediately upon any change of contact information. A copy of the contact list, and any updates as they occur, must also be provided to the Department, along with a list of the agencies that received the contact information.~~

~~b. Identification of agencies that participated in developing the plan;~~

c. Identification of agencies and fire protection associations, with contact information, that are designated as first response agencies and ~~or~~ are included in any mutual aid agreements with the facility;

    i. Copies of mutual aid, fire protection association, or other agreements entered into concerning fire protection at the facility site.

~~d. A list of any other mutual aid agreements or fire protection associations in the vicinity of the facility;~~

e. ~~Contact information for each agency listed above~~;

f. ~~Communication p~~Protocols for both routine and emergency events and the incident command and notification system to be used in the event of an ~~fire~~ emergency response by multiple agencies is needed at the facility;

~~g. Access and fire response at the facility site during construction and operations. Fire response plans during construction should address regular and frequent communication amongst the agencies regarding the number and location of construction sites within the site boundary, access roads that are completed and those still under construction, and a temporary signage system until permanent addresses and signs are in place;~~

h. The designated meeting location in case of evacuation;

i. Location(s) of automated external defibrillator (AED) that must be available on site.

j. Staff and contractor training requirements~~;~~ and frequency of trainings;

    i. Personnel shall be trained on the measures described in the Emergency and Safety Management Plan and in first aid, cardio pulmonary resuscitation (CPR), and the use of an AED.

    ii. First aid techniques and locations of first aid kits and AED.

    iii. Training attendance rosters and training materials must be maintained.

~~k. Copies of mutual aid, fire protection association, or other agreements entered into concerning fire protection at the facility site.~~

[Final Order on ASC (2017), ~~Public Services Condition 13~~PRE-PS-05, AMD1 (2020), Final Order on AMD1 (2026)]

Recommended Public Services Condition 26 (CON~~-PS-06~~): During construction, the certificate holder and its contractor must implement and adhere to the Construction Emergency and Safety Management Plan finalized in Public Services Condition 13 (PRE-PS-05). The following must be submitted in the semi-annual construction progress report:

a. Training attendance rosters and copies of trainings materials;

b. Any changes to the Construction Emergency and Safety Management Plan.

[CON-PS-06; Final Order on AMD1 (2026)]

Recommended Deleted Public Services Condition 21 (PRE~~-PS-07~~): ~~Before beginning construction of the facility, facility component or phase, as applicable, the certificate holder shall ensure that all construction workers are certified in first aid, cardio pulmonary resuscitation (CPR), and the use of an automated external defibrillator (AED). The certificate holder must retain records of the certifications and provide them to the department upon request. The certificate holder shall also ensure that an AED is available onsite at all times that construction activities are occurring.~~ Deleted in *Final Order on Amendment 1* (2026).

[Final Order on ASC (2017), ~~Public Services Condition 21~~PRE-PS-07, AMD1 (2020); AMD1 (2026)]

Recommended Deleted Public Services Condition 20 (PRE~~-PS-06~~): ~~Before beginning construction, the certificate holder shall develop and implement, or require its contractors to develop and implement, a site health and safety plan that informs workers and others onsite about first aid techniques and what to do in case of an emergency. The health and safety plan will include preventative measures, important telephone numbers, the locations of onsite fire extinguishers, and the names, locations and contact information of nearby hospitals. All onsite workers shall be trained in safety and emergency response, as per the site health and safety plan. The site health and safety plan must be updated on an annual basis, maintained throughout the construction and operations and maintenance phases of the facility, and available upon request by the department.~~ Deleted in *Final Order on Amendment 1* (2026).

[Final Order on ASC (2017), ~~Public Services Condition 20~~PRE-PS-06, AMD1 (2020), AMD1 2026]

Recommended Deleted Public Services Condition 18 (GEN~~-PS-03~~): ~~Prior to construction and operation of the facility, , the certificate holder must provide employee fire prevention and response training that includes instruction on facility fire hazards, fire safety, emergency notification procedures, use of fire safety equipment, and fire safety rules and regulations. The certificate holder shall notify the department and the first-response agencies listed in the Emergency Management Plan developed to comply with Public Services Condition 13 at least 30 days prior to the annual training to provide an opportunity to participate in the training. Equivalent training shall be provided to new employees or subcontractors working on site that are hired during the fire season. The~~

~~certificate holder must retain records of the training and provide them to the department upon request.~~ Deleted in Final Order on Amendment 1 (2026).
[Final Order on ASC (2017), ~~Public Services Condition 18~~GEN-PS-03, AMD1 (2026)]

RFA1 Attachment 6 includes the certificate holder's parent company corporate Emergency Action Plan (EAP) from 2023 applicable to operation of its facilities. The 2023 EAP is attached to this order as Attachment E. The EAP establishes planned response actions that will be taken by personnel in the event of an emergency situation, including but not limited to fires, site evacuation, natural disasters, medical emergencies, and environmental events. The EAP outlines training requirements for personnel on the Plan, site access for emergency responders and evacuation routes for staff, CPR and first Aid certificate requirements, communication protocols, and record keeping requirements. The EAP is reviewed an updated annually and is considered a "living" document such that revisions over time, based on experiences, will continue to increase the speed of identification of threats and decrease response time.[101] As described above, Public Services Conditions 18, 13, and 20 included requirements for these measures and blended the applicability of the conditions to construction and operation. ~~The Department recommends~~Council imposes Public Services Conditions 27 and 28, below, ~~which require~~ requiring the finalization and implementation of an Operational Emergency and Safety Management Plan, which would include~~s~~ the substantive requirements from the previously-imposed conditions. For the purposes of the ~~recommended~~ conditions below, the certificate holder's EAP would meet the requirements of the Operational Emergency and Safety Management if all the measures are included in the plan.

Recommended Public Services Condition 27 (PRO~~-PS-04~~): Prior to operation, the certificate holder shall submit an Operational Emergency and Safety Management Plan / Emergency Action Plan (the most current version of Attachment E of the Final Order on RFA1) to the Department for review and approval. The Operational Emergency and Safety Management may be the certificate holder's corporate Plan but must include, at a minimum:

a. Contact information of facility personnel available to respond on a 24-hour basis in case of an emergency on the facility site. The contact information must include name, telephone number(s), physical location, and email address for the listed contact(s).
b. Identification of agencies and fire protection associations, with contact information, that are designated as first response agencies and are included in any mutual aid agreements with the facility;
    i. Copies of mutual aid, fire protection association, or other agreements entered into concerning fire protection at the facility site.
c. Protocols for both routine and emergency events and the incident command and notification system to be used in the event of an ~~fire~~ emergency response by multiple agencies is needed at the facility;
d. The designated meeting location in case of evacuation;

[101] RWREFIIIAMD1 Request for Amendment 1, 2027-02-27, Attachment 6, Section 3.2.

e. Location(s) of automated external defibrillator (AED) that must be available on site;
f. Staff and contractor training requirements~~;~~ and frequency of trainings;
    i. Personnel shall be trained on the measures described in the Emergency and Safety Management Plan and in first aid, cardio pulmonary resuscitation (CPR), and the use of an AED.
    ii. First aid techniques and locations of first aid kits and AED.
    iii. Training attendance rosters and training materials must be maintained.

[Final Order on AMD1 (2026), PRO-PS-04]

Recommended Public Services Condition 28 (OPR~~-PS-06~~): During operation, the certificate holder must implement and adhere to the Operational Emergency and Safety Management Plan / Emergency Action Plan finalized in Public Services Condition 27 (PRO-PS-04). The following must be submitted in the annual report:

c. Training attendance rosters and copies of trainings materials;
d. The most current version of the corporate or applicable Emergency and Safety Management Plan / Emergency Action Plan.

[Final Order on AMD1 (2026), OPR-PS-06]

Recommended Deleted Public Services Condition 22 (PRO~~-PS-03~~): ~~Prior to operation, the certificate holder must ensure that operations personnel remain current in their first aid/CPR/AED certifications throughout the operational life of the facility. The certificate holder must retain records of the certifications and provide them to the department upon request. The certificate holder shall also ensure that an AED is available onsite at all times that operations and maintenance personnel are at the facility.~~ Deleted in *Final Order on Amendment 1* (2026).

[Final Order on ASC (2017), ~~Public Services Condition 22~~PRO-PS-03; AMD1 (2026)]

The following conditions remain applicable to the facilities:

- Public Services Condition 10 (CON-PS-02): during construction certificate holder must provide 24-hour on-site security and shall establish effective communications between on-site security personnel and the Morrow County Sheriff's Office.
- Public Services Condition 12 (OPR-PS-04): during operation, the certificate holder must ensure that law enforcement agencies 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 at the facility site.

The ~~Department recommends~~ Council finds that compliance with the proposed, deleted and amended conditions would continue to minimize potential adverse impacts from construction and operation of the facility, with proposed changes, to public and private providers of fire and police protection services.

Housing

In RFA1, the certificate holder relies on the housing analysis done for RFA4, which relies on 2017 US Census and 2016 US Census Estimates for housing occupancy rates and data. The certificate holder maintains that construction workers who are not residents of the area typically stay in temporary accommodations such as hotels or motels, apartments, short-term rental homes, campgrounds, or other areas where workers can park mobile housing (e.g., trailers or recreational vehicles). However, its ~~is the Department's~~ Council's understanding that most construction workers use and stay in hotels and RV parks. The 2019 RFA4 estimates that there were approximately 1,320 vacant rental units available within the analysis area, which includes apartments and house rentals.

Morrow County raises concerns about potential impacts within the County and mitigation of temporary workforce housing. County continues to encourage the developer and contractors to invest in permanent, temporary housing. Additionally, where temporary on-site RV parking is allowed in the Exclusive Farm Use Zone, the county encourages the certificate holder to work with neighboring property owners and identify parcels with potential for RV parking in their County Conditional Use Permit.[102]

During operations, the certificate holder estimates that approximately two additional staff would be necessary to operate the solar facilities. These staffing additions are not expected to significantly impact housing services within the analysis area.

Based upon the discussion provided above, the ~~Department recommends~~ Council finds that the construction and operation of the facility are not likely to result in significant adverse impacts to the ability of public and private housing providers to deliver housing.

Schools and Healthcare

Healthcare service providers nearest to the facilities include:

- Pioneer Memorial Hospital (Heppner, OR)
- Good Shepherd Medical Center (Hermiston, OR)
- Mid-Columbia Medical Center (Level III trauma center, the Dalles, OR)
- Oregon Health & Science University Hospital and Legacy Emmanuel Medical Center (for serious injuries needing Life Flight)

The ambulance service provider that services the area is Morrow County Health District's Emergency Medical Services as well as nearby fire districts that have first responder vehicles.

As discussed in the above section, the ~~Department recommends~~ Council ~~consolidating~~ consolidates previously-imposed site certificate conditions requiring a safety and health plan and emergency management plan, as well as conditions requiring first aid and CPR training, into recommended amended Public Services Condition 13, 26, and 27 requiring a Construction and Operational Emergency and Safety Management plans. The finalization and implementation of

[102] WREFIIIAMD1 pRFA SAG - Morrow County Comments 2026-01-29.

these plans would ensure that safety and health measures are established and maintained onsite, which would reduce the need for emergency services at the site.

Two school districts are located within the analysis area, Morrow County School District No 1 and Echo School District No. 5 in Umatilla County. Most construction workers would be local residents. Workers from outside the area that are hired for construction are unlikely to relocate with their families, considering the short-term duration solar facility construction. Construction will be temporary, with most of the peak work period will occur during the summer months when school is not in session.

During operations, the certificate holder estimates that approximately two additional staff would be necessary to operate the facilities; these staffing additions are not expected to significantly impact schools within the analysis area.

Based on the discussion provided above and compliance with existing, recommended amended and new certificate conditions described in this section, the ~~Department recommends~~ Council finds that the construction and operation of the WTSII facility is not likely to result in significant adverse impacts to the ability of public and private emergency service and educational service providers.

III.M.2. Conclusions of Law

Based on the foregoing analysis, and subject to compliance with the existing and recommended removed, amended, and new site certificate conditions described above, the ~~Department recommends the~~ Council finds that construction and operation of the facility, with the requested extension of the construction completion deadline, are not likely to result in significant adverse impacts to the ability of public and private providers to provide the services listed in OAR 345-022-0110.

III.N. WILDFIRE PREVENTION AND RISK MITIGATION: OAR 345-022-0115

(1) To issue a site certificate, the Council must find that:

(a) The applicant has adequately characterized wildfire risk within the analysis area using current data from reputable sources, by identifying:

(A) Baseline wildfire risk, based on factors that are expected to remain fixed for multiple years, including but not limited to topography, vegetation, existing infrastructure, and climate;

(B) Seasonal wildfire risk, based on factors that are expected to remain fixed for multiple months but may be dynamic throughout the year, including but not limited to, cumulative precipitation and fuel moisture content;

(C) Areas subject to a heightened risk of wildfire, based on the information provided under paragraphs (A) and (B) of this subsection;

(D) High-fire consequence areas, including but not limited to areas containing residences, critical infrastructure, recreation opportunities, timber and agricultural resources, and fire-sensitive wildlife habitat; and

(E) All data sources and methods used to model and identify risks and areas under paragraphs (A) through (D) of this subsection.

(b) That the proposed facility will be designed, constructed, and operated in compliance with a Wildfire Mitigation Plan approved by the Council. The Wildfire Mitigation Plan must, at a minimum:

(A) Identify areas within the site boundary that are subject to a heightened risk of wildfire, using current data from reputable sources, and discuss data and methods used in the analysis;

(B) Describe the procedures, standards, and time frames that the applicant will use to inspect facility components and manage vegetation in the areas identified under subsection (a) of this section;

(C) Identify preventative actions and programs that the applicant will carry out to minimize the risk of facility components causing wildfire, including procedures that will be used to adjust operations during periods of heightened wildfire risk;

(D) Identify procedures to minimize risks to public health and safety, the health and safety of responders, and damages to resources protected by Council standards in the event that a wildfire occurs at the facility site, regardless of ignition source; and

(E) Describe methods the applicant will use to ensure that updates of the plan incorporate best practices and emerging technologies to minimize and mitigate wildfire risk.

*(2) The Council may issue a site certificate without making the findings under section (1) if it finds that the facility is subject to a Wildfire Protection Plan that has been approved in compliance with OAR chapter 860, division 300.***[103]

[103] OAR 345-022-0040, effective April 2, 2025.

***[104]

III.N.1. Findings of Fact

The Wildfire Prevention and Risk Mitigation standard requires the Council to find the applicant has adequately characterized wildfire risk associated with a proposed facility using reputable data sources; and under OAR 345-022-0115(1)(b), that the proposed facility would be operated in compliance with a Council-approved wildfire mitigation plan. As discussed in Section II.A., *Scope of Review*, under OAR 345-027-0375(2)(b), to issue an amended site certificate for a request for amendment to extend the deadlines for beginning or completing construction, the Council must determine that the preponderance of evidence on the record supports the conclusion that, after considering any changes in facts or law relevant to the proposed amendment since the date the current site certificate was executed, the facility complies with all laws and Council standards applicable to an original site certificate application. Because the wildfire standard was adopted after issuance of the WREFIII site certificate it's a change in law that's relevant to the proposed amendment, the wildfire standard applies to the WTSII facility.

The analysis area to evaluate potential wildfire risks is the site boundary and one-half mile from the site boundary.[105] As described above, the wildfire standard is applied to the WTSII facility that has yet to be constructed, however, because the WREFIII site boundary is entirely within the proposed WTSII site boundary, the certificate holder provides its wildfire risk characterization for the "analysis area" defined in RFA1 as the Wildfire Analysis Area (WAA), which consists of the 1,935-acre proposed WTSII site boundary, and the 359-acre proposed WREFIII site boundary, plus a 0.5-mile buffer.[106]

Based on the certificate holder and Department's assessment of wildfire risk at the site and within the analysis area, as described in the RFA1 and this order, the ~~Department recommends~~ Council finds that wildfire fire is moderate during winter (seasonally wetter) months and high during the summer months, during fire season.

Wildfire Risk Analysis

Under OAR 345-022-0115(1)(a), a certificate holder must adequately characterize the wildfire risk within the analysis area using reputable sources to describe Baseline Wildfire Risk, Seasonal Wildfire Risk, Areas Subject to Heightened Risk of Wildfire, and High-fire Consequence Areas. Each of these are discussed in detail in this section with a description of the data source, as necessary to support the findings and conclusions. The data sources used to evaluate wildfire risk are listed in RFA1, Section 11.0 and Section 7.1.15.5 and include but are not limited to:

- Community Wildfire Protection Plan Planning (CWPP), 2025a Tool Oregon Explorer;

[104] The information requirements included in the standard are omitted from the language above but evaluated within recommending findings of fact below.

[105] OAR 345-001-0010(35)(c) and YRBNOIDoc42 SIGNED Project Order w Attachments 2024-01-26.

[106] WREFIIIAMD1 Request for Amendment 1 2026-02-27, Section 7.1.15.

- July 2019 Fish and Wildlife Habitat field surveys (Exhibit P of RFA 4) updated in 2025 taking into account development of WREF I, II, and III;
- 2025 National Interagency Fire Center WFIGS Interagency Fire Perimeters;
- National Oceanic and Atmospheric Administration (NOAA) 2025b. U.S. Climate Normals Quick Access. Station: Condon station;
- 2018 USFS, Pacific Northwest Quantitative Wildfire Risk Assessment: Methods and Results;
- Conservation Biology Institute 2020 data;
- 2024 National Wildfire Coordinating Group, Fuels: Surface Fuel Model Descriptions
- 2019 Morrow County Community Wildfire Protection Plan (CWPP)[107]

Baseline and Seasonal Wildfire Risk

Baseline wildfire risk within the analysis area is evaluated based on factors expected to remain fixed for multiple years, including topography of the site, vegetation, existing infrastructure, regional climate, and burn probability. These are discussed in RFA1, Section 7.1.15.1, incorporated herein and summarized, in part, below.

Depending on wind, wildfires tend to travel quicker up steeper slopes and slower on the flatter portions of land. All of the area within the site boundary have slopes that range from 0 to 25 degrees. The area within the site boundary is primarily composed of dryland wheat, exotic annual grassland, revegetated grassland, and native perennial grasslands. The 2025 CWPP Planning Tool provides data and mapping of fuel model (FM) groups which describe the fire-carrying fuel type of surface fuel; reflective of vegetation type. Fifty-six percent of the vegetation within the analysis area is classified as FM 102 – low load, dry climate grass and 34 percent is classified as FM 242 – agricultural lands considered burnable wheat fields. Seventy-eight percent of the analysis area has an average flame length of 2 to 4 feet, and 13 percent is modeled to have an average flame length of 4 to 6 feet. Based on NOAA climate data between 1991 to 2020 for Heppner, the driest months on average are July, August, and September, typical for this region.

Existing infrastructure within the site boundaries includes OR-207 running southwest to northeast, bisecting the site. Other roads within or in the vicinity of the facility are Strawberry East Road running east to west, Little Juniper Lane running southwest to northeast, and Bombing Range Road running north to south. Existing operational energy facilities include Wheatridge Renewable Energy Facility I and II, and the Wagon Trail Solar Project. Each of these facilities includes electrical equipment such as wind turbines, solar panels, transformers, and substations. The EFSC energy facilities also have associated transmission lines and there are existing transmission lines that are adjacent to the roads within the analysis area. There are four residences, groups of agricultural buildings and siloes within and directly adjacent to the southern site boundary for WTSII (also adjacent to the WREFIII facility).

[107] https://www.morrowcountyor.gov/sites/default/files/fileattachments/planning/page/15251/2019_cwpp_final.pdf accessed 12-29-2025.

Areas Subject to Heightened Risk of Wildfire and High-Fire Consequence Areas

High-fire consequence areas include areas containing residences, critical infrastructure, recreation opportunities, timber and agricultural resources, and fire-sensitive wildlife habitat.

Existing infrastructure within the wildfire analysis area is described above. 2026 CWPP data provides a layer showing "Wildfire Risk to Individual Highly Valued Resources," specifically "Wildfire Risk to Infrastructure and Wildfire Risk to People and Property," as illustrated in RFA1 Figure 11E and 11F.[108] The 2026 CWPP Mapping tool provides Integrated Expected Wildfire Risk is a representation of cumulative risk at any location based on which highly valued resources and assets (HVRAs) are present, fire intensity, and the likelihood of a fire occurring (burn probability). The integrated risk maps synthesize risk across all resources and assets present at a specific location, and the result is either net beneficial or net adverse impacts. Areas that do not have data available represent that not all resources and assets are present at every location, and the integrated wildfire risk class at a specific location reflects only the resources and assets located there. Integrated Expected Wildfire Risk data is provided in Table 12 below. Based on the updated data, the majority (41 percent) of the analysis area is mapped as having a rating of High Loss for the cumulative risk at any location based on which highly valued resources and assets and approximately 32 percent mapped as approximately 32 percent Moderate Loss.

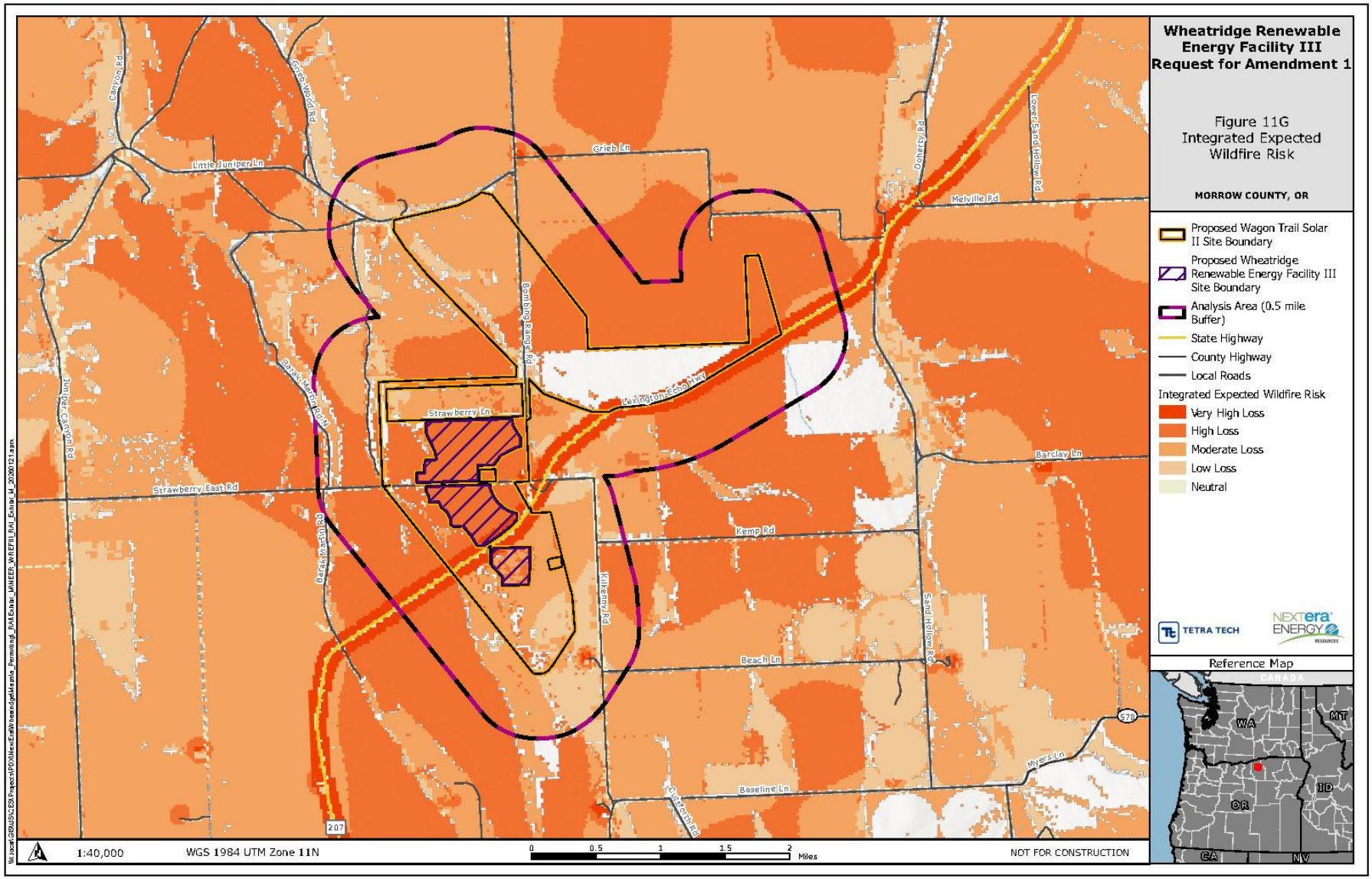
Table 12: 2026 Integrated Expected Wildfire Risk

Integrated Expected Wildfire Risk	Acres of Analysis Area	Percent of Analysis Area
Very High	412	5.5 %
High Loss	3,082	41.4 %
Moderate	2,355	31.6 %
Low Loss	653	8.8 %
Neutral	174	2.3 %
Low Benefit	0	0.0
Moderate	0	0.0
High	0	0.0
No Data	775	10.4 %
Total	100 %	7,450
Source: RFA1, Table 17		

[108] Note that the majority of the analysis area does not have high value assets or resources including infrastructure; this is represented under the "no data" risk rating.

Figure 8 below is an illustration of the Integrated Expected Wildfire Risk within the analysis area. The areas where there is an expectation of High or Very High Loss follow and overlay in areas where there are residences or existing infrastructure.

Figure 8: Integrated Expected Wildfire Risk within Analysis Area

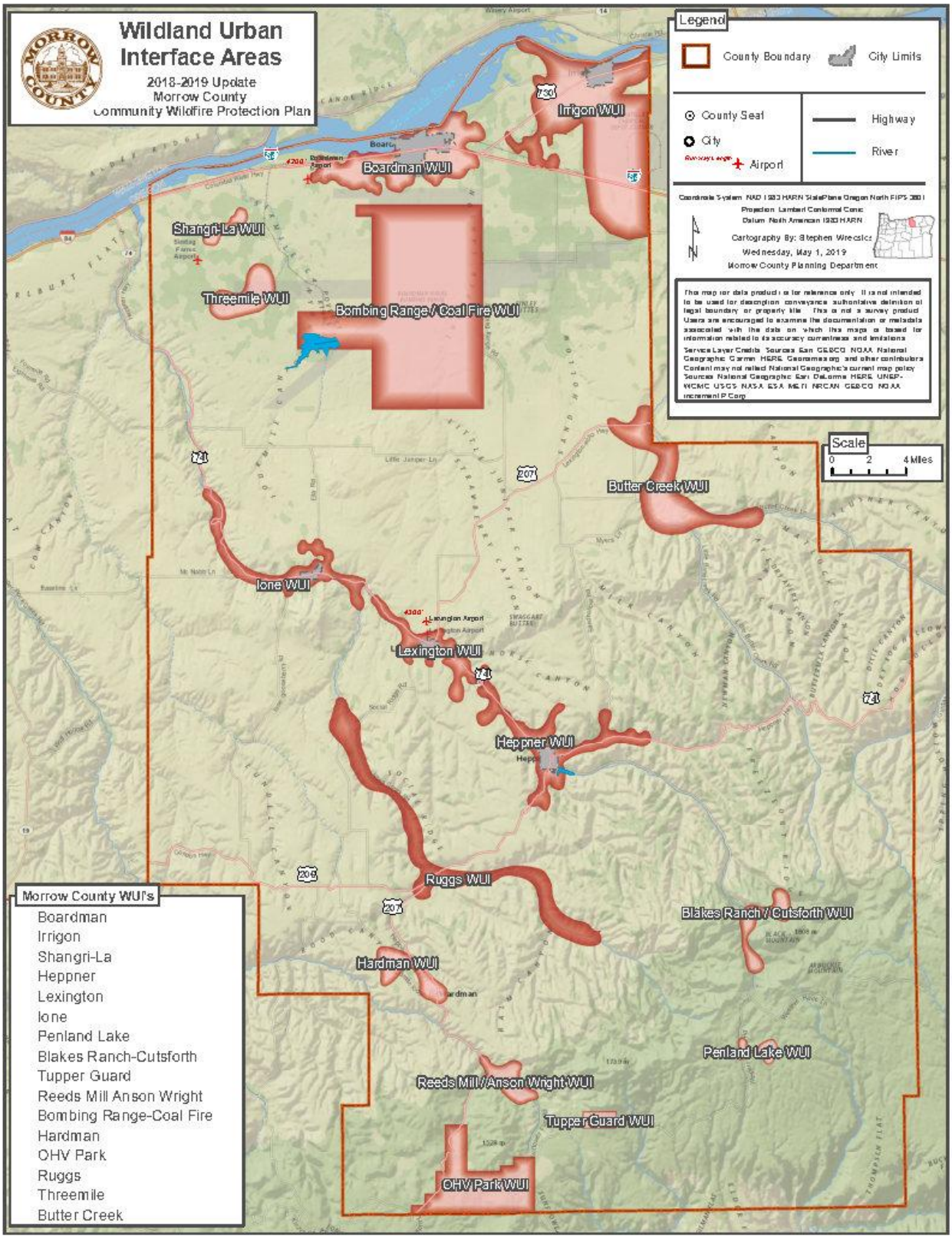


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The 2019 Morrow County Community Wildfire Protection Plan (Morrow County CWPP) describes the agencies and local jurisdictions responsible for wildfire protection in Morrow County and explains the pertinent programs and laws associated with wildfire issues and offers action Items designed to reduce the wildfire risk for Morrow County as a whole, as well as specific zones and communities. The Morrow County CWPP identifies wildland urban interface areas (WUIs) which are based on the actual distribution of structures and communities adjacent to or intermixed with wildland fuels. The management objective in the wildland-urban interface zone is to enhance fire suppression capabilities by modifying fire behavior inside the zone and providing a safe and effective area for fire suppression activities.[109] Figure 9 below shows WUIs in Morrow County; the proposed facility site boundaries are directly adjacent to the Bombing Range / Coal Fire WUI, which is a federally owned land which hosts the Naval Weapons Systems Training Facility Boardman, is managed for wildfire conservation, and is not populated with civilian communities.

[109] https://www.morrowcountyor.gov/sites/default/files/fileattachments/planning/page/15251/2019_cwpp_final.pdf P. 16.

Figure 9: Morrow County WUIs



1

Based on the certificate holder and Department assessment of wildfire risk at the site and within the analysis area, as described in RFA1 and this order, the ~~Department recommends~~ Council finds that wildfire fire is high during the summer months and fire season and is moderate during the winter and wetter seasons.

Wildfire Mitigation Plans

Under OAR 345-022-0115(1)(b), Council must find that the facility will be designed, constructed, and operated in compliance with a Wildfire Mitigation Plan (WMP) approved by Council. The certificate holder provides a Construction and Operational WMP for WTSII in RFA1 as Attachments 7 and 8.

Facility Design

Facility design standards and measures that would minimize wildfire risk include but are not limited to the following:

- Up to 16-foot-wide service and access roads, graveled or paved.
- Site access points (total number to be determined prior to construction).
- Fenced areas around the operations and maintenance (O&M) building, collector substation, and battery energy storage system (BESS) will be graveled, with no vegetation present.
- Smoke/fire detectors will be placed around the site that will be tied to the supervisory control and data acquisition (SCADA) system and will contact local firefighting services.
- O&M building will have basic firefighting equipment for use on site during maintenance activities, such as shovels, beaters, portable water for hand sprayers, fire extinguishers, and other equipment.
- Fire sensors, alarms, and aerosol fire extinguishing systems in every battery container.
- The perimeter fencing will have vehicle and pedestrian access gates, including two 16-foot-wide gates and one 4-foot-wide gate.

Construction and Operational WMP Finalization, Wildfire Risk Minimization Preventative Actions, Programs, and Procedures

The following measures are the same for both the WTSII Construction and Operational WMPs and therefore are discussed together in this subsection. Construction and operational-specific measures are provided below this section, in advance of their respective conditions. The Construction and Operational WMP are attached to this order as Attachment E-1 and Attachment E-2 and the areas that are highlighted in yellow are the areas that would be updated prior to construction and operation.

The draft Construction and Operational WMPs would be finalized prior to construction and operation.[110] Finalization of the WMPs includes updating wildfire risk at the site and submitting site maps that identify access details and the location of fire protection equipment, and updated emergency contact information to emergency agencies. Both the Construction and Operational WMPs include pre-construction/pre-operational onsite trainings with contractors, local fire departments, the Department, emergency service professionals, and the applicant. Also designated in the WMPs, annual training would be held during construction and operation that will provide emergency response and fire training to local first responders.

Additionally, prior to construction and operation, the certificate holder must mail a letter to residences within the 0.5-mile wildfire analysis area which would provide the facility contact information and encourage individuals to sign up for the county's emergency notification system.

Section 3.6 of the Construction WMP and Section 3.5 of the Operational WMP include definitions for fire precaution levels and associated restrictions during fire season. The fire precaution levels include non-fire season, fire season, fire weather watch, and red flag weather warning, where the red flag weather warning would be the most restrictive for activities that may increase the risk of wildfire. Examples of fire season restrictions include maintaining a fire watch, driving and parking only on gravel surfaces, and limitations on hot work. The ~~applicant~~ certificate holder will maintain a log of when construction and operational activities are impacted by the fire season restrictions.

Section 3.3 of the Construction and Operational WMP outlines the specifications for fire protection equipment that is maintained on site, which include fire extinguishers, hand tools, pails and drip cans. During fire season, on site water source(s), such as water trucks mist be on site and equipment with a pump, hose and nozzle. All internal combustion engines must be equipped with exhaust systems, mufflers and screens, or include an appropriate spark arrestor.

Construction

The preventative actions, programs and procedures that manage vegetation and minimize wildfire risk during construction activities in the draft WMP include:

- Fire season, Red Flag Warnings and weather conditions that produce an increased risk of fire danger will be monitored and communicated to staff.

[110] Although both the construction and operational WMPs must be finalized prior to construction and operation, the Recommended Wildfire Prevention and Risk Mitigation Conditions do not label the WMPs as "Final". This is because, as designated in the WMP's, the WMP's may be updated and amended to address changes in wildfire risk at the site over time, therefore, there may be several iterations of the WMPs during construction and the life of the facility.

- Best management practices (BMPs) that minimize fire risk from vehicle travel, equipment use, and fueling activities will be implemented such as vegetation wetting, no idling vehicles and limited off-road travel.
- Vegetation will be limited to a height of 10-12 inches and will be mowed in advance of fire season or according to any fire restrictions.
- Vegetation buildup in the fence line(s), shall be removed.
- Personnel will be trained in the RACE (Remove, Alarm, Confine and Extinguish or Evacuate) and the use of fire protection equipment.

During facility construction, in the semi-annual construction progress report, the certificate holder will provide updates of the performance of the WMP including any changes of wildfire risk at the site, facility contact information, and training logs. The log of any changes in construction activities due to Fire Season Restrictions, as designated in Section 3.6, will be provided to the Department during onsite or remote inspections, or upon request.

The ~~Department recommends~~ Council imposes the two conditions below to require the draft WMP be finalized prior to facility construction and be implemented during construction activities. WMP finalization is necessary to reflect final facility design, completion of coordination with local fire departments and updating of the wildfire risk assessment based on available data at that time.

> **Recommended Wildfire Prevention and Risk Mitigation Condition 1 (PRE):** Prior to facility construction, the certificate holder shall finalize and submit a Construction Wildfire Mitigation Plan (WMP), Attachment E-1 to the Final Order on RFA1 to the Department for review and approval.
> [PRE-WF-01; Final Order on AMD1]
>
> **Recommended Wildfire Prevention and Risk Mitigation Condition 2 (CON):** During facility construction, the certificate holder shall require onsite contractors and employees to adhere to the Construction Wildfire Mitigation Plan (WMP) approved under PRE-WF-01.
> [CON-WF-01; Final Order on AMD1]

Operation

The procedures, standards, timeframes for facility component inspections and vegetation management in the operational WMP will be finalized based on the final facility design and based on manufacture recommendations the applicant will provide an updated Table 2: *Operational Electrical Component and Vegetation Inspection and Maintenance Schedule and Results*. Table 2 of the operational WMP is a template that will be filled out including details about the facility components, inspection procedures, inspection frequency, the standard of inspection/maintenance, and the maintenance schedule. As described in the WMP Section 4.0, this table, or a version with similar information would be provided annually during operations

and would also include the date and personnel who completed the inspection and maintenance, inspection/maintenance results.

During operations, the certificate holder or its contractor will conduct vegetation management inspections twice a year; once prior to the summer months when fire risk is heightened. During these inspections, the technician will ensure vegetation setbacks from installed equipment are adequate and will enact vegetation control measures if needed. Vegetation control includes:

- Vegetation will be limited to a height of 10-12 inches, with a minimum clearance of 12 inches from electrical equipment;
- At no point shall vegetation come in contact with electrical equipment;
- Vegetation buildup in the fence line(s), shall be removed;
- Any vegetation removed from the site will be disposed of and not stored onsite. The applicant and contractors will prevent the accumulation of combustible "burn piles" on site.

Annual reporting requirements and amendments to the WMP are addressed in Section 4.0 of the WMP. Reporting requirements listed above will be provided in the annual report submitted to the Department. This information may be used by the Department and certificate holder to establish the performance of the WMP. The certificate holder will also evaluate the WMP annually to determine if updates to the WMP are necessary to address wildfire risk. To require that the Operational WMP is finalized prior to operation and implemented during operation, the Council imposes the ~~below~~ conditions below. WMP finalization is necessary to reflect final facility design, any fire prevention measures determined in coordination with local fire departments and updating the wildfire risk assessment based on available data at that time.

> **Recommended Wildfire Prevention and Risk Mitigation Condition 3 (PRO):** Prior to facility operation, the certificate holder shall finalize and submit an Operational Wildfire Mitigation Plan (WMP), Attachment E-2 to the Final Order on ASC to the Department for review and approval.
> [PRO-WF-01; Final Order on AMD1]
>
> **Recommended Wildfire Prevention and Risk Mitigation Condition 4 (OPR):** During facility operation, the certificate holder shall require onsite contractors and employees to adhere to the Operational Wildfire Mitigation Plan (WMP) approved under PRO-WF-01.
> [OPR-WF-01; Final Order on AMD1]

The ~~Department recommends~~ Council finds that the Construction and Operational WMP for WTSII identifies areas subject to heighted wildfire risk, contain sufficient procedures to minimize wildfire risk, identify procedures to minimize risks to public health and safety as well as first responders, contains procedures for inspections, maintenance and vegetation management, and contain measures to ensure the plan is updated.

III.N.2. Conclusions of Law

Based on the foregoing analysis, and subject to compliance with the recommended site certificate conditions described above, the ~~Department recommends the~~ Council finds that the certificate holder has adequately characterized wildfire risk within the analysis area using current data from reputable sources, and that, subject to Council approval, the WTSII facility will be designed, constructed, and operated in compliance with the Wildfire Mitigation Plans.

III.O. WASTE MINIMIZATION: OAR 345-022-0120

Except for facilities described in sections (2) and (3), to issue a site certificate, the Council must find that, to the extent reasonably practicable:

(a) The applicant's solid waste and wastewater plans are likely to minimize generation of solid waste and wastewater in the construction and operation of the facility, and when solid waste or wastewater is generated, to result in recycling and reuse of such wastes;

(b) The applicant's plans to manage the accumulation, storage, disposal and transportation of waste generated by the construction and operation of the facility are likely to result in minimal adverse impact on surrounding and adjacent areas.

(2) The Council may issue a site certificate for a facility that would produce power from wind, solar or geothermal energy without making the findings described in section (1). However, the Council may apply the requirements of section (1) to impose conditions on a site certificate issued for such a facility.
(3) The Council may issue a site certificate for a special criteria facility under OAR 345-015-0310 without making the findings described in section (1). However, the Council may apply the requirements of section (1) to impose conditions on a site certificate issued for such a facility. [111]
***** [112]

III.O.1. Findings of Fact

Construction

The certificate holder relies upon the evaluation and facts as used in the Final Order on RFA4 which provided estimates for the combined WREFII and proposed WTSII facilities. Construction of the WTSII solar facility components would generate approximately 2,000 cubic yards of solid waste predominately in the form of concrete waste, packaging materials and small amounts of

[111] OAR 345-022-0040, effective April 2, 2025.
[112] The information requirements included in the standard are omitted from the language above but evaluated within recommending findings of fact below.

dirt and rock spoils. Construction would generate sanitary wastewater and concrete washwater during concrete production for foundations. Council previously imposed Waste Minimization Condition 2 (PRE-WM-01) and Public Service Condition 3 (CON-PS-01) requiring that the certificate holder, prior to construction, develop a waste management plan, to be implemented during construction. The conditions require that the plan include measures for recycling and segregating waste, and discharging concrete wash water onsite, when possible.

Based on the low level of construction-related waste and wastewater anticipated during construction, and compliance with previously imposed conditions, the ~~Department recommends~~ Council finds that construction of the WTSII facility components would continue to minimize and manage solid waste and wastewater, resulting in minimal adverse impacts on surrounding and adjacent areas from construction of the facility.

Operations

Operation of the WTSII facilities is expected to generate small amounts of solid waste, in quantities of approximately 2 cubic yards per month, from packing materials for replacement equipment components and office-related waste.[113] During ongoing operations and maintenance, regular replacement of batteries would occur as they degrade over time, estimated to result in replacement of 11 battery racks per 1 MW every 3 years for the life of the facility. Spent batteries would be transported and disposed of at a landfill permitted to handle such waste by a licensed third-party entity. Waste generated from solar arrays would be recycled where feasible.

Council previously imposed Public Services Condition 4 (OPR-PS-03) requiring that, during operation, the certificate holder implement a waste management plan. The condition requires that the certificate holder train employees to minimize and recycle solid waste; segregate hazardous and non-hazardous waste; and utilize a licensed waste hauler for offsite removal and transport to a licensed waste management facility.[114] Based on compliance with the previously imposed condition, and minimal amounts of operational solid waste, the ~~Department recommends~~ Council finds that the WTSII facility would minimize and manage solid waste and wastewater, resulting in minimal adverse impacts on surrounding and adjacent areas from operation of the solar facilities.

Organizational Expertise Condition 10 requires that, during construction and operation of the WTIIS facility, the certificate holder provide evidence to the Department that a contractual

[113] WRWAMD4doc 24-1 Final Order on Request for Amendment 4 2019-11-22, Section III.N.

[114] WRWAMD4. pRFA SAG Comments Morrow County 2019-02-21. In a comment provided during review of pRFA4, Morrow County Planning Director Carla McClane requested that the Council consider a new or revised condition to address disposal of photovoltaic components. However, Council previously imposed Public Services Condition 4 (OPR-PS-03) which would apply to the disposal of photovoltaic components and would ensure that materials are recycling to the extent feasible and disposed of at a facility permitted to handle such waste. Therefore, the Council does not impose additional conditions to address this comment.

agreement has been obtained for transport and disposal of battery and battery waste by a licensed hauler and continues to apply to WREFIII and WTSII.

III.O.2. Conclusions of Law

Based on the foregoing analysis, and subject to compliance with the existing site certificate conditions described above, the ~~Department recommends the~~ Council finds that the certificate holder's solid waste and wastewater plans are likely to minimize generation of solid waste and wastewater in the construction and operation of the facility, with the requested extension of the construction completion deadline, result in recycling and reuse of such wastes, and will manage the accumulation, storage, disposal and transportation of wastes in a manner that will result in minimal adverse impacts to surrounding and adjacent areas.

III.P. SITING STANDARDS FOR TRANSMISSION LINES: OAR 345-024-0090

To issue a site certificate for a facility that includes any transmission line under Council jurisdiction, the Council must find that the applicant:

(1) Can design, construct and operate the proposed transmission line so that alternating current electric fields do not exceed 9 kV per meter at one meter above the ground surface in areas accessible to the public;

(2) Can design, construct and operate the proposed transmission line so that induced currents resulting from the transmission line and related or supporting facilities will be as low as reasonably achievable. [115]

***** [116]

III.P.1. Findings of Fact

The Siting Standard for Transmission Lines under OAR 345-024-0090(1) establishes a limit for electric fields from transmission lines of not more than 9-kV per meter at one meter above the ground surface *in areas that are accessible to the public* [Emphasis added]. Section (2) of the rule requires implementation of measures to reduce the risk of induced current.

RFA1 does not propose any changes to the approved site boundary, micrositing corridor, or physical components.

Electro-magnetic fields

[115] OAR 345-022-0040, effective April 2, 2025.

[116] The information requirements included in the standard are omitted from the language above but evaluated within recommending findings of fact below.

In the Final Order on RFA4 of the WWEF, Council found that subject to Siting Standards for Transmission Lines Condition 1 (CON-TL-01), and Siting Standards for Transmission Lines Condition 2 (PRE-TL-01), the facility could be designed, constructed, and operated so that alternating current electric fields do not exceed 9-kV per meter at one meter above the ground surface in areas accessible to the public.

Condition CON-TL-01 requires the certificate holder to implement safety protocol during construction to reduce or manage human exposure to electromagnetic fields. Condition PRE-TL-01 requires the certificate holder to prior to construction, schedule a time to brief the OPUC Safety, Reliability, and Security Division (Safety) Staff as to how it will comply with OAR Chapter 860, Division 024 during design, construction, operations, and maintenance of the facilities.

Council previously adopted Siting Standards for Transmission Lines Condition 3 (OPR-TL-01) requiring the certificate holder to provide ongoing updates during facility operations to OPUC staff about compliance with OAR Chapter 860, Division 024; ORS 758.013 filings to the Public Utility Commission; and providing OPUC maps, drawings and plans of transmission lines and routes and installation of electrical supply lines.

Based on the scope of RFA1 and continued compliance with conditions PRE-TL-01, CON-TL-01 and OPR-TL-01, the ~~Department recommends~~ Council maintains its previous findings pertaining to electro-magnetic fields, as made in its November 22, 2019 Final Order on RFA4 of the WWEF.

III.P.2. Conclusions of Law

Based on the foregoing analysis, the ~~Department recommends the~~ Council finds that the existing site certificate conditions listed above, the certificate holder can design, construct, and operate the facility, with the requested extension of the construction completion deadline, so that alternating current electric fields do not exceed 9-kV per meter at one meter above the ground surface in areas accessible to the public and that induced currents resulting from transmission lines will be as low as reasonably achievable.

IV. EVALUATION OF OTHER APPLICABLE REGULATORY REQUIREMENTS

IV.A. Noise Control Regulations: OAR 340-035-0035

(1) Standards and Regulations:

** * * * **

(b) New Noise Sources
(B) New Sources Located on Previously Unused Site:

(i) No person owning or controlling a new industrial or commercial noise source located on a previously unused industrial or commercial site shall cause or permit the operation of that noise source if the noise levels generated or

indirectly caused by that noise source increase the ambient statistical noise levels, L10 or L50, by more than 10 dBA in any one hour, or exceed the levels specified in Table 8, as measured at an appropriate measurement point, as specified in subsection (3)(b) of this rule, except as specified in subparagraph (1)(b)(B)(iii).

(ii) The ambient statistical noise level of a new industrial or commercial noise source on a previously unused industrial or commercial site shall include all noises generated or indirectly caused by or attributable to that source including all of its related activities. Sources exempted from the requirements of section (1) of this rule, which are identified in subsections (5)(b) - (f), (j), and (k) of this rule, shall not be excluded from this ambient measurement.
*****

(iii) For noise levels generated or caused by a wind or solar energy facility:

(I) The increase in ambient statistical noise levels is based on an assumed background L50 ambient noise level of 26 dBA or the actual ambient background level. The person owning the wind or solar energy facility may conduct measurements to determine the actual ambient L10 and L50 background level.

(II) The "actual ambient background level" is the measured noise level at the appropriate measurement point as specified in subsection (3)(b) of this rule using generally accepted noise engineering measurement practices. Background noise measurements shall be obtained at the appropriate measurement point, and for wind energy facilities synchronized with wind speed measurements of hub height conditions at the nearest wind turbine location. "Actual ambient background level" does not include noise generated or caused by the proposed wind or solar energy facility.

*(III) The noise levels from a wind or solar energy facility may increase the ambient statistical noise levels L10 and L50 by more than 10 dBA (but not above the limits specified in Table 8), if the person who owns the noise sensitive property executes a legally effective easement or real covenant that benefits the property on which the wind or solar energy facility is located. The easement or covenant must authorize the wind or solar energy facility to increase the ambient statistical noise levels, L10 or L50 on the sensitive property by more than 10 dBA at the appropriate measurement point.****

(3) Measurement:

(a) Sound measurements procedures shall conform to those procedures which are adopted by the Commission and set forth in Sound Measurement Procedures Manual (NPCS-1), or to such other procedures as are approved in writing by the Department;

(b) Unless otherwise specified, the appropriate measurement point shall be that point on the noise sensitive property, described below, which is further from the noise source:

A. 25 feet (7.6 meters) toward the noise source from that point on the noise sensitive building nearest the noise source;

B. That point on the noise sensitive property line nearest the noise source.

** * * * **

(5) Exemptions: Except as otherwise provided in subparagraph (1)(b)(B)(ii) of this rule, the rules in section (1) of this rule shall not apply to:

** * **

(c) Sounds created by the tires or motor used to propel any road vehicle complying with the noise standards for road vehicles;

** * **

(g) Sounds that originate on construction sites.

*****

(k) Sounds created by the operation of road vehicle auxiliary equipment complying with the noise rules for such equipment as specified in OAR 340-035-0030(1)(e);

** * **

Council has the authority to interpret and implement other state agency and Commission rules and statutes that are relevant to the siting of an energy facility,[117] including noise rules adopted

[117] See ORS 469.310 (stating that the legislative policy behind EFSC was to establish "a comprehensive system for the siting, monitoring and regulating of the location, construction and operation of all energy facilities in this state") and ORS 469.401(3) (giving EFSC the authority to bind other state agencies as to the approval of a facility).

by the Environmental Quality Commission and previously administered by the Department of Environmental Quality (DEQ).[118], [119]

IV.A.1. Findings of Fact

On October 17, 2024, OAR 340-035-0035 was amended to allow solar facilities to demonstrate compliance with the noise control regulations in the same manner as wind facilities. As described below, the amended rule expands the ways in which a facility may demonstrate compliance and does not affect the Council's earlier findings. The analysis area for evaluating compliance with the ODEQ noise rules includes the area within and extending 1-mile from the WREFII site boundary.[120] As described in Section II.A., *Scope of Review*, of this order, because the WREFIII facility as proposed in RFA1 is operational, the focus of compliance with the DEQ Noise Rules in the Section below focuses on the proposed WTSII facility which has yet to be constructed.

Exempt Construction Noise

Under OAR 340-035-0035(5), noise generated during construction is exempt from the requirement to meet DEQ's noise standards. Nonetheless, construction-related noise impacts are evaluated under the Council's Protected Area, Scenic Resources, and Recreation standards, as provided in Sections IV.F., IV.J., and IV.L of this order. To support the evaluation required under those standards, the approach and results of predicted construction-noise impacts is evaluated in this section.

Table 13, below, lists the typical sound levels associated with common construction equipment at various distances. For reference, classroom chatter has an approximate dBA of 70 and a soft whisper is a dBA of approximately 40.[121]

Table 13: Estimated Lmax Sound Pressure Levels from Construction Equipment

Equipment	Estimated Sound Pressure Level at 50 feet (dBA)	Estimated Sound Pressure Level at 2,000 feet (dBA)
Forklift	80	48

[118] The Environmental Quality Commission and the DEQ suspended their own administration of the noise program because in 1991 the state legislature withdrew all funding for implementing and administering the program. A July 2003 DEQ Management Directive provides information on DEQ's former Noise Control Program and how DEQ staff should respond to noise inquiries and complaints. The Directive states (among other items) that the Energy Facility Siting Council (EFSC), under the Department of Energy, is authorized to approve the siting of large energy facilities in the State and that EFSC staff review applications to ensure that proposed facilities meet the State noise regulations.

[119] "We (the Oregon Supreme Court) conclude that EFSC had the authority to grant (1) an exception to the noise standards under OAR 340-035-0035(6)(a), and (2) a variance under OAR 340-035-0100 and ORS 467.060." B2HAPPDoc7 Supreme Court Decision Stop B2H Coalition v. Dept, of Energy 2023-03-09, pp 805-807.

[120] OAR 345-027-0360(1)(c)(C)(iii)

[121] https://www.osha.gov/noise.

Table 13: Estimated Lmax Sound Pressure Levels from Construction Equipment

Equipment	Estimated Sound Pressure Level at 50 feet (dBA)	Estimated Sound Pressure Level at 2,000 feet (dBA)
Backhoe	80	48
Grader	85	53
Man basket	85	53
Dozer	83 - 88	51 - 56
Loader	83 - 88	51 - 56
Scissor Lift	85	53
Truck	84	52
Welder	73	41
Compressor	80	48
Concrete Pump	77	45
Crane	85	42
Source: WRWAMD4Doc15-25 RFA4 Complete RFA4 Exhibit X. Noise Final 2019-07-01; Bolt, Beranek, and Newman, Inc. 1977, FHWA 1992, FHWA 2006.		

Construction noise would occur during daytime hours, would be temporary, and attenuates with distance from the facility. As discussed below, there are 9 noise sensitive properties within the noise analysis area, however, as noted above, construction noise is exempt from the noise standards pursuant to OAR 340-035-0035(5)(g) and (h). Therefore, the ability of construction-related noise to comply with DEQ noise control regulations is not evaluated further.

Council previously imposed Noise Control Condition 1 (CON-NC-01), which requires that during construction the certificate holder must enforce speed limits, equip noise-producing construction equipment and vehicles using internal combustion engines with mufflers and noise muffling devices, only use alarms and horns for safety purposes, and establish and maintain a noise complaint responses system. The Department highlights that several of these requirements overlap with measures already imposed or recommended in a site certificate condition, such as speed limits and restrictions on internal combustion engines as designated in the wildfire mitigation plan. Additionally, as shown in Figure 10, below, there are no NSRs located near the proposed location of the WTSII solar array and therefore it is not likely that these measures would reduce noise at NSRs within the analysis area, therefore the ~~Department recommends~~ Council removes Noise Control Condition 1 from the WTSII site certificate.

Recommended Deleted Noise Control Condition 1 (CON~~-NC-01~~):

~~a. Establish and enforce construction site and access road speed limits;~~

~~b. Utilize electrically-powered equipment instead of pneumatic or internal combustion powered equipment, where feasible;~~

~~c. Locate material stockpiles and mobile equipment staging, parking, and maintenance areas as far as practicable away from noise sensitive properties;~~

d. ~~Utilize noise-producing signals, including horns, whistles, alarms, and bells for safety warning purposes only;~~

e. ~~Equip all noise-producing construction equipment and vehicles using internal combustion engines with mufflers, air-inlet silencers where appropriate, and any other shrouds, shields, or other noise-reducing features in good operating condition that meet or exceed original factory specification. Mobile or fixed "package" equipment (e.g., arc welders, air compressors) shall be equipped with shrouds and noise control features that are readily available for that type of equipment; and,~~

f. ~~Establish a noise complaint response system. All construction noise complaints will be logged within 48 hours of issuance. The construction supervisor shall have the responsibility and authority to receive and resolve noise complaints. A clear appeal process to the owner shall be established prior to the start of construction that will allow for resolution of noise problems that cannot be resolved by the site supervisor in a reasonable period of time. Records of noise complaints during construction must be made available to authorized representatives of the department upon request.~~ Deleted in *Final Order on Amendment 1* (2026).

[Final Order on ASC (2017), ~~Noise Control Condition 1~~CON-NC-01]

Operational Noise

Noise generated by a new industrial or commercial source located on a previously unused site must comply with two standards: the "ambient noise degradation standard" and the "maximum allowable noise standard." Under the ambient noise degradation standard, facility-generated noise must not increase the ambient hourly L10 or L50 noise levels at any noise sensitive property by more than 10 dBA. Under the maximum allowable noise standard at OAR 340-035-0035(1)(b)(B)(i), new industrial or commercial noise sources may not exceed the noise levels specified in the noise rules, as represented in Table 14 below (50 dBA representing the lowest standard). The WTSII facility would be a new industrial or commercial noise source located on a previously unused industrial or commercial site subject to the noise standards established under OAR 340-035-0035(1)(b)(B).

Table 14: Statistical Noise Limits for New Industrial and Commercial Noise Sources

Statistical Descriptor[1]	Maximum Permissible Hourly Statistical Noise Levels (dBA)	
	Daytime (7:00 AM - 10:00 PM)	Nighttime (10:00 PM - 7:00 AM)
L50	55	50
L10	60	55
L1	75	60

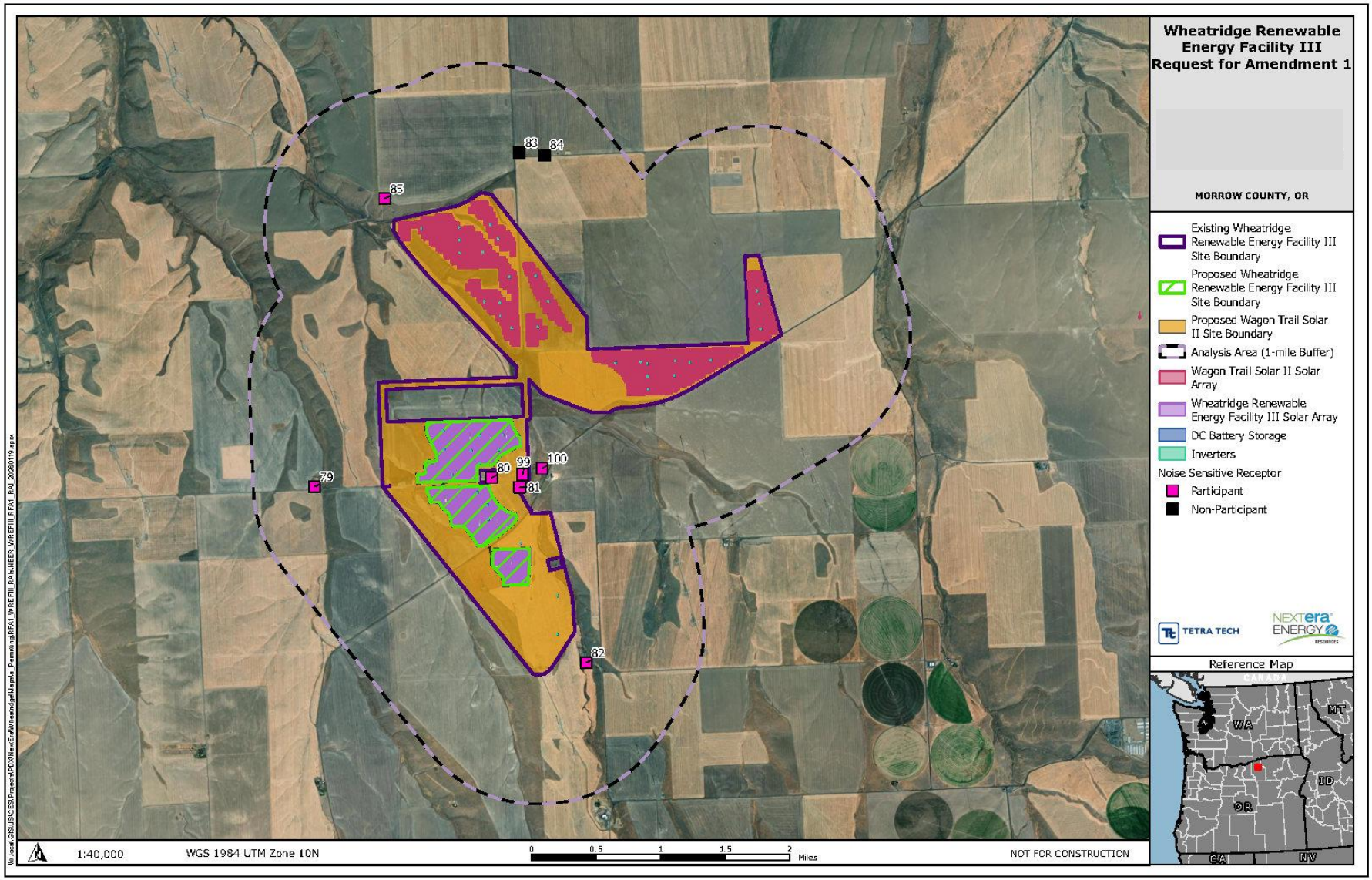
Notes:
1. The hourly L50, L10 and L1 noise levels are defined as the noise levels equaled or exceeded 50 percent, 10 percent, and 1 percent of the hour, respectively.

Source: OAR 340-035-0035, Table 8

The noise limits apply at an appropriate measurement point on noise sensitive properties or Noise Sensitive Receptors (NSRs), such as dwellings, schools, churches, hospitals, or public libraries.[122] As noted above, there are 9 NSRs within the 1-mile analysis area from WTSII. Three of the NSRs (NSR-80, 81, and 99) are located inside the site boundary and seven NSRs are participating landowners.[123] The certificate holder confirms that there are no new NSRs in the analysis area from the last time it evaluated noise for RFA4 in 2019.[124] Figure 10, below, illustrates the location of the NSRs within the analysis area and whether or not the NSR is a participating landowner; which as described below, is not weighed when finding compliance with the rules.

[122] "Noise sensitive property" is defined in OAR 340-035-0015(38) as "real property normally used for sleeping, or normally used as schools, churches, hospitals or public libraries. Property used in industrial or agricultural activities is not Noise Sensitive Property unless it meets the above criteria in more than an incidental manner."
[123] The appropriate measurement point is defined as the farther from the noise source of 25 feet toward the noise source from that NSR, or the point on the noise sensitive property line nearest the noise source using the DEQ Commission approved Sound Measurement Procedures Manual, NPCS-1 (Manual), unless other measurement points are specified or other measurement procedures are approved in writing by the Department, respectively, or an applicant may use the assumed 26 dBA for the ambient noise levels.
[124] WREFIIIAMD1 Request for Amendment 2027-02-27, Section 7.1.17.3.

Figure 10: NSRs in the Analysis Area



1

Under OAR 340-035-0035(1)(b)(B)(iii), the increase in ambient statistical noise levels that result from a solar facility may be based on actual measurements or may be based on an assumed ambient background level of 26 dBA. The certificate holder relies upon the noise analysis done for RFA4 in 2029 which assumed an ambient noise of 26 dBA. Noise-generating equipment associated with proposed facility operation would include substation transformers, inverters and transformers for the solar arrays, cooling systems necessary for the battery storage systems, and transmission line corona noise. The BESS unit sound power information is based on manufacturer data testing in accordance with ISO 3744: 2011-02. The sound power level data used as inputs for the acoustic modeling analysis for RFA4, assumed the maximum number of noise-generating equipment listed below:[125]

- 41 inverters, each at 73 dBA
- 41 distribution transformers, each at 77 dBA
- 1 substation transformer at 98 dBA
- 82 heating, ventilation and air conditioning units, each at 85 dBA

Acoustic modeling was performed using the Computer Aided Noise Abatement (CadnaA) software program was used for RFA4 to calculate received sound levels at identified noise sensitive receptors within the analysis area. Topographical information was imported into the acoustic model using U.S. Geological Survey 10- meter digital elevation models to accurately represent terrain in three dimensions.

The ~~Department recommends~~Council finds that it's appropriate to continue to rely on the RFA4 noise modeling because there are not any new NSRs within the analysis area that could be impacted, and that the previous noise analysis included facility components that were associated with solar facility and with the adjacent wind facilities, modeling a maximum noise scenario at that point in time. The noise generating components associated with the WREFIII and WTSII facilities are less than the maximum modeled for RFA4.

Modeling results are provided in Table 15, below, and indicate that the WTSII facility can comply with the 50 dBA L_{50} nighttime maximum permissible noise level prescribed by ODEQ because the loudest modeled noise level at a NSR is 48 dBA, less than the 50 dBA threshold. Therefore, the ~~Department recommends that~~ Council finds that because the maximum L50 sound levels would be less than the "Table 8" maximum allowable sound level, the WTSII facility would be in compliance with the maximum allowable sound level standard identified in OAR 340-035-0035(1)(b)(B)(i). As shown in Table 15, below, there are seven predicted exceedances of the 10 dBA ambient degradation standard at NSR IDs 79, 80, 81, 82, 85, 99, and 100. The other two NSRs are modeled to be at 10 dBA, however, as noted above and cited by the certificate holder, expected noise levels are anticipated to be less because noise generating

[125] WRWAMD4Doc15-25 RFA4 Complete RFA4 Exhibit X. Noise Final 2019-07-01, Table X-4 and Table X-5. The projected operational noise levels are based on manufacturer sound power level data.

equipment would be less and noise attenuates (or lessens) with distance, topography and vegetative screening.

Table 15: Results of RFA4 Noise Assessment Applicable to WTSII

NSR ID	Participant Status	Background Sound Level (dBA)	Solar Facility Noise (dBA)*	Cumulative Assessment (Background Wind Facility Plus Solar Facility Noise) (dBA)[1]	Increase over Baseline (dBA)
79	Participant	26	20	48	22
80	Participant	26	36	46	20
81	Participant	26	26	43	17
82	Participant	26	21	46	20
83	Non-Participant	26	19	36	10
84	Non-Participant	26	18	35	10
85	Participant	26	20	39	13
99	Participant	26	27	43	17
100	Participant	26	26	43	17

Notes:

1. Note that modeled noise levels include 400 MWs of previously approved wind energy generation components. This is a result of the procedural history for the project, where even though the facility and site certificates have been split over time, the Department and Council still require that the larger of the approved facility impacts be taken into consideration so as not to arbitrarily bi-furcate or minimize impacts from site certificate splitting.

*Expected noise levels are anticipated to be less.

Source: RFA4 Attachment 12.

The 10 dBA anti-ambient noise degradation standard is modeled to be exceeded at seven NSRs. Under OAR 340-035-0035(1)(b)(B)(iii), the noise levels from a solar facility may increase the ambient statistical noise levels L10 and L50 by more than 10 dBA (but not above the limits specified in Table 8), if the person who owns the NSR executes a legally effective easement or real covenant that benefits the property on which the facility is located (benefits the certificate holder/operation of the facility).[126] ~~The Department~~Council emphasizes that the rule applies to owners of NSRs, regardless of whether or not they are a participating landowner, so if there is an exceedance to the noise standards at a non-participating landowner, the certificate holder would need to execute an easement with that landowner. The certificate holder indicates that it would update its noise analysis prior to construction and rely on easements or "noise waivers" to address any exceedances of the 10 dBA ambient antidegradation standard and that

[126] The easement or covenant must authorize the energy facility to increase the ambient statistical noise levels, L10 or L50 on the sensitive property by more than 10 dBA at the appropriate measurement point.

these would be provided prior to construction. Council previously imposed Noise Control Condition 2, which already requires the items described above. ~~The Department recommends~~Council ~~administrative~~ administratively edits ~~to the~~ condition PRE-NC-01 as provided below~~:~~.

> **Recommended Amended Noise Control Condition 2 (PRE)**: Prior to construction, the certificate holder shall provide to the ~~d~~Department:
>
> a. Information that identifies the final design locations of all facility components to be built at the facility;
> b. The maximum sound power level for the facility components including transformers ~~(substation and solar array)~~, invertors, battery storage cooling system selected for the facility based on manufacturers' warranties or confirmed by other means acceptable to the ~~d~~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 ~~d~~Department that the total noise generated by the facility (including transformers, inverters and battery storage cooling systems) would meet the ambient noise degradation test and maximum allowable test at the appropriate measurement point for all potentially-affected noise sensitive properties, or that the certificate holder has obtained the legally effective easement or real covenant for expected exceedances of the ambient noise degradation test described (d) below.
> d. For each noise-sensitive property where the certificate holder relies on a noise waiver to demonstrate compliance in accordance with OAR 340-035-0035(1)(b)(B)(iii)~~(III)~~, a copy of the 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: include a legal description of the burdened property (the noise sensitive property); be recorded in the real property records of the county; expressly benefit the property on which the solar energy facility is located; expressly run with the land and bind all future owners, lessees or holders of any interest in the burdened property; and not be subject to revocation without the certificate holder's written approval.
>
> [PRE-NC-01; Final Order on ASC (2017); AMD3 (2018); AMD1 (2020); AMD1 (2026)]

Council previously imposed Noise Control Condition 4 and 5 requiring that the certificate holder develop and maintain an operational noise complaint system and, if complaints are received, the certificate holder may be required to develop a monitoring plan for noise. Because there are two non-participating NSRs that are near the anti-ambient noise degradation standard threshold, these conditions would still apply to the WTSII facility.

IV.A.2. Conclusions of Law

Based on the foregoing analysis, and subject to compliance with the removed, existing, and recommended amended site certificate condition described above, the ~~Department recommends the~~ Council finds that the facility, with the requested extension of the construction completion deadline, will comply with the applicable Noise Control Regulations in OAR 340-035-0035.

IV.B. Removal-Fill Law

The Oregon Removal-Fill Law (Oregon Revised Statutes] 196.795 through 196.990) and Department of State Lands (ODSL) regulations (OAR 141-085-0500 through 141-085-0785) require a removal-fill permit if 50 cubic yards or more of material is removed, filled, or altered within any "waters of the state." (WOS)[127] The Council, in consultation with DSL, must determine whether a removal-fill permit is needed and if so, whether a removal-fill permit should be issued.

IV.B.1. Findings of Fact

The analysis area for wetlands and other waters of the state is the area within proposed site boundary of the WTSII facility.[128]

Locations of wetlands and WOS located within the site boundary for WTSII were delineated through a literature review and field investigations in preparation for RFA4. The literature review of potentially jurisdictional wetlands and WOS included an evaluation of multiple existing data sources including the Natural Resource Conservation Service's (NRCS) 2018 National Hydrography Dataset and Web Soil Survey, U.S. Fish and Wildlife Service's 2018 National Wetlands Inventory, NRCS's 2018 Web Soil Survey, and 2016 Aerial Photography from U.S. Department of Agriculture's Farm Service Agency. Based on the literature review, there were no wetlands, hydric soils or perennial streams identified within the proposed new site boundary area.

Pedestrian-level field investigations with the site boundary were conducted on August 22-23, 2018 and November 9, 2018 and in 2011; 2,294 acres were field surveyed.[129]

[127] ORS 196.800(15) defines "Waters of this state." The term includes wetlands and certain other waterbodies.

[128] OAR 345-027-0360(1)(c)(C)(ii).

[129] Pedestrian level-field investigations were conducted in accordance with methodology provided by the 1987 U.S. Army Corps of Engineers (USACE) Wetlands Delineation Manual as well as the USACE Arid West Regional Supplement; and, OAR 141-090, Administrative Rules for Wetland Delineation Report Requirements and for Jurisdictional Determinations for the Purpose of Regulating Fill and Removal within Waters of the State; 1979 Classification of Wetlands and Deepwater Habitats of the United States; and, 2015 Streamflow Duration Assessment Method for the Pacific Northwest. WRWAMD4Doc 24 Final Order on Request for Amendment 4 2019-11-22 (clean), Section III.Q.3.

The results of the field surveys were that no wetlands or jurisdictional waters were present within the site boundary.[130] Because there were no wetlands or WOS, no removal fill permit has been identified as necessary. Field surveys identified seven ephemeral streams and one roadside drainage ditch within the site boundary, all of~~none~~ which ~~DSL confirmed do~~ did not qualify as a jurisdictional water, as confirmed by ODSL. On April 18, 2019, DSL issued a letter concurring with the wetland and waterway boundaries mapped by the certificate letter.[131] The concurrence letter ~~is~~ was valid ~~through~~until April 18, 2024.

Because the previous results from the wetland field delineations indicated that no wetlands or WOS were present within the site boundary, and ODSL concurred with the wetland delineation report, the Department recommends Council find that it is not likely that wetlands or WOS would be present today within the WTSII site boundary, therefore no removal fill permit would be necessary.[132] ~~However, because the DSL concurrence letter and field survey results have expired, the Department recommends that, prior to construction of the WTSII facility,~~ the ~~certificate holder to conduct a desktop analysis to determine if there may be newly identified wetlands or WOS, and if so, that the area be delineated to determine if there would be impacts to wetlands or WOS.~~

The Department notes that Council previously imposed Fish and Wildlife Habitat Condition 8 (PRE-FW-03), requiring the certificate holder to "flag all environmentally sensitive areas as restricted work zones. Restricted work zones shall include but not be limited to …wetlands and waterways that are not authorized for construction impacts" prior to construction. Therefore, compliance with preconstruction Condition PRE-FW-03 would inherently require the certificate holder to evaluate whether any wetlands and waterways are present within proximity to construction impacts. Furthermore, the certificate holder has to then identify and flag any that are not authorized for construction. Therefore, the Department recommends Council find that Condition PRE-RFL-01 is not needed and can be removed.

> ~~**Recommended Removal Fill Condition 1 (PRE-RFL-01)**: Prior to construction of the facility, facility component or phase, the certificate holder shall conduct a desktop evaluation to determine if wetlands or waters of the state (WOS) are present within the site boundary. If the desktop evaluation shows that wetlands or WOS are within proximity to ground disturbance, the certificate holder must conduct a field survey and submit a wetland delineation report to DSL for a DSL concurrence letter and demonstrate that impacts to wetland or WOS would be less than 50 cubic yards or that a removal fill permit may be necessary.~~
> ~~[Final Order on AMD1 (2026)]~~

Based on the certificate holder's evaluation, ~~and~~ DSL's prior concurrence that jurisdictional waters were not present within the WTSII site boundary, the ~~Department recommends that the~~

[130] WRWAMD4Doc15-12 RFA4 Complete RFA4 Exhibit J Wetlands and Waters Final 2019-07-01, Section 3.4.2: Results.
[131] WRWAMD4 pRFA Wetland Delineation DSL Concurrence 2019-04-18.
[132] WREFIIIAMD1Doc12 Proposed Order Comments (ODSL) 2026-03-18

Council finds that construction and operation of ~~facility, proposed RFA4 facility components~~WTSII would not result in potential impacts to jurisdictional wetlands and WOS; and would not require a removal-fill permit.

IV.B.2. Conclusions of Law

Based on the ~~recommended~~ findings of fact and compliance with the ~~recommended~~ condition of approval, the ~~Department recommends the~~ Council concludes that the design, construction, and operation of the facility would not require a removal fill permit because of the avoidance of impacts to wetlands and WOS, therefore the facility, with the requested extension of the construction completion deadline, complies with the applicable portions of the requirements of ORS 196.795 through 196.990 and OAR chapter 141, division 085.

IV.C. Water Rights

Under ORS Chapters 537 and 540 and OAR Chapter 690, the Oregon Water Resources Department (OWRD) administers water rights for appropriation and use of the water resources of the state. Under OAR 345-022-0000(1)(b), the Council must determine whether the proposed facility would comply with statutes and administrative rules identified in the Project Order. If a proposed facility needs a groundwater permit, surface water permit, or water right transfer, a decision on authorizing such a permit rests with the Council.

IV.C.1. Findings of Fact

In RFA1, the certificate holder relies on its analysis and assumptions conducted for RFA4 and maintains that its maximum impact analysis done for RFA4 remains applicable for construction and operation of WTSII. The WTSII facility will not rely upon a groundwater permit, surface water permit, or water right transfer. During construction of the remaining WTSII facility components, a maximum of 36.3 million gallons (Mgal) of water would be used for dust suppression, road compaction, site preparation, mixing concrete for foundations, fire prevention, and on-site worker drinking and sanitation use. Construction-related water is expected to be obtained from the City of Ione and the City of Lexington, the City of Maupin and the City of Wasco[133] under an existing municipal water right.[134]

[133] RFA1 Attachment 9 includes letters from the City of Ione indicating its ability to provide the 36.3 Mgal of construction-related water and the City of Lexington indicating it could provide water approximately 1 Mgal a month with seasonal constraints during the summer.

[134] Under OWRD rules, examples of municipal water use include but are not limited to domestic water use, irrigation of lawns and gardens, commercial water use, industrial water use, fire protection, irrigation, and other water uses. Council has previously found, and affirmed by OWRD that water use for the construction and operation for the proposed facility qualifies under OAR 690-300-0010(25) as "industrial water use", which includes the use of water associated with the processing or manufacture of a product, such as the construction, operation, and maintenance of an industrial site like a solar facility. The ~~Department recommends~~ Council continues to find that the solar facility, is an industrial or commercial use, qualifies as a municipal use under OWRD rules.

As discussed in Section IV.M., *Public Services*, under Public Services Condition 24 (GEN-PS-04), the ~~Department recommends~~ Council requires that prior to construction, final water demand based on final facility build out will be confirmed, and the certificate holder must provide evidence that the final water sources for construction-related water are adequate and have been legally secured under existing water rights or third-party permits.

Operational water use is estimated to be up to 650,250 gallons of water per year for solar panel washing, assuming panels are washed twice a year. The distributed battery storage system will not require any water during operations.[135] Operational water use at the O&M building(s) would be served by onsite, permit-exempt wells and would not result in impacts on the ability of public or private providers of water to deliver services.[136] WREFIII and WTSII share the O&M building with WREFII, however, the O&M building is not a related or supporting facility for WREFIII and WTSII. Therefore, typical conditions associated with exempt uses of ground water wells include which include any single industrial or commercial purpose in an amount not exceeding 5,000 gallons a day,[137] are not applicable to WTSII.[138] Section IV.M., *Public Services*, under Public Services Condition 25 (OPR-PS-05), the ~~Department recommends~~ Council requires the certificate holder to confirm the totals and sources of significant water used from the operation of the WTSII facilities.

The ~~Department recommends~~ Council finds that because the certificate holder relies on previously approved maximum water use during facility construction and operation and represents that neither the certificate holder nor a third-party contractor will require a groundwater permit, surface water permit, or water right transfer for construction or operation of the facility, that no such permit is necessary for the construction or operation of the facilities.

IV.C.2. Conclusions of Law

Based on the foregoing recommended findings of fact, the ~~Department recommends that the~~ Council finds that the facility, with the requested extension of the construction completion deadline, will not need a groundwater permit, surface water permit, or water right transfer.

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[135] WRWAMD4Doc15-16 RFA4 Complete RFA4 Exhibit O. Water Req Final 2019-07-01, Section 2.1.3.

[136] WRWAMD4Doc 24 Final Order on Request for Amendment 4 2019-11-22 (clean), Section IV.M., Public Services; Water.

[137] ORS 537.545(1)(f).

[138] Under OWRD rules, wells that use less than 5,000 gallons of water per day for a single industrial or commercial purpose are exempt from registration, permits, or ground water right certificates. ORS 537.545(5) through (7), the landowner where an exempt well is constructed must file a record of the well, with appropriate fee, with the OWRD. The provisions of ORS 537.545 require the owner of the land on which an exempt well is drilled provide to the OWRD a map showing the exact location of the well, as well as pay a recording fee to OWRD. ORS 537.765 requires a well log containing specific information described in ORS 537.765 to be filed with the Water Resources Commission when a new exempt well is drilled, or an existing well is altered, converted, or abandoned.

V. ~~PROPOSED~~ CONCLUSIONS AND ORDER

Based on the ~~recommended~~ findings of fact and conclusions of law included in this order, under OAR 345-027-0375, the ~~Department recommends~~ Council finds that the preponderance of evidence on the record, including the record of RFA1, and the record of the *Final Order on Request for Amendment 4*, supports the following conclusions:

1. The facility~~, with the proposed construction completion deadline extension~~as amended, complies with the requirements of the Energy Facility Siting Statutes ORS 469.300 to 469.520.

2. The facility, ~~with the proposed construction completion deadline extension~~as amended~~,~~ complies with all applicable standards adopted by Council pursuant to ORS 469.501, in effect on the date Council issues its Final Order on the Amendment.

3. ~~After considering any changes in facts or law relevant to the proposed amendment since the date the current site certificate was executed, the facility~~The facility as amended complies with all laws and Council standards applicable to an original site certificate application.

4. The ~~proposed RFA1 changes~~facility as amended ~~comply~~ complies with the applicable substantive criteria under the Council's Land Use standard, as described in OAR 345-022-0030, from the date RFA1 was submitted.

Accordingly, the ~~Department recommends~~ Council finds that the facility, ~~with the proposed construction completion deadline extension~~as amended, complies with the General Standard of Review OAR 345-022-0000 and OAR 345-027-0375. The ~~Department recommends that the~~ Council finds~~,~~ that based on a preponderance of the evidence on the record, that the site certificate may be amended as requested.

The ~~Department therefore recommends that the~~ Council therefore approves Request for Amendment 1 of the Wheatridge Renewable Energy Facility III Site Certificate and issues the First Amended Site Certificate for Wheatridge Renewable Energy Facility III and new site certificate for Wagon Trail Solar II, as included as Attachment A to this Order.

Issued ~~February 27~~May XX, 2026

OREGON ~~DEPARTMENT OF~~ ENERGY FACILITY SITING COUNCIL

_____

~~Todd Cornett, Assistant Director For Siting~~Cindy Condon, Chair

ATTACHMENTS

Attachment 1: Reviewing Agency Comments on RFA1
Attachment 2: Public Comments on Proposed Order ~~[*Place Holder*]~~
Attachment 3: Department evaluation of Public Comments

Wheatridge Renewable Energy Facility III
Attachment A: ~~Draft~~ First Amended Site Certificate (red-line)

Wagon Trail Solar II
Attachment A: ~~Draft~~ Site Certificate (red-line)
Attachment B: Draft Habitat Mitigation Plan
Attachment C~~-1~~: Draft ~~Construction~~ Vegetation and Soil Management Plan
~~Attachment C-2: Draft Operation Vegetation and Soil Management Plan [*Place Holder*]~~
Attachment D: NEER Emergency Action Plan
Attachment E-1: Draft Construction Wildfire Mitigation Plan
Attachment E-2: Draft Operational Wildfire Mitigation Plan
Attachment F: Decommissioning Cost Estimate and Assumptions

Attachment 1: Reviewing Agency Comments on RFA1

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From: SOMERS Lindsay N * ODFW
Sent: Monday, January 5, 2026 9:36 AM
To: CHERRY Steve P * ODFW; MCVEIGH-WALKER Chase * ODOE; THOMPSON Jeremy L * ODFW
Cc: ESTERSON Sarah * ODOE
Subject: Re: Email Summary of Public Notice of Receipt of Preliminary Request for Amendment 1 of the Site Certificate for the Wheatridge Renewable Energy Facility III

Hi Chase,

Any of those times work for my schedule this week.
I am looking through your attachments and redlines (pRFA, reveg, wmmp, etc) so far nothing has jumped out as a concern, but I can get any comments back to you before we meet. I responded to your questions below, but if you need any follow-up before meeting with the certificate holder just give me a call.

Is there any reason to suspect that Habitat categorization/assessment may have changed from what was previously…especially considering the presence of WGS -albeit restricted to a peninsula of Native perennial grassland within the larger area of dryland wheat? I agree with Steve's response below that there hasn't likely been any major changes to the habitat in the area, the results of any updated WGS surveys will be the driver of changes in habitat categorization/assessment (if needed? Latest report was 2020?).

Are the buffer zones and nesting/breeding details still accurate? Recommendation for buffers have increased for Ferruginous hawk, but all other details match current recommendations.
Western burrowing owl: 0.25 mile, April 1-August 15
Ferruginous hawk: ~~0.25~~ **0.5 mile**, March 15 to August 15
Swainson's hawk: 0.25 mile, April 1 to August 15

Lindsay

Lindsay Somers
Habitat Biologist-John Day Watershed
Oregon Department of Fish and Wildlife
73471 Mytinger Ln
Pendleton, OR 97801
Office: 541-388-6294
Cell: 541-314-1236

From: CHERRY Steve P * ODFW <Steve.P.CHERRY@odfw.oregon.gov>
Sent: Friday, January 2, 2026 4:35 PM
To: MCVEIGH-WALKER Chase * ODOE <Chase.MCVEIGH-WALKER@energy.oregon.gov>; THOMPSON Jeremy L * ODFW <Jeremy.L.THOMPSON@odfw.oregon.gov>; SOMERS Lindsay N * ODFW <Lindsay.N.Somers@odfw.oregon.gov>
Cc: ESTERSON Sarah * ODOE <Sarah.ESTERSON@energy.oregon.gov>
Subject: RE: Email Summary of Public Notice of Receipt of Preliminary Request for Amendment 1 of the Site Certificate for the Wheatridge Renewable Energy Facility III

Chase in regards to your question below:
Based on the habitat survey conducted in 2020, and in compliance with Condition "PRE-FW-01" (submitted in 2021), there is known WGS within the site boundary. Is there any reason to suspect that Habitat categorization/assessment may have changed from what was previously…especially considering the presence of WGS -albeit restricted to a peninsula of Native perennial grassland within the larger area of dryland wheat?

I don't think they probably need to revisit the habitat classifications on the solar portion of this request unless they want to. The only real change probably here would be if they turned some more ground into dryland wheat. However, if this process gets them outside their three year window of when WGS surveys were last completed then I think they would need complete another round of surveys to see if there are any changes to the WGS locations and that would change the habitat classification. I hope that makes sense. Let me know if you have nay questions.

Steve

From: MCVEIGH-WALKER Chase * ODOE <Chase.MCVEIGH-WALKER@energy.oregon.gov>
Sent: Friday, January 2, 2026 4:12 PM
To: CHERRY Steve P * ODFW <Steve.P.CHERRY@odfw.oregon.gov>; THOMPSON Jeremy L * ODFW <Jeremy.L.THOMPSON@odfw.oregon.gov>; SOMERS Lindsay N * ODFW <Lindsay.N.Somers@odfw.oregon.gov>
Cc: ESTERSON Sarah * ODOE <Sarah.ESTERSON@energy.oregon.gov>
Subject: FW: Email Summary of Public Notice of Receipt of Preliminary Request for Amendment 1 of the Site Certificate for the Wheatridge Renewable Energy Facility III

Good afternoon and Happy 2026, Steve, Lindsay, and Jeremy!

We are really hoping to coordinate a call between ODFW, the Department, and the Certificate Holder in the coming week to discuss (among other things) the weed control plan, revegetation plan, and Habitat mitigation plan. I will reach out to the certificate holder to check on their availability also, and will schedule a TEAMS call once I hear back from all parties.
Are there any days/times that work best for your schedules? We are most available the following days/times:

- **Wednesday (1/7/2026)** – between 10am and 1:00pm, and after 2:00pm
- **Thursday (1/8/2026)** – between 11:00am and 2:00pm
- **Friday (1/9/2026)** – before 10:00am

Below, I have provided key details about the preliminary Request for Amendment 1– along with a couple preliminary questions for you **(in bold)** – and can compile your responses into a formal letter/consultation document once received.

Facility Overview - Wheatridge Renewable Energy Facility III
(description includes details of the existing/operational facility, and what was approved- but not yet constructed)

Energy Facility

- 150 MW solar power generation facility (50 MWs in operation)
- 2,294 acre site boundary

Related or Supporting Facilities
- 41 distributed sites of sites of lithium-ion batteries (not yet built)
- Wheatridge West Collector Substation Expansion (not yet built)
- 34.5 kV electrical collection system
- Service Roads, Gates, and Fencing

Shared (WREFI, WREFII and WREFIII) Related or Supporting Facilities
- a collector substation
- access roads
- temporary laydown areas
- the O&M building
- Portions of the 230-kV Intraconnection Line may have overlapping site boundaries with WREFI, WREFII, and WREFIII (not yet built)

Amendment Request (scope of review):
pRFA1 seeks Council approval for the following changes to the site certificate:
1. Split the approved facility into two separate facilities; each with their own site boundary and certificate holder under separate site certificates. The split would amend the current site certificate and create one new site certificate.
2. Extend the construction completion deadline by three years; which requires ODOE to evaluate changes in fact or law (and policy/interpretation of law) that may impact the previous evaluation
3. Amend several conditions to be consistent with the site certificate split.

Details to consider:
- pRFA1 states that a field-based habitat survey was conducted by Tetra Tech within the Survey Area on May 12 and 13, 2020. Habitat categorization and habitat subtype s previously identified within the analysis area include the following:
  - Category 1 Habitat:
    - Grassland – Native Perennial
  - Category 2 habitat:
    - Grassland – Native Perennial
  - Category 3 habitat:
    - Revegetated or other Planted Grassland
    - Grassland – Native Perennial
  - Category 4 habit:
    - Grassland – Exotic Annual
    - Shrub-Steppe – Big Basin Sagebrush
  - Category 6 habitat:
    - Developed – Dryland Wheat
    - Developed – other

Based on the habitat survey conducted in 2020, and in compliance with Condition "PRE-FW-01" (submitted in 2021), there is known WGS within the site boundary. Is there any reason to suspect that Habitat categorization/assessment may have changed from what was previously…especially considering the presence of WGS -albeit restricted to a peninsula of Native perennial grassland within the larger area of dryland wheat?

Habitat mitigation:
(from Wheatridge Renewable Energy Facility III February 2020 draft Habitat Mitigation Plan)
> "The Certificate Holder has secured an option agreement for up to 300 acres to be placed into a conservation easement where the HMA will be located...The Certificate Holder has identified a 187.9-acre parcel of suitable in-kind and in-proximity habitat on 2,100 acres of private land along Rock Creek in Gilliam County within which they will establish an HMA."

The Department has requested that the certificate holder provide evidence that the Habitat Mitigation Area (HMA) is still available for use as a mitigation site for the WTSII facility.

Site Certificate Conditions:
Aside from a minor edit (deletion of reference to construction laydown yards retained post construction) in Condition PRE-FW-01, the certificate holder has not recommended/requested any amendments to existing Fish and Wildlife Habitat conditions, or Threatened and Endangered Species conditions for either facility. That said, **Condition "CON-FW-02" includes buffer zones and avoidance measures around active nest sites of state sensitive species. Are the buffer zones and nesting/breeding details still accurate?**

Email Attachments and review/comment request:
Lastly, I have included a couple attachments to this email (proposed 'redlined' Site Certificate for the proposed Wagon Trail Solar II facility - with comments from Sarah on specific Fish and Wildlife Habitat conditions; two Figures (Figures 8a and 8b) from the pRFA1 – for your reference; the most current (redlined) Habitat Mitigation Plan for Wheatridge Renewable Energy Facility III – Submitted as a preconstruction condition submittal in August 2021, as well as the most current Weed Control Plan, Revegetation Plan, and Wildlife Monitoring and Mitigation Plan). Please utilize and review any/all of the attached documents, and feel free to provide comments on the pRFA1, site certificate conditions, or the attached plans.

Thank you very much, and talk to you soon!

Regards,
-Chase

50 YEARS of SERVICE
OREGON DEPARTMENT OF ENERGY

Chase McVeigh-Walker
Senior Siting Analyst
Pronouns: he/him/his
550 Capitol St. NE | Salem, OR 97301
P: 971-600-5323
P (In Oregon): 800-221-8035
Stay connected!

From: MCVEIGH-WALKER Chase * ODOE
Sent: Tuesday, December 2, 2025 5:38 PM
To: ISAAK Patty * DEQ <Patty.ISAAK@deq.oregon.gov>; 'svelund.greg@deq.state.or.us' <svelund.greg@deq.state.or.us>; KENNEDY Mike * DEQ <Mike.KENNEDY@deq.oregon.gov>; MCCLAUGHRY Jason * DGMI <Jason.MCCLAUGHRY@dogami.oregon.gov>; 'dawn.hert@dlcd.oregon.gov' <dawn.hert@dlcd.oregon.gov>; 'hilary.foote@dlcd.oregon.gov' <hilary.foote@dlcd.oregon.gov>; 'jon.jinings@dlcd.oregon.gov' <jon.jinings@dlcd.oregon.gov>; BLEAKNEY Leann <lbleakney@nwcouncil.org>; 'jason.cane@osp.oregon.gov' <jason.cane@osp.oregon.gov>; HAWKINS Chad * OSFM <Chad.Hawkins@osfm.oregon.gov>; 'osfm.ofc@osp.oregon.gov' <osfm.ofc@osp.oregon.gov>; BROWN Jordan A * ODA <Jordan.A.BROWN@oda.oregon.gov>; ABERCROMBIE Troy * ODA <Troy.ABERCROMBIE@oda.oregon.gov>; PIKE Brandon <Brandon.PIKE@odav.oregon.gov>; CHERRY Steve P * ODFW <Steve.P.CHERRY@odfw.oregon.gov>; THOMPSON Jeremy L * ODFW <Jeremy.L.THOMPSON@odfw.oregon.gov>; SOMERS Lindsay N * ODFW <Lindsay.N.Somers@odfw.oregon.gov>; HOLSCHBACH Tim J * ODF <Tim.J.HOLSCHBACH@odf.oregon.gov>; TOKARCZYK John A * ODF <John.A.TOKARCZYK@odf.oregon.gov>; 'daniel.hubner@oregon.gov' <daniel.hubner@oregon.gov>; RASHID Yassir * PUC <Yassir.RASHID@puc.oregon.gov>; MULDOON Matt * PUC <Matt.MULDOON@puc.oregon.gov>; BJORK Mary F * WRD <Mary.F.BJORK@water.oregon.gov>; SALGADO Jessica * DSL <Jessica.SALGADO@dsl.oregon.gov>; EVANS Daniel * DSL <Daniel.EVANS@dsl.oregon.gov>; FITZGERALD Richard W * DSL

<Richard.W.FITZGERALD@dsl.oregon.gov>
Cc: ESTERSON Sarah * ODOE <Sarah.ESTERSON@energy.oregon.gov>
Subject: FW: Email Summary of Public Notice of Receipt of Preliminary Request for Amendment 1 of the Site Certificate for the Wheatridge Renewable Energy Facility III

Good evening,

Below, please find a "Courtesy email" sent earlier today providing notice of the receipt of the Preliminary Request for Amendment 1 (pRFA) for the Wheatridge Renewable Energy Facility III. The pRFA and the public notice are available to download and view from the Department's website at: https://www.oregon.gov/energy/facilities-safety/facilities/Pages/WREFIII.aspx.

Thank you, and please do not hesitate to contact me with any questions.

-Chase

Chase McVeigh-Walker
Senior Siting Analyst
Pronouns: he/him/his
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OREGON DEPARTMENT OF ENERGY ENERGY FACILITY SITING COUNCIL

Email Summary of Public Notice of Receipt of Preliminary Request for Amendment 1 of the Site Certificate for the Wheatridge Renewable Energy Facility III

On November 21, 2025, the Oregon Department of Energy received preliminary Request for Amendment 1 of the Site Certificate for the Wheatridge Renewable Energy Facility III (pRFA1). In pRFA1, Wheatridge Solar Energy Center, LLC, the certificate holder, requests the Energy Facility Siting Council's approval to: extend the construction deadline; split the approved facility into two facilities, each with their own site certificate; and Amend several conditions to be consistent with the site certificate split .

The pRFA1 and Public Notice of Receipt of the pRFA1 are available on the Department's website.

The Wheatridge Renewable Energy Facility III is a 50 megawatt (MW) solar energy generation facility on 357 acres (0.5 sq. miles) of private land within an approximately 2,294 acre site boundary.

Please note, this notice is to provide early notification of this amendment request. There is no comment period associated with this phase of review. A comment period will occur later in the process.

For more information about pRFA1, please contact Chase McVeigh-Walker, Senior Siting Analyst, via phone, fax, email, or mail:
Chase McVeigh-Walker, Senior Siting Analyst
550 Capitol Street NE
Salem, OR 97301
Phone: (971) 600-5323
Fax: (503) 373-7806
Email: chase.mcveigh-walker@energy.oregon.gov

You received this notice either because you previously signed up for email updates through GovDelivery or ClickDimensions related to specific siting projects or all Energy Facility Siting Council activities (the "General List"). You will automatically receive all future notices per your request or GovDelivery/ClickDimensions choices, unless you unsubscribe via ClickDimensions or by contacting the Department.

If you have any questions or comments about ClickDimensions please feel free to contact the Department's Administrative Assistant, Nancy Hatch at

503-428-7905, toll-free in Oregon at 800-221-8035, or email to nancy.hatch@energy.oregon.gov.

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Leading Oregon to a safe, equitable, clean, and sustainable energy future.

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From: Tamra Mabbott
Sent: Thursday, January 29, 2026 8:12 AM
To: MCVEIGH-WALKER Chase * ODOE
Cc: Valerie Ballard; Clint Shoemake
Subject: Fw: signed letter to EFSC
Attachments: BOC Signed Letter ODOE Wheatridge.pdf

Hello Chase -please see the signed letter. Thank you for your help with this, especially identifying and discussing the target issues.
Cordially, Tamra

Tamra Mabbott

Planning Director | Planning Department

Morrow County, Oregon |45.8958, -119.4986

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David Sykes, Chair
Jeff Wenholz, Commissioner
August Peterson, Commissioner

January 21, 2026

Chase McVeigh-Walker
Siting Analyst, Oregon Department of Energy
550 Capitol Street N.E., 1st Floor
Salem, OR 97301

RE: Wheatridge Renewable Energy Facility III (WREFIII), Request for Amendment 1 (RFA1)

Dear Mr. McVeigh-Walker:

Thank you for reaching out and soliciting comments from Morrow County on Nextera's pRFA1. We understand the amendment applies to approximately 100 MW (50 MW are already in operation) of a solar power generation facility located within the 2,294-acre site boundary. The amendment request would split the approved facility into two separate facilities, each with its own site boundary and certificate holder under separate site certificates. The split would amend the current site certificate and create one new site certificate. If approved, the request would extend the construction completion deadline by three years, which requires ODOE to evaluate changes in fact or law that may impact the previous evaluation. The request would necessarily require several conditions to be amended, consistent with the site certificates.

The applicable standards and comments the county previously submitted remain, with the following additions.

Land Use

In August 2025, our Planning Director correctly notified the certificate holder that the applicable substantive criteria to be evaluated for this amendment had not changed. However, since that time, Morrow County has adopted the new eastern Oregon Solar Siting Rules (OAR 660-033-0130(44), which are in place in addition to the solar standards found in OAR 660-033-0130(38). See Morrow County Zoning Ordinance Section 3.010(E)(17). Given that the effective date of the county's code amendment was after NextEra submitted their application November 2025, the new rule may not apply under OAR 345-022-0030(3)[1]

[1] OAR 345-022-0030(3) As used in this rule, the "applicable substantive criteria" are criteria from the affected local government's acknowledged comprehensive plan and land use ordinances that are required by the statewide planning goals and that are in effect on the date the applicant submits the application. If the special advisory group recommends applicable substantive criteria, as described under OAR 345-015-0180, the Council shall apply them. If the special advisory group does not recommend applicable substantive criteria, the Council shall decide either to make its own determination of the applicable substantive criteria and apply them or to evaluate the proposed facility against the statewide planning goals.

Weed Abatement
County requests one change to ensure compliance with conditions relative to weed prevention and abatement. Namely, that the company and contractor allow the county weed supervisor to inspect the source of hay and straw before it is applied to the ground.

Road Impacts
Nextera has a Road Use Agreement (RUA); however, as a legal precaution, the county requests that a new RUA be promulgated to ensure the parties responsible are the same as those listed in the new and separate site certificate holders.

Fire Suppression
County understands that newly adopted EFSC fire suppression standards will apply.

Temporary Workforce Housing
The existing Site Certificate nominally addresses the impacts and mitigation of temporary workforce housing. County continues to encourage the developer and contractors to invest in permanent and temporary housing. Additionally, where temporary on-site RV parking is allowed in the Exclusive Farm Use Zone, the county encourages Nextera to work with neighboring property owners and identify parcels with potential for RV parking in their County Conditional Use Permit.

For questions or additional information, please contact Tamra Mabbott, Planning Director, at 541-922-4624 or tmabbott@morrowcountyor.gov, Eric Imes, Public Works Director, at (541) 989-8584 eimes@morrowcountyor.gov or Corey Sweeney, Weed Program Manager at (541) 240-1743.

Sincerely,

David Sykes, Chair

Jeff Wenholz, Commissioner

Gus Peterson, Commissioner

Cc: Tamra Mabbott, Planning Director
Eric Imes, Public Works Director
Corey Sweeney, Weed Program Manager
Steve Freeland, Emergency Manager

From: PIKE Brandon
Sent: Thursday, February 5, 2026 11:36 AM
To: TARDAEWETHER Kellen * ODOE
Cc: ESTERSON Sarah * ODOE; MCVEIGH-WALKER Chase * ODOE
Subject: RE: Wheatridge Renewable III Solar Facility pRFA1 Review Question

---

Hi Kellen,

Thanks for your patience on this. To make sure I'm understanding the situation correctly—the project in question (Wagon Trail II) would occur in the area shown in yellow on your PDF, and the tallest structures would be around 60 feet tall.

If that's the case, you're correct that filing 7460 notices with the FAA and ODAV would *not* be required. Let me know if you need anything further from me.

Best,

BRANDON PIKE
OREGON DEPARTMENT OF AVIATION (ODAV)
AVIATION PLANNER

PHONE 971-372-1339
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3040 25TH STREET SE, SALEM, OR 97302
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Pavement (PEP/PMP): Pavement@ODAV.Oregon.Gov
Land Use / Tall Structures: LandUse@ODAV.Oregon.Gov

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From: TARDAEWETHER Kellen * ODOE <Kellen.TARDAEWETHER@energy.oregon.gov>
Sent: Wednesday, January 28, 2026 1:15 PM
To: PIKE Brandon <Brandon.PIKE@odav.oregon.gov>
Cc: ESTERSON Sarah * ODOE <Sarah.ESTERSON@energy.oregon.gov>; MCVEIGH-WALKER Chase * ODOE <Chase.MCVEIGH-WALKER@energy.oregon.gov>
Subject: Wheatridge Renewable III Solar Facility pRFA1 Review Question

This message was sent from outside the organization. Treat attachments, links and requests with caution. Be conscious of the information you share if you respond.

Hi Brandon,

I'm helping with the draft proposed order (DPO) for request for amendment 1 for the Wheatridge Renewable Energy Facility III. Wheatridge Renewable Energy Facility III is an approved 2,294-acre solar facility that has a portion (359 acres) that is built and in operation. RFA1 requests to split the operational portion of the facility and the unbuilt portion of the facility (the remaining 1,935 acres - called Wagon Trail II) into two site certificates and then extend the construction deadlines for the unbuilt (Wagon Trail II) facility.

There is an existing site certificate condition that requires they conduct a FAA 7460 filing for the Wagon Trail II facility. However, in my review, it doesn't appear that the condition requiring a future review of a FAA 7460 filing would be necessary.

It appears that the closest airport is the Morrow County Lexington Airport approximately 7.5 miles southwest of the facility. There is also the West Buttercreek airfield approximately 9.5 miles northeast facility, but it doesn't appear to be operational. Here is an Online Map of the facility and I've also attached a PDF of the general facility location.

The tallest facility structures are associated with the 34.5 kV overhead collector lines which may be up to 60 feet tall. Could you confirm whether ODAv agrees that future 7460 review would not be needed for the Wagon Trail II facility?

Please let us know if you need any additional information to evaluate the proposal/question. If you have everything you need, we would love a response by next week sometime if possible.

Kellen

OREGON DEPARTMENT OF ENERGY

Kellen Tardaewether
Senior Siting Analyst
550 Capitol St. NE Salem, OR 97301
C: 503-586-6551
P (In Oregon): 800-221-8035



Attachment 2: Public Comments on Proposed Order

Request for Amendment 1 of the Site Certificate for the Wheatridge Renewable Energy Facility Proposed Order

Public Comments on Proposed Order

Comment ID	Date	Commenter	Pages
WREFIIIAMD1Doc12	03/18/2026	Oregon Department of State Lands	2-4
WREFIIIAMD1Doc13	03/19/2026	Tallman, Jonathan	5-97
WREFIIIAMD1Doc13-1	03/19/2026	Tallman, Jonathan	98-378
WREFIIIAMD1Doc14	03/25/2026	Oregon Department of Fish and Wildlife	379-382
WREFIIIAMD1Doc15	04/03/2026	Wheatridge Solar Energy Center, LLC	383-384
WREFIIIAMD1Doc15-1	04/03/2026	Wheatridge Solar Energy Center, LLC	385-463
WREFIIIAMD1Doc17	04/10/2026	Wheatridge Solar Energy Center, LLC	464-499
WREFIIIAMD1Doc18	04/17/2026	Tallman, Jonathan	500-501
WREFIIIAMD1Doc19	04/24/2026	Wheatridge Solar Energy Center, LLC	502-504

From: EVANS Daniel * DSL
Sent: Wednesday, March 18, 2026 3:02 PM
To: MCVEIGH-WALKER Chase * ODOE
Subject: RE: Email Summary of Public Notice of Receipt of Preliminary Request for Amendment 1 of the Site Certificate for the Wheatridge Renewable Energy Facility III

Follow Up Flag: Follow up
Flag Status: Flagged

1. The name, address and telephone number of the contact person assigned to review the application for your agency.

DSL reviewed the wetland delineation for this project footprint, as DSL file # WD2019-0008. It was expired on 4/18/2024. No jurisdictional Waters of This State were within the project footprint, therefore there is no further application review required.

2. **Comments on aspects of the proposed facility that are within the particular responsibility or expertise of your agency.**

No jurisdictional Waters of This State were within the project footprint, therefore there is no further application review required.

3. **A list of statutes, administrative rules and local government ordinances administered by your agency that might apply to construction or operation of the proposed facility and a description of any information needed for determining compliance.**

Wetland delineations are reviewed per OAR 141-090.
Wetland Removal-Fill applications, when required, are reviewed per OAR 141-085.

4. **A list of any permits administered by your agency that might apply to construction or operation of the proposed facility and a description of any information needed for reviewing a permit application.**

None needed

5. **Recommendations regarding the size and location of analysis areas (see below for more information).**

None

6. **A list of studies that should be conducted to identify potential impacts of the proposed facility and mitigation measures.**

None

Daniel Evans, PWS
He/him/his
Wetland Ecology Specialist
Oregon Department of State Lands
Mobile: 503-428-8188

DSL's Removal-Fill Program fee schedule took effect January 1, 2026. **Learn more about the new fees here.** Questions? Submit questions to the **Contact Us** form.

From: MCVEIGH-WALKER Chase * ODOE <chase.mcveigh-walker@energy.oregon.gov>
Sent: Tuesday, December 2, 2025 5:38 PM
To: ISAAK Patty * DEQ <Patty.ISAAK@deq.oregon.gov>; SVELUND Greg * DEQ <svelund.greg@deq.state.or.us>; KENNEDY Mike * DEQ <Mike.KENNEDY@deq.oregon.gov>; MCCLAUGHRY Jason * DGMI <Jason.MCCLAUGHRY@dogami.oregon.gov>; HERT Dawn * DLCD <dawn.hert@dlcd.oregon.gov>; FOOTE Hilary * DLCD <hilary.foote@dlcd.oregon.gov>; jon.jinings@dlcd.oregon.gov; BLEAKNEY Leann <lbleakney@nwcouncil.org>; jason.cane@osp.oregon.gov; HAWKINS Chad * OSFM <Chad.Hawkins@osfm.oregon.gov>; osfm.ofc@osp.oregon.gov; BROWN Jordan A * ODA <Jordan.A.BROWN@oda.oregon.gov>; ABERCROMBIE Troy * ODA <Troy.ABERCROMBIE@oda.oregon.gov>; PIKE Brandon <Brandon.PIKE@oday.oregon.gov>; CHERRY Steve P * ODFW <Steve.P.CHERRY@odfw.oregon.gov>; THOMPSON Jeremy L * ODFW <Jeremy.L.THOMPSON@odfw.oregon.gov>; SOMERS Lindsay N * ODFW <Lindsay.N.Somers@odfw.oregon.gov>; HOLSCHBACH Tim J * ODF <Tim.J.HOLSCHBACH@odf.oregon.gov>; TOKARCZYK John A * ODF <John.A.TOKARCZYK@odf.oregon.gov>; HUBNER Daniel * ODF <daniel.hubner@oregon.gov>; RASHID Yassir * PUC <Yassir.RASHID@puc.oregon.gov>; MULDOON Matt * PUC <Matt.MULDOON@puc.oregon.gov>; BJORK Mary F * WRD <Mary.F.BJORK@water.oregon.gov>; SALGADO Jessica * DSL <Jessica.SALGADO@dsl.oregon.gov>; EVANS Daniel * DSL <Daniel.EVANS@dsl.oregon.gov>; FITZGERALD Richard W * DSL <Richard.W.FITZGERALD@dsl.oregon.gov>
Cc: ESTERSON Sarah * ODOE <Sarah.ESTERSON@energy.oregon.gov>
Subject: FW: Email Summary of Public Notice of Receipt of Preliminary Request for Amendment 1 of the Site Certificate for the Wheatridge Renewable Energy Facility III

Good evening,

Below, please find a "Courtesy email" sent earlier today providing notice of the receipt of the Preliminary Request for Amendment 1 (pRFA) for the Wheatridge Renewable Energy Facility III. The pRFA and the public notice are available to download and view from the Department's website at: https://www.oregon.gov/energy/facilities-safety/facilities/Pages/WREFIII.aspx.

Thank you, and please do not hesitate to contact me with any questions.

-Chase

Chase McVeigh-Walker
Senior Siting Analyst
Pronouns: he/him/his
550 Capitol St. NE | Salem, OR 97301
P: 971-600-5323
P (In Oregon): 800-221-8035
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OREGON DEPARTMENT OF ENERGY ENERGY FACILITY SITING COUNCIL

Email Summary of Public Notice of Receipt of Preliminary Request for Amendment 1 of the Site Certificate for the Wheatridge Renewable Energy Facility III

On November 21, 2025, the Oregon Department of Energy received preliminary Request for Amendment 1 of the Site Certificate for the Wheatridge Renewable Energy Facility III (pRFA1). In pRFA1, Wheatridge Solar Energy Center, LLC, the certificate holder, requests the Energy Facility Siting Council's approval to: extend the construction deadline; split the approved facility into two facilities, each with their own site certificate; and Amend several conditions to be consistent with the site certificate split .

The pRFA1 and Public Notice of Receipt of the pRFA1 are available on the Department's website.

The Wheatridge Renewable Energy Facility III is a 50 megawatt (MW) solar energy generation facility on 357 acres (0.5 sq. miles) of private land within an approximately 2,294 acre site boundary.

Please note, this notice is to provide early notification of this amendment request. There is no comment period associated with this phase of review. A comment period will occur later in the process.

For more information about pRFA1, please contact Chase McVeigh-Walker, Senior Siting Analyst, via phone, fax, email, or mail:
Chase McVeigh-Walker, Senior Siting Analyst
550 Capitol Street NE
Salem, OR 97301
Phone: (971) 600-5323
Fax: (503) 373-7806
Email: chase.mcveigh-walker@energy.oregon.gov

You received this notice either because you previously signed up for email updates through GovDelivery or ClickDimensions related to specific siting projects or all Energy Facility Siting Council activities (the "General List"). You will automatically receive all future notices per your request or GovDelivery/ClickDimensions choices, unless you unsubscribe via ClickDimensions or by contacting the Department.

If you have any questions or comments about ClickDimensions please feel free to contact the Department's Administrative Assistant, Nancy Hatch at 503-428-7905, toll-free in Oregon at 800-221-8035, or email to nancy.hatch@energy.oregon.gov.

Oregon Department of Energy
Leading Oregon to a safe, equitable, clean, and sustainable energy future.

The Oregon Department of Energy helps Oregonians make informed decisions and maintain a resilient and affordable energy system. We advance solutions to shape an equitable clean energy transition, protect the environment and public health, and responsibly balance energy needs and impacts for current and future generations.

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PLEASE RETURN THIS FORM TO THE COUNCIL ASSISTANT
*See reverse for tips on giving testimony

Wheatridge Renewable Energy Facility III Amendment 1
PUBLIC HEARING on Proposed Order
Date: March 19, 2026 Location: Boardman, Oregon
REGISTRATION FOR PUBLIC COMMENT

Name: Jonathan Tallman.cx

Address: _____

I represent (if applicable) Tallman
Print your name OR your organization/business name.

☒ Send me future notifications about Council meetings via email.
My email address is: Jonathan@Tallman.cx

☐ I wish to submit verbal comments and/or
☐ I wish to submit the following written comment:

_____

_____

_____

_____

_____

_____

_____

_____

PLEASE NOTE: If there are a large number of speakers, it may be necessary to limit the amount of time each speaker is allowed.

I submit this comment to ask that the WREFIII record clearly reflect my concerns regarding infrastructure transparency, cumulative load assumptions, and consistency between how related infrastructure is described in different forums and what the underlying documents and sworn testimony actually show.

My concern is not that EFSC directly controls my prior condemnation case. My concern is that EFSC is being asked here to approve a deadline extension and certificate split, and it should do so only on a record that is internally consistent, document-supported, and accurate about related infrastructure and load assumptions.

In related Boardman corridor matters affecting my property, the available records appear to use different descriptions of the infrastructure need, and those descriptions should be reconciled in a document-supported way.

For example, materials submitted by UEC in related proceedings describe the Highway 730–Olson Road 230-kV transmission project as needed to "reliably accommodate electrical growth in the Boardman area," and state that UEC's electrical load in the Boardman area grew from 62 MW in 2009 to 260 MW in 2019, with forecasted growth above 535 MW by the end of 2029. Those same materials describe the proposed line as extending from the planned Hwy 730 Switchyard to the planned Olson Road Substation, approximately 4.3 miles.

But sworn testimony in related proceedings ties the need for the Olson Road substation and transmission expansion much more specifically to Amazon Data Services load and request for service. In deposition testimony, Joshua Lankford testified that the Amazon data center at Olson Road is served out of the UEC Olson Road substation connected to the 115-kV line segment with the 75 MW limit, and that Amazon's load growth contributed to the overload concern on that segment.

That testimony goes further. Mr. Lankford also testified that Amazon was "one of the main users" served out of the Olson Road substation; that if Amazon Data Services had not been served out of that Olson Road line segment, the line would not have exceeded the 75 MW capacity in the way projected; and that Amazon was a "majority" of the reason for that projected overload.

Most importantly, Mr. Lankford testified that Amazon's request for service drove the need for the transmission line and the substation to serve that load center, while also stating that UEC tied those facilities back into the community distribution system.

That distinction matters. A record that describes a project in broad area-growth and reliability terms is materially different from a record showing that the actual need was driven in substantial part by a specific major industrial/data-center customer. EFSC should require those descriptions to be reconciled before relying on them especially since the easement is still in court the issue is not simply whether the line exists. The issue is whether EFSC should treat it as a settled baseline when part of its route depended on contested condemnation rights, advance occupancy, and an easement scope that was itself disputed.

Court of Appeals No. A184850, Morrow County Circuit Court No. 21CV283

I also ask EFSC to note that related records include arguments concerning Boardman's underground wiring policy. In the LUBA decision concerning the same transmission line, the opinion notes the

argument that Boardman Municipal Code chapter 13.12 designates the entire city as an underground wiring district and states that underground wiring is "highly desirable to beautify the city and to promote its orderly development." The same opinion also notes the responding argument that those provisions regulate uses in public rights-of-way rather than on private property.

I raise that point here not to relitigate the LUBA case, but to show why a reconciled and document-supported explanation matters. Where one set of records emphasizes broad public growth and reliability, another ties the need to a particular high-load private customer, and still other records raise compatibility questions about line type and placement, the public record should not remain vague or internally inconsistent.

I am also concerned that related infrastructure serves or feeds power associated with property impacts affecting me, and I want that concern clearly documented in this record. Earlier UEC valuation materials concerning other regional electrical infrastructure reflect UEC's long-term concern with securing service territory and future load development. Those materials recommended acquisition of the Depot distribution system in part because UEC would control the Depot distribution territory and the ability to serve existing and future load development.

For that reason, I ask EFSC not to rely on generalized descriptions alone. Before approving any deadline extension or certificate split, EFSC should require a reconciled, document-supported explanation of:

how the relevant infrastructure is being characterized in each forum;

whether the stated infrastructure need is being described as generalized community growth, major industrial/data-center demand, or both;

whether the load assumptions being relied on are accurate, complete, and consistently described across related proceedings; and

whether any approval, amendment, split, or extension is being evaluated on assumptions that are incomplete, shifting, or not fully reconciled with sworn testimony and related project records.

I also respectfully request that the administrative record preserve the substance of my comments and questions, not merely note that I appeared and spoke. In matters affecting my property, I have seen the substance of detailed concerns reduced to a generic statement that I spoke, without preserving the actual issues raised. I ask that this comment, including the examples and concerns stated above, be preserved in the record with enough detail to reflect its substance.

EFSC's record should reflect what the related documents and sworn testimony actually show, not shifting descriptions that change depending on the forum or objective. Before approving any requested deadline extension or certificate split, EFSC should require a reconciled, document-supported explanation of the infrastructure and load assumptions being relied on.

I am not saying the transmission line does not exist or that power cannot move through it. I am saying EFSC should not treat the Olson Road / PDX90 transmission line as a normal, settled background condition for Wheat Ridge III when part of that line crossed my property under rights that were still being actively contested. The issue is not merely the physical presence of the line, but the legal foundation for placing it there. The record shows that UEC filed a condemnation action in **Morrow County Circuit Court Case No. 21CV28343** to acquire an easement across my property, and that advance occupancy was granted while the underlying dispute over the property rights and scope of the taking remained ongoing. The related land-use approval for that same transmission line was then challenged in **LUBA No. 2022-029**, which confirms that the proposed line crossed my property, that the condemnation action had already been filed, and that the circuit court had granted advance occupancy under ORS 35.275. The matter is also part of the broader appellate record in **Court of Appeals Case No. A184850**, arising from Morrow County Circuit Court Case No. 21CV28343. Accordingly, EFSC should not rely on that transmission line as a neutral baseline, background condition, or settled infrastructure assumption for Wheat Ridge III without plainly disclosing that a portion of the route depended on contested condemnation rights and advance occupancy rather than a clean, voluntary, and undisputed easement. I respectfully request that this explanation, together with the referenced materials from **21CV28343, LUBA No. 2022-029, and A184850**, be attached to and preserved in the administrative record, and that no deadline extension, certificate split, or related approval be granted unless the record first reconciles those underlying legal and infrastructure assumptions in a clear, document-supported way.

I am not saying the transmission line does not exist or that power cannot move through it. I am saying EFSC should not treat that line as a normal, settled background fact for Wheat Ridge III when part of the line crossed my property under rights that were still being fought over. In simple terms, it is like saying you cannot build the next step of the story on top of something that was still being argued about. The issue is not just the wire itself, but the legal right to put it there and the fact that part of that foundation depended on contested condemnation rights and advance occupancy rather than a clean, voluntary, undisputed easement. So before EFSC uses that line as part of the baseline for other approvals, the record should plainly say that the line may exist, but the property rights underneath part of it were not cleanly settled and were still under dispute.

City of Boardman

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Boardman, OR 97818
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Fax: (541) 481-3244
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CEIVED
FEB 24 2020

February 18, 2020

Mr. Robert Echenrode
General Manager
Umatilla Electric Cooperative
750 W. Elm
P.O. Box 1148
Hermiston, OR 97838

Dear Mr. Echenrode:

The Community Development Director has performed a review of the Umatilla Electric Cooperative's ("UEC") proposed route for construction of a 230 Kv transmission line. Based on the information provided, the proposed line will extend from the planned Hwy 730 Switchyard at the intersection of Hwy 730 and I-84 to the planned Olson Rd. Substation south of Boardman, total transmission line length is approximately 4.3 miles. This route would pass through two commercial areas of the City of Boardman which include the Service Center Sub District (SC) and General Industrial (GI).

Within the SC zone, transmission lines are permitted outright pursuant to City of Boardman Development Code Table 2.2.200.B §(2)(b). The SC Zone is designed to accommodate heavy commercial uses and light industrial uses along portions of the I-84 corridor.

Within the GI zone, transmission lines are permitted outright pursuant to City of Boardman Development Code Table 2.3.110.A §(2)(b). As outright permitted uses, no land use approval is required, and the City does not directly regulate this use.

Please let me know if you require any additional information.

Respectfully Submitted,

Karen Pettigrew

Karen Pettigrew
Boardman City Manager

Problematic -

City does Regulate this use.

UMATILLA ELECTRIC COOPERATIVE
A Touchstone Energy® Cooperative

March 15, 2019

David Wright
VADATA, Inc.
2001 8th Avenue
Seattle, WA 98101

UEC Project Proposal – PDX90, Boardman Site, Permanent Power

Dear David,

Please find below Umatilla Electric Cooperative's proposal to provide design and construction services for the tasks related to provision of the permanent power solution at VAData's PDX90 site. The project will provide permanent electric service to meet the requested PDX 90 requirements beyond the previous scopes of work detailed in the Commissioning Power proposal and Mobile Solution proposals. This project does not, however, include any necessary improvements that Bonneville Power Administration (BPA) may require to interconnect this load at BPA's Morrow Flat Substation. This project is to be substantially complete and energized by April 1, 2021, or 670 calendar days after occurrence of the Start Date of Services pursuant to the Work Order, whichever is later.

PDX90, Boardman Site, Permanent Power

Services	Estimate
LLE & Engineering: Design/Engineering, Transformers, Conductor/Cable, Insulators, Poles, & Project Management	$17,919,000.00
Substation Construction: Materials, Construction, & Commissioning	$8,416,100.00
Feeder Construction: Materials, Construction, & Commissioning	$1,757,000.00
Upstream Construction; Transmission and Switchyard. Materials, Construction & Commissioning	$13,443,900.00
TOTAL	**$41,536,000.00**

This proposal includes a rough order of magnitude estimate for construction and integration of UEC transmission facilities to serve the full build out of 120-MW at the PDX90 Boardman site and then permanent distribution service to Building #1. Please note that this proposal does not include facilities necessary for Large Load Interconnection and Transmission Operation by BPA. These costs will require a separate proposal/work-order after they are identified in the results of BPA's L0454 study currently in progress; expected to be complete by June 2019. The load demand of PDX-62 and PDX-90 campuses together is limited to 245 MW total until additional infrastructure is in place to serve beyond this limit. VAData total load in the Boardman area (PDX-1, 4, 62, & 90 AZ's) is required to stay under 384 MW or

750 W. Elm Street • PO Box 1148 • Hermiston OR 97838
Phone: (541) 567-6414 Fax: (541) 567-8142 Toll Free: 800-452-2273

UMATILLA ELECTRIC COOPERATIVE
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any additional load will require BPA to construct the Longhorn Substation as described in the BPA L0389 study results.

This proposal includes the necessary UEC transmission line extensions up to 5 miles long and interconnection to an existing UEC owned 230kV transmission line by constructing a 230kV switchyard. This proposal also includes a four-position UEC distribution substation to include two power transformers initially, three distribution feeder positions, and two underground distribution feeders of capacity up to 48MW each.

This project proposal is for the provision of services only. UEC shall at all times have and retain ownership of all goods, equipment and materials procured by or resulting from the services. Costs include necessary design, construction, installation, materials, labor, testing and commissioning for operation by the date above provided acceptable terms are mutually agreed upon, executed and a Purchase Order (PO) for the estimated amount is issued by June 1, 2019. Also attached and made part of this estimate is a payment schedule from which UEC will issue one or more invoices for services provided to be incorporated in [redacted] cludes a one-year

Community Development
NOTICE OF DECISION

DATE: July 26, 2021

TO: Boardman Planning Commission and Interested Parties

FROM: Barry C. Beyeler, Community Development Director

SUBJECT: ZP21-031 Umatilla Electric Cooperative Olson Rd. Transmission Project

On May 19, 2021, Umatilla Electric Cooperative (UEC) submitted an application fo zoning approval for the Olson Rd Transmission Project, a 230kv electrical transmission line i the Service Center Subdistrict. This project affects Tax lots #402, #403, #405 of Tax Lot Ma 4N 25E 11, and tax lot #3201. Tax lots #3202 and #3205, of Morrow County Tax Map 4N 25 10 were withdrawn by UEC for this project.

Approval of an outright allowable use is processed using a Type II - Administrativ decision in accordance with Boardman Development Code (BDC) Chapter 4.1- Types o Applications and Review. The Type II decision process requires public notice to be sent to a properties within 250' of the parent property and posting notice on local reader boards and o the property. Public notice was mailed and the proper posting was accomplished on October 1 2020, meeting the 20-day notification requirements.

File: ZP21 – 031
Applicant: Umatilla Electric Cooperation
Project: Olson Rd. 230kv Transmission Line

FINDINGS OF FACT

1) In 2018, Umatilla Electric Co-op approached the city about construction of a 230kv transmission line from a substation which was to be built at the I-84/US 730 junction to south Boardman. This transmission line is to provide increasing service pressure with existing and projected residential growth.

2) The city informed UEC where the line would go through many lots in the Service Center Sub-district, some evidence of property owner support would be needed.

3) UEC held numerous meeting with city and county staff members, and potentially affected property owners about the project.

4) UEC had obtained tentative agreements from most of the property owners for easements for the line. The Tallman family had not reached an agreement with UEC.

5) At this point UEC petitioned the Oregon Public Utilities Commission (PUC) for a Certificate of Public Convenience and Necessity (CPCN).

6) The PUC began their review of the petition as PCN4.

7) On March 5, 2021, The PUC, by Order 21-074, rendered their decision to Grant UEC a CPCN for this 230kv transmission line.

8) On April 15, 2021, Umatilla Electric Co-op submitted a Conditional Use Permit applicatio

IN THE CIRCUIT COURT OF THE STATE OF OREGON

FOR THE COUNTY OF MORROW

UMATILLA ELECTRIC COOPERATIVE, an Oregon cooperative corporation, Plaintiff, vs. 1ST JOHN 2:17, LLC, an Oregon limited liability company, successor-in-interest to Terry Tallman and Cheryl Tallman, as tenants by the entirety, Defendant.	) Case No. 21CV28343

VIDEOCONFERENCE DEPOSITION OF
JOSHUA LANKFORD

Taken on behalf of Defendant

* * *

BE IT REMEMBERED THAT, pursuant to the Oregon Rules of Civil Procedure, the deposition of JOSHUA LANKFORD was taken before KIM NERHEIM, a Certified Shorthand Reporter for Oregon and a Certified Court Reporter for Washington, on Wednesday, February 14, 2024, commencing at the hour of 8:58 a.m.; the witness responding to questions by videoconference; the questions being propounded and proceedings reported remotely via videoconference.

APPEARANCES:

CABLE HUSTON LLP
BY MR. BRIAN S. EPLEY
1455 S.W. Broadway, Suite 1500
Portland, Oregon 97201
503-224-3092
bepley@cablehuston.com
Attorney for Plaintiff
Appearing by videoconference.

LANE POWELL, PC
BY MR. BRUCE H. CAHN
601 S.W. 2nd Avenue, Suite 2100
Portland, Oregon 97204
503-778-2100
cahnb@lanepowell.com
Attorney for Defendant
Appearing by videoconference.

ALSO PRESENT: Jonathan Tallman
Kamille Simons

* * *

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(Exhibits delivered with transcripts.)

* * *

THE REPORTER: Good morning. This deposition is being conducted by videoconference. It is being recorded on the Zoom cloud platform as an additional backup of the record and for disaster preparedness purposes only. The recording is the work product of LNS Court Reporting and will not be distributed to counsel, any party, or any other person.

I am an Oregon Certified Shorthand Reporter, Certificate Number 90-0138, which authorizes me to administer the oath remotely.

JOSHUA LANKFORD

having first been sworn by the Certified Shorthand Reporter, testified under oath as follows:

EXAMINATION

BY MR. CAHN:

Q Good morning, Mr. Lankford. My name is Bruce Cahn. I'm an attorney with Lane Powell representing 1st John 2:17, LLC, in the lawsuit that was brought by Umatilla Electric Co-op against 1st John.

Are you aware of that?

A I am.

Q Okay.

A And good morning, Mr. Cahn.

Q Good morning, as well.

Have you had your deposition taken before?

A No.

Q Okay. So this is your first time. And I assume, but I will not ask, that you've spoken with Counsel, who has given you a little bit of an understanding of what to expect today. But even if you had that conversation, I want to go over a couple of ground rules, so that we're all on the same page. Okay?

A Okay.

Q First and foremost, it's very important, especially since this is being done remotely, that you answer verbally and audibly, meaning not shaking your head or nodding your head or saying "uh-huh" or "huh-uh," when the answer would be "yes" or "no"; I need you to say "yes" or "no." That way, the court reporter can accurately record your answer to a question.

Do you understand that?

A Got it.

Q Okay. Likewise, it's very important that the court reporter only write down what one person is saying at a time. So it's very important that you let me finish my question before you begin answering, and, likewise, I will extend the courtesy to you of letting you finish your

answer before I proceed to my next question. Okay?
A Okay.
Q We can take a break at any time; however, if there is a question pending, you will need to answer the question before we can take a break. Do you understand that?
A I understand.
Q Finally and significantly -- well, a couple of things, actually.
First and foremost, the oath that you just took is the same oath that you would be taking if you were testifying live in a court of law and it has the same requirements and penalties associated with it as if you were testifying in court.
Do you understand that?
A I understand.
Q Okay. And, finally, if I ask a question that you do not understand, please ask me to rephrase it. If you don't ask me to rephrase it and you answer the question, I, a judge, a jury, or anyone else who's reviewing this transcript will assume that you understood the question at the time that you answered it.
So do you understand that that will be the ramification of an answer to a question without asking for clarification?
A I understand.
Q Okay. With those preliminaries out of the way, I want to get a little bit of background for you.
First and foremost, where are you right now?
A I'm in Boardman, Oregon, in our office.
Q Okay, here in Boardman. I could have come and taken the deposition live with you in the same room.
A Yeah.
Q And is that where you are generally -- is generally your workplace, or do you have an office elsewhere?
A I just moved down here, so this is my new office.
Q Okay. And how long have you been living in the Boardman -- in Boardman?
A I live -- currently, I live in Echo, Oregon.
Q Where is that?
A It is about 30 minutes east of here.
Q Okay. And prior to moving to -- to Echo, is it?
A M-hm.
Q "Yes"?
A Echo, yeah.
Q Okay. Prior to moving to Echo, where did you live?
A I lived in Hermiston, Oregon, prior to Echo.
Q And how long did you live in Hermiston?
A About two to three years.
Q Okay. And who is your current employer?
A Umatilla Electric Cooperative.
Q And how long have you worked with Umatilla Electric Cooperative?
A About 15 years.
Q And do you understand, if I use the term "UEC," that is a shorthand for "Umatilla Electric Cooperative"; correct?
A Correct.
Q Okay. So 15 years with UEC.
What was your initial role when you first hired with UEC?
A Distribution engineer.
Q And what is your current role?
A Vice President, Engineering and Operations.
Q And how long have you been the vice president of engineering and operations at UEC?
A Since March of 2020. Was that -- Yeah. COVID. It was a great month.
Q "Congratulations, you're promoted, and here's a computer. Go home, and we don't want to see you again."
A Yeah. "Here's a pandemic, deal with it." Yeah.
Q Right. How many roles, roughly, did you have with UEC from when you were first hired as the distribution engineer about 15 years to when you became vice president of engineering and operations in March 2020?
A Starting off as a distribution engineer, I worked through all facets of the engineering department before I became the manager of engineering; and then after manager of engineering, to my current role, vice president.
Q And how long were you the manager of engineering?
A Probably five years, I would guess.
Q So from about 2015 to 2020 -- March 2020?
A That sounds about right.
Q And so, 15 years back, we're in 2024, so it's about 2009 is when you started with UEC?
A Yep.
Q And let me back up a very little bit. Can you tell me your educational experience?
A I've got a Bachelor of Science degree in electric engineering from Portland State University; I have a master's of engineering -- or a Master of Science degree in transmission and distribution engineering from Gonzaga University.
Q I'm sorry. Transmission and what engineering?
A Distribution.
Q Gotcha.
A And I'm a registered Professional Engineer in the state of Oregon.
Q And when did you get your licensure in Oregon?
A I think it was 2015, as well.
Q Okay. And when did you achieve your Bachelor of

Science in electrical engineering at PSU?
A 2009.
Q So after you got your Bachelor's of Science, your first job out of college was with UEC?
A More or less. There was a few weeks there where I was with another utility.
Q Which one?
A Bonneville Power Administration.
Q Okay. Did your -- strike that.
Can you describe for me generally what your role as manager of engineering was for the five-year period between 2015 to 2020?
A Yes. Generally, my role as manager of engineering was the oversight and management of project development and project execution for UEC.
I oversaw everything from day-to-day distribution, including residential member service, reliability, keeping the lights on; developing work plans for resilience to, again, keep the lights on; and then the development of -- not necessarily the development, but the oversight of capital projects to any member requesting service.
Q So you said oversight of capital projects for any member requesting service.
A M-hm.

Q What does that mean, in terms of a member who requests service? What does that mean, and then what does that trigger within the UEC obligations?
A Sure. There's -- I mentioned the day-to-day distribution. That's -- that's typically any member falling within a rate schedule outside of Schedule 6. Schedule 6 is industrial-sized loads. Members requesting industrial-size load service would more or less come to me and my direct reports, instead of the front-line stakers or design engineers.
Q Okay. So, as an example --
And we spoke yesterday with Mr. Echenrode, and he confirmed that there has been significant growth in the commercial industrial sector by a magnitude of three times, plus what's happening in the residential side.
So is that consistent with your understanding of where the growth at UEC is and the demand for energy through UEC?
MR. EPLEY: Object to form.
You can answer.
A If I understand correctly, you're asking if industrial commercial is growing three times faster than residential?
Q BY MR. CAHN: The capacity needs or requests for energy are coming at a much greater rate, possibly three times, maybe something different, than is happening on the residential side.
A Yeah. So, as my -- in my term as manager of engineering, we handle a lot of irrigation growth, commercial growth, and industrial growth, yes.
Q Okay. Irrigation is farmland?
A Mainly pumping load out of the river and then booster stations along the way.
Q Is that for another utility service that provides water?
A No.
Q Who is that for?
A The farmers requesting the service.
Q Okay. So farmers who are putting in their own irrigation lines, but then they need power to run their pumps?
A Yes.
Q Okay. And then you said "commercial." What defines commercial, in your vernacular?
A Port of Morrow loads outside of the data center loads, for example.
Q And do you put the data centers in a separate category?
A Yes. I would consider them industrial members.
Q And so they fall under Schedule 6 --

A Correct.
Q -- the data centers?
Of those three categories that you just identified -- irrigation, commercial, industrial -- which is growing at the fastest rate?
A Industrial.
Q Are commercial and irrigation rates subject to the Schedule 6 standards or whatever Schedule 6 dictates for rates?
A Schedule 6 rates schedule -- rate Schedule 6 is loads 10 megawatts or larger within a 12-month time frame, more or less.
Q So do irrigation needs meet the Schedule 6 minimum?
A The -- there is the potential for an irrigation load to meet those Schedule 6 criteria, yes.
Q There's a potential, but are you aware of anyone who is?
A No.
Q Okay. And then commercial Port of Morrow loads, are they -- do they meet the Schedule 6 limits?
MR. EPLEY: Object to form. Vague.
Q BY MR. CAHN: You can answer.
A You're asking --
Can you repeat the question, please?
Q Yeah. The Port of Morrow loads, does that meet the

criteria of 10 megawatts or more in a 12-month period that are set forth in Schedule 6?
A Within the Port of Morrow, there's hundreds of members and loads, but I do not believe there are any with -- any single load within the rate Schedule 6 criteria.
Q Okay. So the ones that are currently meeting the rate Schedule 6 criteria are the data centers.
A Yes.
Q Okay. And the data centers are driving the need for expansion of the existing transmission infrastructure at UEC; correct?
MR. EPLEY: Object to form.
Q BY MR. CAHN: You can answer.
A The data centers do require expansion of our transmission system.
Q Okay. And so, if, for example, going back to your earlier statement that as the manager you were responsible for oversight of capital projects from any member requesting service, if one of the data center members came to UEC and said, "I need a, you know, significant amount of power and I need a line that comes -- a transmission line that comes to our facility greater than or different than what is currently available to me," who would be responsible for paying for that transmission line expansion?
A (No response.)
Q Well, let me back up.
Under that scenario where a data service -- data center comes to UEC and says, "I need an electrical service that is greater than what is currently available, so I am now requesting you, UEC, to provide that to me," what's the next step?
A As in -- as any member approaches UEC for service, we would work with that member on what their needs are: so, location; their service requirements; their peak demand or their peak load; and then a load forecast, how fast they're going to build out to that peak demand.
Q Okay. So Amazon Data Service, as an example, comes to you and says, "I'm building -- I've got three data centers here in Boardman and I've got a location for another two and I need -- I'm going to need a power source for those two data centers," and you will work with them on, "Okay, what's your plan, how big are they, what's your need, what's your capacity," et cetera; correct?
A Correct.
Q And then once you've done your due diligence to understand what their needs are, what their capacities are, when their peak loads are going to be, when their off-loads are going to be, when they expect to reach their maximum capacity, et cetera, what is your next step? What is UEC's next step?
A Assuming those projects would require transmission, we would then begin to identify the necessary facilities to serve their needs.
Q Okay. And if the necessary facilities that are currently in place are insufficient, what would UEC do?
A We -- we first look to see what is in place and what capacity is available, and then we factor that into their -- what I call their forecast, how fast they build out. We determine if what we have available can meet their desired timelines for service.
Q And if it doesn't meet their desired timelines, what do you do?
A We look at the upgrades necessary to meet their full capacity desires.
Q Okay. And so, do you come up with a plan for what upgrades will be needed?
A We -- we look at a -- yes, more or less, look at the plan, a multifaceted plan.
Q Okay. Does that include, potentially, figuring out new routes for transmission lines to service this new facility?
A If transmission's required, we look at multiple routes, yes.
Q Okay. And that includes the possibility of acquiring property for the purpose of siting these expansion lines?
A Yes.
Q And before you begin that project, once you've identified what new facilities are necessary, what routes are available, do you do a budget for the new project?
A Yes. So we would put together a budget.
Q Okay. Is that a budget for what UEC's cost expenditure is going to be, or is that a budget to present to the member to let them know, "Here's what the cost of running power to your new project will cost" --
MR. EPLEY: Object to form.
Q BY MR. CAHN: -- "you" being the member.
MR. EPLEY: Object to form.
Q BY MR. CAHN: You can answer.
A Can you repeat the question, please?
Q Yeah. Is the budget a budget that is prepared for UEC's internal costs of paying for the transmission line? Or is it prepared to provide to the industrial member a budget for what the cost will be to them for expanding the lines for their new facilities?
MR. EPLEY: Object to form.
Q BY MR. CAHN: You can answer.
A If I understand your question correctly, the budget that we prepare in the preliminary investigations of

serving the project would be for the purposes of presenting that total budget to the member requesting service, so that they could determine whether or not they want to move forward with the project.

Q Okay. And in the case of this particular transmission line that UEC built on the Tallman -- in part on the Tallman property, was that transmission line part of an expansion project that was undertaken for the benefit of Amazon Data Service?

MR. EPLEY: Object to form.

A Was the -- repeating the question back, was the line across Tallmans to serve a requested service for Amazon Data Services?

Q Correct.

A Yes.

Q Yes. And was a budget presented to Amazon Data Services for its consideration before it began the project that required the transmission line to be installed to its new facility?

A Yes.

Q And is that a budget that they, Amazon Data Services, would be expected to pay for the cost of running the power lines to their new data center?

A Yes.

Q Is there an agreement between Amazon data center -- or Data Services, or ADS, and UEC for paying the cost of the project that included the transmission lines over the Tallman property?

A Yes.

Q Did you negotiate that agreement with ADS?

A No.

Q Who negotiated that agreement?

A That would have likely been Robert Echenrode.

Q Okay. And not to draw an objection from your counsel, but, yesterday, Mr. Echenrode said Mr. Lankford did that agreement.

MR. EPLEY: Objection. Misstates testimony.

Q BY MR. CAHN: And yet it doesn't. But go ahead. Mr. Echenrode indicated that you were the one responsible for the ADS budget and cost reimbursement agreement. Is that correct?

A Is it correct that I negotiated the easement -- or, not the easement -- the agreement with ADS?

Q Yes.

A No.

Q Okay. Were you involved in the preparation or/and finalization of the agreement with ADS?

A My involvement would have been the assembly of the proposal and the facilities necessary to serve the data center.

Q Did you see the final proposal as it was presented to ADS?

A Yes.

Q What was the total cost of the construction of the transmission line that ADS was expected to pay?

A I do not recall.

Q Do you have access to the ADS cost-sharing agreement, or however -- whatever you call it that is the obligation of ADS to reimburse UEC for the cost of the transmission line?

A I would have access, yes.

Q It's there in the UEC files someplace?

A I suspect so, yes.

Q And did it include that ADS would be responsible for paying for the cost of land acquisition for the transmission line that was going to be built for its facility?

A I'm not sure if it specifically calls out land acquisition, but that would -- assume that would be part -- that would be part of the transmission estimate.

Q Okay. So somewhere, as you were preparing this budget proposal for ADS, you understood that there was going to be land acquisition that was going to be part of the overall project cost; correct?

A We assumed so, yes.

Q Okay. And did you undertake a process of determining a budget value of what the cost for land acquisition would be?

A Generally --

MR. EPLEY: Objection. Object to form.

Q BY MR. CAHN: Go ahead. Generally...

A Generally, how we would estimate for transmission projects would be a -- an estimate of length from the service point we would connect into to the delivery point for the member's request. Whatever that general length estimate may be, we usually just do a dollar-per-mile estimate for those transmission lines.

Q Without consideration of what the land underneath it will be?

A It's all within the total package of the transmission project. It includes permits, easements, materials, design, project management, and construction.

Q Okay. And what do you do to determine what you think will be the land-value component of that overall cost per mile of line?

A When we --

MR. EPLEY: Object to form.

A Can you repeat the question, please, Mr. Cahn?

Q BY MR. CAHN: Yes. What do you do to determine the land acquisition component of the overall cost per -- I

think you said mile, but you might have said feet-per-line, whatever the measure was?
MR. EPLEY: Same objection.
A We don't have a dollar-per-foot or a dollar-per-mile for the land acquisition piece of those estimates. They're all within the dollar-per-mile estimate that we use for the total transmission package.
Q BY MR. CAHN: Okay. So if the total per mile is a million dollars -- and I'm --
A Yes.
Q -- just guessing, so just using that as a round number -- and you know that equipment will be 250,000 of that, labor will be 100,000 of that, you know, some other component -- engineering and permits will be 100,000 of that, how do you figure out what is the land part of that?
MR. EPLEY: Object to form.
A We wouldn't know the granular detail of the estimate breakouts until 100 percent design is done on the final route of that project. Within that, we could then identify the total land use costs of that transmission package and its total.
Early on, we just use what we've known to be the average dollar-per-mile of a transmission line.
Q BY MR. CAHN: When you gave the final budget agreement to ADS for its signature and commitment to reimburse, was it based on those earlier preliminary estimates, or was it based on that final "we figured out the route and this is what we're going to do" budget?
A It would have been the preliminary estimate.
Q Okay. So does the preliminary estimate include contingencies or, you know, did you gross it up or did you gross it down when you were considering whether or not there may be variables within the cost per mile?
A So, to use your example of a million dollars a mile, assuming that's the estimate that was used for the transmission package, if it was a five-mile estimated long project, it would have been $5 million total package.
Q Okay. But if costs went up because material went up, because labor went up, because land acquisition costs went up, who would be responsible for paying those increased costs, after the preliminary budget was provided to ADS for its consideration and approval?
MR. EPLEY: Object to form.
Q BY MR. CAHN: You can answer.
A ADS would be responsible for any costs related to that project in particular.
Q Okay. So if the estimates and the budget were low or variables changed, ADS would still be responsible for the cost, regardless of whether it was under or over the preliminary budget.
A Correct.
MR. EPLEY: Object --
Q BY MR. CAHN: Thank you. Okay.
So, taking a quick look, then, at this particular project, were you involved in discussions with the Tallmans over the acquisition of an easement on their property?
A Indirectly, I was involved in some of the negotiations with the Tallmans on their property.
Q You qualified that with two words, "indirectly" and "some." What do you mean by "indirectly"?
A Early in the project, a member from my team would have been responsible for communicating with the Tallmans on -- or, I guess, working with the Tallmans on negotiating an easement across their property.
Later in the project, Mr. Echenrode, my boss, would have been responsible for being the point of contact on those communications.
Q Before Mr. Echenrode got involved, who on your team was communicating with the Tallmans?
A My team, at that time, would have been -- there would have been -- let's see. Wendy, Grant, maybe Lynn. I think they probably would have been the primary.
Q I'm sorry. Wendy Grant and who?
A Lynn, I believe.
Q And what's Lynn's last name?
A I don't know.
(Clarification requested by the reporter.)
Q Okay. So it's Wendy, Grant, and Lynn, but you don't -- do you have last names for any of those three individuals?
A Wendy Neal. Grant Bassett, he's with Toth & Associates; they're an engineering consulting firm. Lynn also would have been with Toth & Associates, but I cannot remember her last name.
Q Okay. So that actually helps me.
You viewed your outside consultants, Toth, as your team members?
A In some capacity, they're an extension of the UEC team, yes.
Q Have you worked with Toth before this project?
A Yes.
Q How long have you worked with Toth?
A Probably eight to ten years, I'm guessing.
Q Were they hired when Mr. Echenrode first was hired as the manager of engineering in 2015?
A They would have been -- they would have been after that, probably a year or two after Robert started at UEC.
Q And did Robert bring Toth to UEC as an outside consultant?

A I don't believe so. I think it was the general manager at the time, his decision.
Q Well, did you succeed Mr. Echenrode as the manager of engineering?
A Robert hired me as his replacement for the manager of engineering.
Q Right. He was the manager of engineering; you worked for him. He became general manager/CEO in 2016, and then he hired you to be his replacement as the manager of engineering?
A Yes.
Q Okay. Does that change your time frame a little bit? Because, Mr. Echenrode said he became general manager in 2016, not '15.
A Yeah, that would -- that would change that timeline, yes.
Q Okay. So, going back to your earlier testimony, you think you became manager of engineering in 2016, when Mr. Echenrode was named manager of -- general manager and CEO.
A Yes.
Q Okay.
A I thought --
Q And so, it's possible that Mr. Echenrode brought Toth to the attention of the general manager at the time, when he was the manager of engineering, you're just not aware.
MR. EPLEY: Object to form. Calls for speculation.
A I'm not -- I'm not sure who brought Toth & Associates to UEC directly.
Q BY MR. CAHN: Okay. But they were not -- you weren't working with them when you were the distribution engineer or while you were working within the engineering department before you became manager of engineering.
A I was.
Q And when was that?
A I -- I can't recall the exact year of when Toth started working for UEC.
Q Okay. But you think it's somewhere eight to ten years ago?
A That would be --
MR. EPLEY: Object to form.
Q BY MR. CAHN: You can answer.
A That would be my guess.
Q Okay. And you remember a time that you worked at UEC and Toth was not an outside consulting engineer for the company; correct?
A Correct.
Q Okay. And Wendy Neal, was she a UEC employee or a Toth employee?
A She was a UEC employee.
Q And what memory do you have of any communications that Ms. Neal may have relayed to you about interactions with the Tallmans?
A Can you repeat the question, please?
Q Do you have any recollection of any communications with Ms. Neal where she summarized any interactions she had with the Tallmans?
A Wendy being a direct report of me, I would imagine she summarized communications with the Tallmans, but I can't recollect any of those summaries.
Q So you, as you sit here today, you don't know if she actually did communicate directly with the Tallmans?
A I assume she did.
Q You assume, but you don't have a direct memory of that?
A Not at this time.
Q And have you seen documentation, in your preparation for today's deposition or your preparation of any of the declarations that you've submitted in this case, that indicate that Ms. Neal communicated with the Tallmans?
A I do not recall if -- I do not recall if Wendy --
Yes, Wendy would have been directly communicating with the Tallmans early on in the project.
(Jonathan Tallman joined the meeting.)
Q BY MR. CAHN: Okay. And what would she have been communicating with the Tallmans about?
A The need for UEC to acquire an easement. Her role was land use specialist, I believe.
Q And do you know what Ms. Neal's training or background was that led her to become a UEC land use specialist?
A Wendy had prior experience in working with land use team, I believe associated with a tribe, I just can't remember which tribe.
Q And then Lynn and Grant were both Toth employees. What memory or what do you recall them telling you about interactions or communications with the Tallmans?
A I don't have a direct recollection of any of those summaries, either.
Q Now, you said "indirectly," and we've been exploring that. Did you have any direct communications with the Tallmans regarding the land acquisition needs?
A Yeah. I communicated with Jonathan a few different times around the easement itself, but nothing really negotiating-wise. I presented no offers.
Q What were the communications or discussions you had with Mr. Tallman -- Jonathan Tallman concerning the easement?
A Jonathan reached out to me a few different times

through text, phone, email, more or less just trying to get ahold of somebody from UEC, I believe.

Q Okay. So he reached out to you. Did you communicate back to him?

A A couple of times, I did respond to him. But, primarily, I would just shift it back to Robert, since he was the point of contact on that -- that negotiation.

Q Okay. Were you involved in conversations with the City of Boardman concerning the location of a loop road at Laurel Lane?

A I was involved, yes.

Q What was your involvement with the City of Boardman and other governmental entities with respect to the installation of the loop road around Laurel Lane?

A Earlier in the project, I remember attending a meeting in the Port of Morrow. Later in the project, I would say we probably worked -- I -- me, personally, I worked at arm's length with the engineer involved on laying out the -- the project.

Q Do you have any understanding -- well, I'll back up.

Did you have any involvement or conversations with Morrow County with respect to siting the transmission line on the southern portion of the Morrow County property?

A I would have, yes.

Q You would have, or did you?

A I believe I did.

Q Okay. And what were your conversations with Morrow County concerning the location of the easement on the southern side of the Morrow County property?

A My discussions with Morrow County would have been on the feasibility of the design of the line that would cross their property. So it likely would have been with -- I'd guess the public works director for Morrow County and his intended use of their property there adjacent to the Tallmans.

Q Who was the public works director of Morrow County that you spoke with?

A Matt -- Matt Scrivner. Matt Scrivner.

Q And what did Mr. Scrivner tell you was the County's intended use of the property that was being considered for the location of the transmission line?

A If I remember correctly, it was storage, primarily.

Q Okay. And would the location of the transmission line on the southern side of the Morrow County property impact their ability to utilize the property for -- their property for storage?

A If I remember correctly, Matt had some concerns, yes.

Q What were Matt's concerns?

A He had intended on building some sort of shed, a sand shed on that property.

Q And do you know -- could you describe for me what you understand a sand shed to be?

A My guess -- Would you like me to guess?

Q Well, I'm assuming you had a conversation -- well, I shouldn't say "assume."

You've testified about a conversation with Mr. Scrivner. You've testified that Mr. Scrivner, as you understood it, said that the County had a use -- or an intended use to build a sand shed on the property. In that conversation, did you have an understanding of what a sand shed would be?

A I -- yes. I assumed it was a covered -- a structure with a roof.

Q How high?

A I don't recall.

Q Where within the couple of acres of the -- or however large the Morrow County property is, was the shed to be constructed?

A There was a couple different proposed structures on that property. The sand shed was in the southwest corner.

Q Are you aware that an easement was drafted and submitted to Morrow County for its consideration by UEC?

A Was I aware of an easement that was drafted?

Q Yes, and submitted to Morrow County for consideration.

A I recall UEC being in negotiations with the County, but I don't recall specifically an easement that was drafted.

Q Okay. Mr. Echenrode, yesterday, said that there was an easement that was drafted and sent to Morrow County but it was never executed.

Does that refresh your recollection as to whether or not a final agreement might have been presented to Morrow County?

MR. EPLEY: Object to form.

Q BY MR. CAHN: You can answer.

A Can you repeat the question, please?

Q Yeah. Based upon Mr. Echenrode's testimony yesterday that a formal easement agreement was prepared and submitted for consideration to Morrow County, does that refresh your recollection as to whether a formal easement document was prepared and submitted to Morrow County?

MR. EPLEY: Object to form.

A I -- I'm not sure what was formally submitted to Morrow County.

Q BY MR. CAHN: Okay. So you weren't in part of the negotiations with Morrow County, and you were not part of the group that prepared a final proposal to submit to Morrow County, then, is what I understand. Is that

correct?
MR. EPLEY: Objection. Misstates testimony.
Q BY MR. CAHN: You can tell me if I did or not. Is that correct?
A Can you please repeat it, Mr. Cahn?
Q Yes. My question to you was, based upon what you've just told me, you were not involved in the negotiations with Morrow County over a potential easement on the southern side of its property, nor in the preparation of a final easement form that was submitted for consideration to Morrow County. Is that correct?
MR. EPLEY: Objection. Misstates testimony.
A So, if I follow, there's two -- two questions. The first part of your question was if I was involved in the -- the negotiations. Is that correct?
Q BY MR. CAHN: That's the first part. And then the second part is, and the preparation of the final agreement that was submitted for consideration.
A Okay. I -- to the extent I was involved in negotiating, the first part of your question, it would have been the technical aspects of the design for how our transmission line would have crossed the County's property.
Q And -- Okay. Go on.
A The second -- to answer the second part of your question on the formal submittal of a proposal, I was not involved.
Q Okay. And what were the technical considerations that you came up with for allowing the transmission line to cross County property?
A While I was working with the public works director for the County, it would have been clearances for any proposed structures; setbacks for any safety standards; and then the general use of the property, so pole locations and how it may have impeded property access.
Q And did you come up with a plan for building the transmission line on the southern side of the property that would satisfy UEC in --
MR. EPLEY: Objection --
Q BY MR. CAHN: -- taking into consideration the issues raised by Mr. Scrivner?
MR. EPLEY: Object to form.
A If I remember correctly, me -- my team and the County did come up with a plan that could potentially work across the County's property, yes.
Q BY MR. CAHN: And was that a plan that was submitted in writing -- or, actually, let me back up.
Was that plan reduced to writing, either a drawing or a document, that described what the plan would entail?
A I do recall seeing some visualizations. I'm not sure to what extent it was put into a formal proposal.
Q Who prepared those visualizations?
A It would have been somebody from my team at UEC or an extension of our team at Toth & Associates, I believe.
Q And those visualizations and any final documentation that came from them, would those be available in the UEC files?
A I assume so.
Q Well, if you saw a document, is the standard protocol at UEC that, if a document's created for a project, it gets saved in a file?
MR. EPLEY: Object to form.
A Not -- I would -- probably not always. I can't attest to that. Especially since it wasn't a final document.
Q BY MR. CAHN: Was it an electronic drawing or a, you know, hand drawing?
A Well, if I did it, it would have been hand drawn. But it's likely digital. Sorry. Sorry to joke.
Q You said "likely digital." Do you recall seeing something that was a digital visualization of the easement line going over the southern side of the Morrow County property?
A I do remember seeing something, yes.
Q Okay. So if it was in electronic form, would it be in the electronic records of UEC?
A I'm not sure if it is.
Q Is it UEC's policy to maintain its electronic records?
MR. EPLEY: Object to form.
Q BY MR. CAHN: You can answer.
A I'm not sure if we have a policy of retention of any draft drawings.
Q But, regardless, your understanding, as I heard you, is that UEC did come up with a plan that would work on the Morrow County property. Is that correct?
A I believe me and the public -- or my team and the public works director came up with a plan that could have worked across the County property.
Q Okay. Could have worked for both UEC and the County; correct?
A Correct.
THE WITNESS: Mr. Cahn, would this be a good time for a break?
MR. CAHN: Yes, this is -- this is fine.
THE WITNESS: Okay.
MR. CAHN: We'll go off the record until 10:00.
THE WITNESS: Okay. Thank you.

(A recess was taken.)
Q BY MR. CAHN: You mentioned, a minute ago, that you had some communications with Jonathan Tallman. Did you have any communications directly with anyone else at the Tallman family?
A I don't believe so. Not directly.
Q And anyone indirectly?
A Yeah. I was present at a couple meetings that Mr. Terry Tallman was at.
Q Okay.
A And Terry's father, I can't remember his first name.
Q The meetings that you attended with Terry Tallman, were those as part of the meetings relating to the loop road?
A The IAMP meetings, I believe I was at one of those early on. And then there was some meetings with Robert and the Tallmans.
Q Did you participate in the meetings with Robert and the Tallmans?
A I was at a couple of them, yes.
Q And when you say "Robert," you mean Mr. Echenrode?
A "Echenrode," yes.
Q "Echenrode."
A Yeah.
Q And what do you recall about the meetings with Mr. Echenrode and Terry Tallman?
A Can -- what's the question?
Q What do you recall about the meetings you attended with Mr. Echenrode and the Tallmans, specifically Terry Tallman?
A I don't specifically recall what those -- what came of those meetings. Just that I was at them.
Q Did Mr. Terry Tallman express any concerns with the easement going across his property?
A I do recall Mr. Terry Tallman being concerned but willing to find a resolution.
Q Willing to find a resolution if his concerns could be resolved?
A I -- I -- I can't assume. I'm not sure.
Q Did he express what his concerns were in those meetings with yourself and Mr. Echenrode?
A Yeah. If I remember correctly, there was different concerns each meeting.
Q Okay. And how many meetings were there?
A I believe I was at one IAMP meeting, it was probably one of the first ones, if I remember right. And then I think I was at maybe two meetings with Mr. Echenrode and Mr. Terry Tallman.
Q And what were the different concerns that were raised in each of the meetings by Mr. Tallman?
A I'm sorry. I don't recall specifically what they were, at this time.
Q But you recall they were different at each meeting?
A I believe so, yes.
Q But you can't recall whether it was the location of the easement, the impact of the easement on the Laurel road loop road -- Laurel Lane loop road, anything of that nature?
A I remember a cell phone tower, at one point; a concern around a cell phone tower lease. I believe that was one meeting. A blue sign on the freeway was a concern, at one point.
Yeah, I -- scratching my brain here.
Q Even though you were meeting with the Tallmans for the purpose of trying to work out the location of the easement on their property, you can't recall, as you sit here today, what concerns they raised with UEC putting an easement on their property?
MR. EPLEY: Object to form.
A Off the top of my head, I -- I can't recall the specifics of those meetings.
Q BY MR. CAHN: Let's take a look at Exhibit 202.
MR. CAHN: Kamille, if you can pull that up.
Q BY MR. CAHN: We're going to share screen so you can see it.
(Deposition Exhibit No. 202 was presented.)
Q Mr. Lankford, do you recognize Exhibit 202?
A Yes.
Q And this is the easement configuration that UEC is seeking to acquire in this lawsuit from the Tallmans; correct?
A I can't say if it's the exact exhibit, but it looks to be very similar.
Q Okay. Well, let's make sure that we are dealing with the exact exhibit.
MR. CAHN: So, can you pull up Exhibit 252, Kamille. That was the late add this morning.
MR. EPLEY: Bruce, did you circulate this?
MR. CAHN: This was your Exhibit X, Brian.
MR. EPLEY: Okay.
(Deposition Exhibit No. 252 was presented.)
Q BY MR. CAHN: Mr. Lankford, this is the Complaint in the lawsuit that was filed by Umatilla Electric Cooperative versus 1st John 2:17, LLC.
Have you seen this document before?
A I recognize it, yes.
Q Okay. Did you read this document before it was filed with the Morrow County Circuit Court?
A Yes. I would have.
Q Okay. And did you validate or confirm the easement

requirements that are identified in the Complaint before it was filed?
A Someone from my team would have, yes.
Q And who on your team do you recall confirming the easement requirements that were associated with the Complaint?
A I don't recall who it was.
Q And did you verify their work?
A Probably not.
Q Okay. Let's go to Page 10 of this document. This is a similar drawing to the one that was marked as Exhibit 202; is that correct?
A Yeah. Looks similar.
Q Okay. And this shows the easement that is being acquired by UEC on the Tallman property; correct?
A Correct.
Q And it makes a -- what we call a stair step around the Morrow County property to the north; is that right?
A I understand you're calling it a stair step, yes.
Q That was your counsel's description of it.
The transmission line is a series of hashes that comes from the top of the page, which is north; goes south to Port of Morrow 3300, there's a dot; it makes a right turn -- or a right-angle turn to the right side of the page; skirts along the Tallman property Lot 3302; then

makes another right-angle turn and goes south to near the end of the Morrow County property 3211 before it makes another right-angle turn and continues to what appears to be mostly the eastern direction along the Tallman property; and it goes around the cell tower that is on the south Tallman property.
Is that correct?
A I see the area that you're -- you're trying to describe, yes.
Q And my description is reasonably accurate to this exhibit. You don't have any changes or corrections, do you?
A No.
Q Okay. So we're all on the same page.
And, earlier, we were talking about the Port of Morrow -- I'm sorry, the Morrow County property around the plan that you and the public works director came up with that would be mutually satisfying for the project.
And that easement would have allowed UEC to continue taking the transmission line down Port of Morrow 3300 to the southern end of the Morrow County property; is that correct?
MR. EPLEY: Object to form.
Q BY MR. CAHN: Well, it goes halfway down the page. It would have continued all the way down to the bottom of

the page; correct?
A I'm sorry, Mr. Cahn. I'm trying to follow you here. Can you please repeat it?
Q Yeah. So look at the transmission line that is going down Port of Morrow 3300. Do you see that?
A Yes.
Q And it goes halfway down the page, and there's a right-angle turn that goes onto the Tallman property 3302; correct?
A Correct.
Q If you had worked out -- if the easement agreement had been signed with Morrow County, the transmission line would not have made a right-angle turn on the Tallman property 3302, it would have continued down Port of Morrow property 3300 down to the southern end of the Morrow County property; correct?
MR. EPLEY: Object to form.
A The conceptual layout that my team and Morrow County worked out would have more or less followed that path you're describing.
Q BY MR. CAHN: The path I'm describing where it goes all the way to the bottom -- the southern bottom of the Morrow County property; correct?
A Yes.
Q Okay. And Then it would have made a single

right-angle turn on the southern side of the Morrow County property and then connected with the existing transmission line at the bottom of the Tallman property 3205; correct?
A Correct.
Q Okay. And then it would have avoided this stair-step feature that is in the current easement configuration; correct?
A If we would have been able to cross the southern boundary of Morrow County's property, then, yes, this stair step, as you describe, would not be there.
Q Okay. And instead of what appeared to be three right-angle turns in the current configuration of the transmission line, there would only be one right-angle turn; correct?
A Within this screenshot, if you will, correct.
Q Okay. And Mr. Echenrode testified yesterday that right-angle turn apparatus is anywhere from two to multiple times more expensive than what he called in-line power -- in-line structures or tangent structures. Is that terminology you understand?
A I understand "tangent structure," yes.
Q And angled structures or right-angled structures?
A I -- I understand them to be dead ends, or PIs.
Q Okay. And "PI" meaning is the angled structures that we're looking at here?

A Right.
Q **Okay. And are dead ends more expensive to construct than tangent or in-line structures?**
A Generally, yes.
Q **And when you say "generally," by how much?**
MR. EPLEY: Object to form.
A I -- I can't put a number on it without detail design and estimations from our material providers.
Q **BY MR. CAHN: Well, you're aware of the existing structure that is in place currently; correct?**
A Correct.
Q **And you're aware of the three dead-end or angled structures that were constructed on the Tallman property; correct?**
A Correct.
Q **So if you eliminated two of those and went to the southern side of the Morrow County property, how much of a cost savings would it have been to eliminate the need for two dead-end or angled structures?**
MR. EPLEY: Object to form. Calls for speculation.
A I can't speak to an exact dollar amount.
Q **BY MR. CAHN: Give me a general ballpark, based on your knowledge and experience and your position as the manager of engineering of UEC.**

A Sure, I can -- I can give you a ballpark.
So, thinking out loud here, there would have to be consideration for any requirements of Morrow County that's going to dictate height of the poles. Height then translates to thickness of steel, circumference of pole, depth of foundation, all things factored in the cost of the line and those structures.
If I took out two, keeping one of the three, that one is likely going to be larger, so it probably -- of these three structures, I would estimate it's maybe 50 percent savings.
Q **50 percent savings.**
A Of those three structures.
Q **And in a cost perspective, is it about a million dollars a pole?**
A I can't remember what these poles came out to be per pole.
Q **Well, the construction was within the last two years; correct?**
A Two to three years, yes.
Q **Began in March of 2022?**
A Construction?
Q **Of the transmission line on the Tallman property.**
A I -- I can't remember the exact month we were on the Tallman property.

Q **I'll represent to you that it was April of 2022.**
A Okay. Thank you.
Q **And so, given your position and your experience with respect to this project, what is your best understanding of the cost of angled structures or dead-end structures that were put on the -- that were implemented or installed -- let's use installed at the Tallman property?**
MR. EPLEY: Objection. Object to form.
A I do not know the specifics of the cost related to these structures.
Q **BY MR. CAHN: Can you give me what you think it is based upon your knowledge, experience, and involvement in the project?**
A My involvement in this project was not pole-specific. It was at a very high managerial level.
Q **Were you responsible for reviewing and approving budgets and actual costs on the project?**
A For the total project, I was.
Q **Okay. So can you give me, based upon your experience and your role approving the expenditures on the project, what the cost of angled poles will be?**
MR. EPLEY: Object to form.
A I -- I apologize. I would not be able to distill down the cost of these poles out of the total project budget.

Q **BY MR. CAHN: Half a million dollars? Three-quarters of a million dollars?**
A I prefer not to speculate.
Q **Well, I don't view it as speculation if you have knowledge. I'm trying to put an understanding on what these costs are for the poles.**
And given your knowledge and given your experience and given your involvement in the budget process for this, can you give me -- back up -- will you give me your best understanding of what the cost of the poles were on this project --
MR. EPLEY: Object to --
Q **BY MR. CAHN: -- angled poles?**
MR. EPLEY: Object to form.
A Can you please repeat the question, Mr. Cahn?
Q **BY MR. CAHN: Yeah. I'm simply asking you to give me your best understanding of what the cost of angled poles were on the project.**
MR. EPLEY: Object to form.
A I -- I don't have that information.
Q **BY MR. CAHN: But you were the manager of engineering, you reviewed and approved budgets, and you reviewed and approved expenditures; you were involved in this overall project; you have a level of experience that I don't, because I've never done any of that.**

So my question to you is, based upon all of that, can you give me a ballpark understanding of what the cost of the angled poles were on this project?

MR. EPLEY: Object to form.

A I could give you a ballpark range of poles I've had experience with, but maybe not specific to this project.

Q BY MR. CAHN: When was the last time you had involvement with the cost of poles that you would be relying on in your answer?

A Would have been probably 2017, I'm guessing.

Q So, as you sit here today in your position as manager of engineering, having involvement with budgets and project management and all of the things that you identified earlier as within the scope of your responsibility, you cannot tell us what the cost of angled poles were in 2022?

MR. EPLEY: Object to form.

A Specifically, no.

Q BY MR. CAHN: But your back-of-the-envelope understanding today is that, if you reduced the number of poles from three to one, it would have constituted at least a 50 percent savings?

A My guess was a 50 percent savings from the three poles to one.

Q And you did not do a cost budget analysis of running the line to the southern side of the Morrow County property, did you?

A Not that I recall.

Q Did anyone ask you to do a cost analysis of taking the line to the southern side of the Morrow County property, while you were doing your negotiations or discussions with Mr. Scrivner?

A I don't recall putting any estimates together for the route across Morrow County as you described.

Q And if there was a change and regardless of the impact on the -- if it was a -- let me strike that.

If there was a change in the cost either to the -- making it a higher cost or a lower cost, that would have been borne by ADS, based on your earlier testimony; correct?

A Correct.

Q Now, do you know why UEC chose to acquire easement instead of fee simple ownership of the property that is identified on the page in front of you?

A Can you please rephrase the question?

Q Do you know why UEC chose to acquire an easement instead of fee simple ownership of the property it needs from the Tallmans for its transmission line?

A Are you asking why we decided to get the easement as shown here, instead of buying the property as shown here?

Q Correct.

A It is -- it has not been our standard practice to purchase property in place of an easement.

Q How long has that standard practice been employed by UEC; to acquire easements, not fee simple property?

A Off the top of my head, I can't remember buying a -- a path such as this, in place of an easement, since I've been at UEC.

Q Okay. Have you ever had conversations with anyone at UEC as to why you attempt to acquire easements for your power lines rather than to purchase your route in fee simple?

A Can you repeat the question, please?

Q Have you had any discussions with anyone at UEC as to the rationale for their practice of only acquiring easements and not fee simple ownership of the property under its transmission line?

A Yeah, I can remember some -- some high-level discussions of why.

Q And when were those high-level discussions, when did they take place?

A I don't recall.

Q Who were you discussing this issue with at a high level?

A It likely would have been Robert.

Q So sometime after 2013 when he joined the firm?

A Correct.

Q And what were those conversations with Mr. Echenrode? What did you discuss at a high-level nature?

A It's -- in general, I look to Mr. Echenrode, Robert, my boss, as a mentor. So the high-level conceptual discussions would have been just as you ask; why do we do easements and not purchase property, or -- or something along those lines, I'm guessing.

Q As you sit here today, I don't want you to guess about what you said, I want your memory or recollection of what was discussed as to why UEC only acquires easements and not fee simple ownership of its transmission line route.

A I -- I can't speak to the specifics that came out of those conversations. I don't remember exactly when those conversations happened.

Q But they were sometime after 2013 when Mr. Echenrode came to the firm.

A They would have been, yes.

Q Okay. And prior to Mr. Echenrode, when you started at UEC in 2009, did you have -- between 2009 and 2013, did you have -- when Mr. Echenrode came to the firm, did you have conversations with anyone in that period of time?

A Not that I recall.

Q And it was still, at that point in time, the standard practice of UEC to acquire only easements and not fee simple ownership of its transmission route?
A Correct.
Q Okay. So that was a practice that predated Mr. Echenrode?
A As far as I know, yes.
Q Were you involved in any decision to acquire only an easement from the Tallmans, rather than fee simple ownership?
A I was not.
Q Did you or anyone on your team look at the City of Boardman permitting requirements for projects such as this wire transmission line to determine whether or not you could get a permit as an easement holder rather than a fee simple owner?
A I assume somebody from my team reviewed all necessary requirements of any permits.
Q You're aware that there was a LUBA challenge to the permit that was granted to UEC, because UEC was not the record owner of the property as required under the City of Boardman code, to submit a permit request for the project; correct?
A I don't follow you. Can you please repeat that?
Q Are you aware that there was a LUBA challenge to the permit that was issued by the City of Boardman because UEC was not the property owner at the time it requested a permit for this project?
A I'm not aware of that issue specifically, no.
Q Were you not advised that there was a challenge to the permit at the Land Use Board of Appeals?
A Not that I recall.
Q Okay. Does it surprise you that the City of Boardman requires a -- that anyone seek -- that -- back up.
Is this the first you have learned that the City of Boardman city code requires that only property owners, title owners, request permits for projects in the City of Boardman?
MR. EPLEY: Object to form.
A Can you please rephrase the question?
Q BY MR. CAHN: Is this the first time you've learned that the City of Boardman construction code requires that only title owners can apply for project permits?
MR. EPLEY: Object to form.
A It is -- I do understand we need landowner consent to file the necessary permits.
Q BY MR. CAHN: Did you have landowner consent from the Tallmans to file a permit for the portion of the project that went on their property?
MR. EPLEY: Object to form.
A I do not recall the timing.
Q BY MR. CAHN: Do you have landowner consent today for UEC to have its project on the Tallman property?
MR. EPLEY: Object to form.
A We have -- can you please repeat the question?
Q BY MR. CAHN: Do you have consent from the Tallmans today for the UEC transmission line on their property?
A From the Tallmans? I'm not sure.
Q From 1st John 2:17, LLC? Has 1st John given you consent?
A Not that I'm aware of.
Q So, as you sit here today, you're not aware of any consent that was provided by the property owner to UEC for the construction of this transmission line on the Tallman slash 1st John 2:17 property; correct?
MR. EPLEY: Object to form.
A As I sit here today, I do not know of any consent from 1st John, LLC.
Q BY MR. CAHN: All right. And, yet, you built the project anyway; correct?
A Correct.
Q So let's talk about the easement for a second. So let's go to --
Give me a second to pull it up, myself. There we go.
So if you look at the Complaint on Page -- let's look at Paragraph 7.
Now, you mentioned earlier that you recall reviewing the Complaint before --
MR. CAHN: Stop at 7, stop at 7, please.
(Complied.)
Q BY MR. CAHN: You mentioned, before, you recalled reviewing the Complaint prior to it being filed and that you or someone from your team reviewed the easement language. Correct?
A Correct.
Q Okay. So Paragraph 7 says, "Plaintiff," which is UEC, "seeks to condemn and acquire for the Transmission Line the following easement on the property."
Do you see that?
A Yes.
Q And then it identifies paragraph -- Subparagraph (a), Subparagraph (b), and Subparagraph -- Subparagraph (c), Subparagraph (d), Subparagraph (e), Subparagraph (f), and Subparagraph (g) as the easement that it is seeking in this action.
Is that the way the Complaint is structured?
A I understand the structure of what you just repeated under Section 7(a) through (g).
Q Okay. And Subsection (a) seeks a permanent and

nonexclusive electric utility easement on, across, over, and under a strip of land described in Exhibits A-1 and A-2 and depicted in Exhibits B-1 and B-2 attached hereto.

Is that correct?

A I see that it says that, yes.

Q Okay. And if we scan down to Exhibits A-1 and A-2, they reflect the property that --

This is a legal description of the transmission easement; correct?

A It appears to be, yes.

Q Okay.

MR. CAHN: And then scan down one more page, please.

(Complied.)

Q BY MR. CAHN: And that is a visual rendering of the easement -- a part of the easement that is going to be taken on the property; correct?

A It appears to be, yes.

Q Okay. So let's start with, how wide is that easement?

A It appears to be roughly 70 feet, if I'm reading this correctly.

Q Right. So about a 70-foot-wide easement.

So, to the west of the easement is the Morrow County property, and your easement extends 70 feet further to the east; correct?

MR. EPLEY: Objection. Object to form.

A So from what I can see, it appears the hashed area from the -- on the left side of the paper is roughly 70 feet wide. So the Morrow County property being on the left, the easement area would be describing 70 feet east of the east Morrow County property line.

Q BY MR. CAHN: Right. So the easement goes from the Morrow County property line and goes 70 feet to the east.

A Roughly.

Q Okay. So that's --

MR. CAHN: And then you can continue scanning down, Kamille, to A-2.

(Complied.)

Q BY MR. CAHN: Again, further legal description, and then the next page is a visual rendering. And that's the portion that runs to the north of the Morrow County property; correct?

A Appears to be, yes.

Q And that, again, is about a 70-foot-wide easement area; correct?

A Yes, roughly.

Q Okay. And then if you scan down to the last page, that's the rendering we just saw that puts the two Exhibit A-1 and Exhibit A-2 together to show the full line; correct?

A Yes.

Q Okay. And none of that easement area runs on the Morrow County property; correct?

A Does not appear to, no.

Q It runs from the Morrow County property and solely onto the property of the Tallmans; correct?

A Correct.

Q Okay. And Paragraph 7(a) continues to say that the easement is "for the purposes of constructing, operating, maintaining, repairing, and replacing electric utility lines, including the lines for the transmission and distribution of electrical power and communication lines reasonably necessary for the operation of Plaintiff's electrical system...."

Do you see that?

A I see that, yes.

Q And this project was conducted at the request and at the payment of ADS, Amazon Data Services; correct?

MR. EPLEY: Object to form.

A This project would be used to serve one of the ADS requests for service.

Q BY MR. CAHN: Right. ADS requested it and they're paying for it; correct?

A Correct.

Q Okay. Paragraph (b) then says that "Plaintiff shall have the right to enter upon and use the Easement Area for the purposes described above," and then it identifies specific rights or actions that UEC can take within the easement area.

Do you see that?

A I see that.

Q Okay. And then Paragraph (c) goes on to provide that Plaintiffs will "have the right to cut, trim, and control the growth, by reasonable chemical means, machinery, or otherwise, of trees, shrubbery, and vegetation located within the Easement Area that may interfere with the safe operation of Plaintiff's electrical system."

Do you see that?

A I see that.

Q So if you start spraying chemicals and Mr. Tallman comes running out and says, "This is my organic farm, don't do that," he has no ability to stop you, based upon the language in this easement; correct?

MR. EPLEY: Objection. Calls for a legal conclusion. Speculation. Object to form.

Q BY MR. CAHN: You can answer.

A Can you repeat the question, please?

Q The question is, if UEC is using chemical means to control growth and Mr. Tallman comes out and says, "Stop,

I don't want you using chemicals on my property, it's impacting my organic farm," he has no right, under Paragraph 7(c), to stop you from doing so; correct?

MR. EPLEY: Object to form. Calls for a legal conclusion. Speculation.

Q BY MR. CAHN: You can answer.

A I would look to -- to our legal counsel for guidance on such a situation.

Q Do you see anything in there that gives Mr. Tallman the right to stop you from using reasonable chemical means to cut, trim, and control the growth of trees, shrubbery, or vegetation located in the easement area?

MR. EPLEY: Objection to form. Calls for legal conclusion. Calls for speculation.

A I'm not sure I'm qualified to answer that.

Q BY MR. CAHN: Whether you're qualified or not, do you see anything in there that would prevent -- that would allow Mr. Tallman to stop UEC from using chemical means to control growth of trees, shrubbery, vegetation?

MR. EPLEY: Same objections.

A Can you repeat the question, please, Mr. Cahn?

Q BY MR. CAHN: Do you see anything in Paragraph 7(c) that would give Mr. Tallman the ability to prevent UEC from using reasonable chemical means to cut, trim, and control the trees, shrubbery, and vegetation in the easement area?

MR. EPLEY: Again, object to form. Calls for legal conclusion. Calls for speculation.

A Again, I would look to my legal counsel for guidance on -- on the situation that you've described.

Q BY MR. CAHN: But as you sit here today, looking at that language, do you see anything that would give Mr. Tallman any right to stop UEC from using chemical means to control trees, shrubbery, and vegetation?

MR. EPLEY: Same objections.

A I do not see.

Q BY MR. CAHN: Okay. Paragraph (d) says that "Defendant," 1st John 2:17, LLC, "shall not construct, place, or otherwise locate any building, structure or other obstruction in or upon...the Easement Area."

Do you see that?

A I see that.

Q So they can't build anything, based upon this easement language, in the easement area; correct?

MR. EPLEY: Objection. Object to form. Calls for legal conclusion. Speculative.

Q BY MR. CAHN: It says, "Defendant shall not construct, place, or otherwise locate any building, structure or obstruction in, upon, or under the Easement Area."

Do you see that?

A I see that.

Q So 1st John, LLC, is prohibited from building any building, structure, or obstruction in the easement area; correct?

A Correct.

MR. EPLEY: Same objection.

Q BY MR. CAHN: That's correct, Mr. Lankford?

MR. EPLEY: Same objection.

A Correct.

Q BY MR. CAHN: I'm just -- you and Mr. Epley are speaking over each other. I asked, just for clarification for the court reporter. Your answer to my question is that that is correct; right?

A Right.

Q Thank you.

Despite that, Paragraph (e) says, even though defendant can't construct, place, or otherwise locate any building, structure, or obstruction in the easement area, they shall have the right to use the easement area, as long as the right is not inconsistent with and does not unreasonably interfere with the purpose of the easement or the use of the easement area by UEC; correct?

A Correct.

Q And so, whatever use the property owner, 1st John, has left in the easement area, it can't include building anything, under Subsection (d); and it can't be inconsistent or interfere with UEC's use of the easement. Correct?

MR. EPLEY: Object to form.

A Can you please repeat that, Mr. Cahn?

MR. CAHN: Kim, can you repeat the question, please.

(The question was read by the reporter.)

MR. EPLEY: Same objection.

A That is how I read it, correct.

Q BY MR. CAHN: Okay. Thank you.

Paragraph 7(g) says that "All Facilities installed on, across, over, or under the Easement Area at Plaintiff's expense shall be the property of Plaintiff and removable at the option of Plaintiff."

So that means that, even though the property is still owned by the Tallmans, the structures that are built by UEC are UEC's property and the Tallmans have no control over those facilities once installed; correct?

MR. EPLEY: Object to form.

A I believe that is the intent, yes.

Q BY MR. CAHN: Okay. And Subsection (f), just to close the loop, says that Plaintiff, UEC, damages anything, it will repair damage and restore the easement

area, as near as practicable, to the same or like condition as existed prior to UEC's use of the easement area.

Do you see that?

A I see that.

Q So if UEC broke anything or caused any damage in the easement area, it's obligated to fix it; correct?

MR. EPLEY: Object to form.

Q BY MR. CAHN: You can answer.

A Correct.

Q Okay.

Paragraph 9 says that the true value and just compensation for the easement is $14,600. Do you see that?

A I see that.

Q Do you know how UEC came up with a $14,600 value for the easement that it is taking on the Tallman property?

A We had hired an appraiser, I believe.

Q Did you meet with the appraiser?

A I did not.

Q Did you ever talk with the appraiser?

A I have, yes.

Q When did you speak with the appraiser?

A I don't recall.

Q What do you recall about your conversation with the appraiser, Mr. Balfour?

A Mr. Balfour would have asked me if I knew of any comps in the area that he could use for the assessment of the easement.

Q Are you a licensed real estate appraiser?

A I am not.

Q Are you a licensed real estate agent?

A I am not.

Q Do you have any experience in valuing real estate?

A I do not.

Q Do you have any experience in purchasing large industrial tracts or large commercial tracts of land?

A Personally, no.

Q Okay. And, yet, your appraiser came to you and asked you if there were comparable properties or properties that you considered comparable for him to consider in doing his valuation?

A Yes. He was asking me for property that I knew of recently sold that he could look closer at.

Q Do you know why? Do you know why Mr. Balfour would come to you and ask you if you knew of properties that sold in the area that he could use as comparables?

A I do not.

MR. EPLEY: Object to form. Calls for speculation.

A I do not.

Q BY MR. CAHN: -- the answer -- You do not, okay.

So what did you tell Mr. Balfour, in response to his inquiry of comparable properties to consider?

A That the only property I knew of was the -- I can't pronounce it, Chastagner property at the intersection of Highway 730 and I-84 that UEC had acquired.

Q That UEC had acquired.

A Yes.

Q Do you know if Mr. Balfour used that property as a comparable in his appraisal?

A I do not recall.

Q Did you review Mr. Balfour's appraisal?

A Not that I recall.

Q Okay. So if I find that property in there, it's a good possibility that it came from your suggestion; correct?

MR. EPLEY: Object to form. Calls for speculation.

A I'm not sure if Mr. Balfour knew it before I talked to him or not.

Q BY MR. CAHN: Okay. But you gave him a UEC-acquired property to consider as a comparable for the Tallman property.

A I --

MR. EPLEY: Objection. Misstates prior testimony.

A I had only mentioned the property that UEC had acquired.

Q BY MR. CAHN: You mentioned it to him. You told him that this is one that he could consider as a comp; correct?

MR. EPLEY: Objection. Misstates prior testimony.

A I told him about the property. I did not point him to use it as a comp.

Q BY MR. CAHN: But you pointed him to that property in a direct response to his question, "Are there comparables that you know of that I can use?"

MR. EPLEY: Objection. Misstates prior testimony.

A I -- I can't recall the specific wording used within the conversation. He did ask if I knew of any properties recently sold that he could look at, and I mentioned the UEC property that it had acquired.

Q BY MR. CAHN: Do you know why Mr. Balfour called you versus anyone else at UEC?

A I do not know the reason why.

Q Did his call come out of the blue? Or was it planned?

A It -- I do not recall --
Can you repeat the question, please?
Q Did he call you at a unplanned date and time, or was the call scheduled through email and a calendar invite?
A The call would have came out of the blue as you described.
Q And did Mr. Balfour explain if anyone had suggested that he call you specifically?
A Yes.
Q Who did he --
A Sorry. What?
Q You were -- I interrupted you. My apologies. You were starting to say "legal."
A Legal had given him my contact information.
Q Legal Cable Huston, or in-house legal at UEC?
A Cable Huston.
Q As you sit here today, do you have any basis to understand the value of the Tallman property that's being acquired by UEC in this matter?
MR. EPLEY: Object to form.
A Can you please repeat the question, Mr. Cahn?
MR. CAHN: Kim, can you please repeat.
(The question was read by the reporter.)
MR. EPLEY: Object to form. Vague.
A I -- I am not an appraiser. I do not know how to value property.
Q BY MR. CAHN: Okay. Thank you. Okay.
So let's look at Exhibit 243 and 244.
MR. EPLEY: Bruce, are we moving to a new topic? I think it's been about an hour since we took a break.
MR. CAHN: Well, not necessarily a new topic, we've covered it, but we're going to an area --
So, yeah, we can take a break. Let's take a short break. I'm really trying to get out of here by noon, given the weather conditions, so I'm hoping to -- that we have about another hour.
MR. EPLEY: Okay. Yeah, that's fine. If we can just have five minutes just to use the restroom.
MR. CAHN: Five minutes is great. Thank you.
(A recess was taken.)
(Deposition Exhibit No. 243 was presented.)
Q BY MR. CAHN: Just a couple of very quick questions on these documents.
MR. CAHN: Can you expand those, please, Kamille.
(Complied.)
MR. CAHN: Thank you.
Q BY MR. CAHN: Exhibit 243 is an email from Carla McLane to a series of people. And I don't know if you want to trust me on this or not, but within that large number of people is your name.
A I --
Q You're the last one on the list. Do you see that?
A Yes.
Q Do you recall --
First off, do you know who Ms. McLane is?
A I do.
Q Who is Ms. McLane?
A At the time, she was Morrow County planner, I believe.
Q Okay. And is she still the Morrow County planner?
A No.
Q Okay. Just to summarize, and I think you mentioned you went to a meeting at the Morrow County -- or the Port of Morrow concerning the loop road. And this is an email, the subject of "POM IAMP Walking Tour," Friday, and the email is dated July 5th, 2019.
Do you see that?
A I see that.
Q Okay. And in it, Ms. McLane suggests -- first, she notes, at the bottom, that there's a -- not an agenda, but some things that they want to talk about in some of the earlier email --
MR. CAHN: Kamille, at the bottom.
(Complied.)
Q BY MR. CAHN: There it is. There's some traffic count issues that need to be addressed; she needs to reach out to somebody at Kittelson, which is traffic engineer; and it says, "Communicate with UEC and their contractor concerning IAMP."
Do you see that?
A I see that.
Q Did Ms. McLane reach out to you and whomever UEC was using as its contractor to address the IAMP issues that could intersect with your easement line?
A I don't recall if it was Carla specifically, but I -- I vaguely remember working on some of the IAMP issues.
Q And what did you work on on the IAMP issues? What were you working on?
A My team would have been working on the pole placement in relation to the road -- the roads -- the roadway, I believe. Loop road.
Q And did you have an understanding, based on the work that you were doing relating to pole placements, where the loop road was going to be located?
A I believe we had some conceptual layouts of the plan, yes.
Q Okay. And the conceptual layouts were going to put

the loop road to the east side of your easement; correct?
A Can you be more specific on where we're talking, please?
Q Yeah.
MR. CAHN: Let's pull back Exhibit 202.
(Deposition Exhibit No. 202 was presented.)
Q BY MR. CAHN: So I'm going to need you to tell me, based upon Exhibit 202, we've got the easement running north to south on the east side of the Morrow County property and then it makes a right angle and goes west to east at the bottom of the Tallman property.
Where was the loop road going to be placed in context with the poles that are identified on this map?
A Going off the top of my head here, I believe the proposed loop road would overlap both UEC's easement and BPA's easement on the southern part of Tallmans' property, so south of the proposed transmission line as shown here. And then --
Q Oh --
A I'm sorry.
Q Would the loop road have a north/south component?
A I believe -- yes, I believe it did, yes. On this property, it did.
Q And where was the north/south component in relation to the north/south portion of the UEC easement?

A I -- I want to say it bordered the west edge of the cell tower fence.
Q So in the space -- we see there's a box for the cell tower.
A Yes.
Q So the west end would be the left side.
A Yes.
Q So between -- so, right now, there would be open area there. But when the loop road comes in, it's going to cut a little box between the easement and the cell tower and it's going to leave a little sliver of land available for the Tallmans; correct?
MR. EPLEY: Object to form.
A I -- I can't remember the exact layout as you describe it, I'm sorry.
Q BY MR. CAHN: Well, but you agree with me that it's going to run north to south parallel to your north/south easement; correct?
A Between the cell tower and Morrow County property, yes.
Q Right. So it's going to create a box between the cell tower on one side -- or the road on the one side of the cell tower and the easement, there will be a little bit of land left in the middle; correct?
A I can't remember if there were -- if there was or not, between our easement and the proposed road.
Q And the proposed road has been in existence prior to this project coming into conception; correct?
MR. EPLEY: Object to form.
Q BY MR. CAHN: Do you know how long the IAMP has been in place?
A I do not.
Q Do you know that the City of -- I think it's the City of Boardman has a city ordinance for the construction of the loop road that was passed in 2011?
MR. EPLEY: Object to form.
Q BY MR. CAHN: Do you know that?
A I don't recall that.
Q Okay. So, but you know that they were already talking about a loop road and that they were talking about a location, and they gave you some parameters of where the location would be and that that was all prior to your beginning construction of the wire transmission line on the Tallman property; correct?
MR. EPLEY: Object to form.
A I don't remember the timing of the conversations.
Q BY MR. CAHN: Okay. But let's be -- Mr. Lankford, let's be clear. You just testified that you went to a meeting before -- in 2019, two years -- a year and a half or more, or so, before you began construction in March of 2022. You talked about people on your team planning the poles around where the loop road was going to be.
Before you began construction, you knew there was a loop road that was going on the Tallman property; correct?
A We -- we were aware of a conceptual plan for a proposed road, yes.
Q Right. And the County came to you and had to discuss with you what your project was going to do vis-a-vis the loop road plan; correct?
A We coordinated directly with the City of Boardman and the County on their proposed loop road and our project, Yes.
Q The proposed loop road that was passed as an ordinance and a plan that predated your even conceiving of a wire transmission line expansion to the Amazon data center customer; correct?
MR. EPLEY: Object to form.
A Again, I don't recall the ordinance or what it was.
Q BY MR. CAHN: Did you have Ms. Neal look into the ordinance, as your land use specialist at UEC?
A I -- I can assume that she was in contact with the City of Boardman, but I -- I can't speak to whether or not she reviewed it.
Q So you don't know if anybody at UEC even looked into

what was going on with the loop road; you have no knowledge of any interaction that anyone at UEC had, other than this meeting that you attended with Ms. McLane and others; is that --

MR. EPLEY: Object -- objection. Misstates testimony.

A Can -- can you repeat the question, please?

Q BY MR. CAHN: The question is, you have no knowledge, as you sit here today, of any investigation that was done by anyone at UEC into the existence of the ordinance, the plan for the loop road, or anything that was done prior to the start of this project; is that correct?

MR. EPLEY: Objection. Object to form. Misstates testimony.

A So, Mr. Cahn, I think there's a couple questions within your question there, so I'm going to try to break it down.

Prior to the beginning of this project, I don't recall any review of any ordinance or plans. UEC was working -- once this project started, UEC was working with the City of Boardman and the County on the coordination of the proposed loop road and our structure placements.

Q BY MR. CAHN: Who was on the team that was working with the County on the proposed construction and the loop road impact?

A It would have been -- Wendy Neal would have been part of it. Toth & Associates would have been part of it.

And you just asked for my team; right?

Q Yeah.

A Yeah.

Q And would there be anybody else at UEC who would have been responsible for interacting with the City or the County on the loop road issue, outside of your team?

A Outside of my team?

Q Yeah.

A There was -- there was a few parties who we were working directly with. So some folks from the Port of Morrow were directly involved; the landowners, of course, were directly involved.

Q I asked about UEC, and you said "my team." Is there anybody at UEC, other than your team, who would have been involved in discussions concerning the interaction or intersect -- interplay between the transmission line and the loop road?

A At UEC, Robert Echenrode may have -- I believe he might have been in some of the conversations, as well.

Q Okay. So when you started this project, when was the first that you learned that the proposed easement would or could impact the loop road?

A I'm -- I'm not sure that we ever concluded that.

Q But you participated in conversations with the County to determine whether or not there would be impacts; correct?

A We -- we participated in conversations to coordinate both paths, to minimize impacts on one another.

Q Did you have any understanding from the City of Boardman as to what type of road was being constructed?

A I don't recall.

Q Do you know if it was going to be a collector street or not?

MR. EPLEY: Object to form.

A I don't even know what that means.

Q BY MR. CAHN: I was going to ask next if you knew what a collector street was.

A (Laughter.)

Q Do you know if the street is going to require -- is going to need to have sidewalks and bike lane, in addition to streetlights?

MR. EPLEY: Object to form. Calls for speculation.

A I don't remember talk of streetlights or sidewalks, just road width, road right-of-way width.

Q BY MR. CAHN: What was the right-of-way width that you were discussing?

A I don't recall the exact footage.

Q But you concluded that whatever you were building was not going to interact with the loop road; is that the final conclusion that you reached?

A From what I remember, yes. We had coordinated with the City, Port of Morrow, and the County on our structure placements in comparison to their proposed loop road alignment.

Q Okay. And if you look at Exhibit 244.

(Deposition Exhibit No. 244 was presented.)

Q This is a follow-up email from Ms. McLane to the group; again, you're included somewhere in the mess of email names at the top of this document; after Jonathan Tallman, there's Josh Lankford. And this email is dated August 22nd, 2019.

Do you recall receiving this?

A I see my name, but I -- I don't recall this exact email.

Q Okay. And this is Ms. McLane's summary of the prior meeting that we were just discussing. And under the loop road section, she writes, "Umatilla Electric Cooperative project impacts and the current option (refer to Toth map) were discussed. Morrow County brought forth another option which was discussed. Group consensus was to move forward with the current concept. It was agreed the cross

sections of the various inputs would be helpful. Toth and UEC agreed they could produce something prior to the next meeting. Morrow County Public Works asked for a better understanding (maps, graphics and texts) of the power line impacts to their future operations."

Do you see that?

A I see that.

Q Do you recall any part of that conversation?

A I don't believe I was at this meeting.

Q Okay. Do you know if UEC provided the -- or Toth provided the cross-sections of the various inputs or/and the maps, graphics, and texts requested by Morrow County Public Works?

A I don't have a reason to believe we did not provide it.

Q But you don't know if you did.

A I -- I don't recall.

Q Okay. You don't recall.

And have you seen in your files, did you look for any materials that were provided to Morrow County public utility -- Public Works or any of the other parties in response to the intersection or interaction of the UEC transmission line and the loop road?

A Yes. The Port of Morrow was, I believe, responsible for combining all the different parties' plans, and I do believe there was some back-and-forth conversations with Jacob at the Port of Morrow, I see his name there, in getting all those laid out.

Q Okay. And were there -- have there been further conversations between yourself and anyone at the City of Boardman or the County with respect to the loop road since the transmission line was installed?

A Since the line has been installed, no, I don't believe we've had any further conversation.

Q What was the last conversation you recall with the City of Boardman or Morrow County with respect to the loop road?

A I think it was -- as I looked through the documents in preparation, I believe it was -- I want to say August of 2020 -- summer of 2020.

Q Summer of 2020. So two years/18 months before you started construction was the last involvement had with the County or the City on the loop road. Is that what I -- is that correct?

A Summer of 2020.

Q Okay. Did anyone at the County or the City come out during construction to confirm that the work that was being done by UEC was consistent with agreements or the proposal that had been provided to the County and the City in connection with the loop road project?

A I'm not sure.

Q Did anyone bring to your attention someone from the County or the City inquiring about the construction vis-a-vis the loop road plan?

A I don't recall anybody inquiring, no.

Q Okay. Let's take a look at your -- at Exhibit 250.

(Deposition Exhibit No. 250 was presented.)

Q This is a declaration that you submitted in this lawsuit. Do you see this?

A I see this.

Q Did you draft this declaration?

A I would have participated in the draft of this declaration, yes.

Q Did you type the words that are included within your declaration that are your sworn testimony?

A Probably most of them, yes.

Q Okay. So let's start with Paragraph 2. The last line says, "UEC's Olson Road 115kV Line Segment is limited to a load of no more than 75 megawatts, period. Once the 75 megawatt load limit is exceeded, it will greatly reduce the reliability of service to all members served by UEC's Boardman 115kV system, which could result in outages or disruptions in service."

Do you see that?

A I do.

Q Was the Amazon Data Service demand for power what would have caused the Olson Road line to exceed 75 megawatts?

A Can you repeat the question, please?

Q Yeah. You write in the declaration that UEC's Olson Road 115kV line segment is limited to a load of no more than 75 megawatts and that once that load is exceeded it will reduce reliability.

Was the Amazon Data Service demand for this project what would have caused the Olson Road line segment to exceed 75 megawatts?

MR. EPLEY: Object to form.

A So the -- think out loud here. The -- the 115kV line that serves UEC's Olson Road substation, yes, it did -- the Amazon data center at Olson Road is served out of the UEC Olson Road substation that is connected to the UEC 115kV line segment with the 75 megawatt limit.

Q BY MR. CAHN: Okay. And because Amazon Data Service connected to the Olson Road line segment, its use is what's going to cause the segment to reach the 75 megawatt limit for the line; correct?

MR. EPLEY: Object to form.

A Their -- their load growth would have contributed to the overload -- the mentioned overload of that 75 megawatts, yes.

Q BY MR. CAHN: And Paragraph 3 says that, based on the UEC load growth in recent years, UEC anticipates the Olson Road line segment will reach its 75 megawatt limit in approximately nine months, by April 2022.

Do you see that?

A I see that.

Q And that's because of the Amazon Data Service usage?

A They are --

MR. EPLEY: Object to form.

A They are one of the main users of service out of UEC's Olson Road substation, yes.

Q BY MR. CAHN: Okay. So if this project -- if ADS did not build its substation --

A M-hm.

Q -- this line would not have exceeded the 75 megawatt capacity by April of 2022 or any time in the foreseeable future; correct?

MR. EPLEY: Object to -- object to form. Calls for speculation.

A UEC's substation serves the Olson Road data center campus, and their load forecast provided to us and our experience serving industrial members led us to believe that that limit would be exceeded in that nine months time frame that was mentioned.

Q BY MR. CAHN: Right. And if Amazon Data Service did not get serviced out of this Olson Road line segment, then it would not have exceeded the 75 megawatt capacity; correct?

A Correct.

Q Okay. So the only reason it's going to exceed the 75 megawatt capacity is because Amazon is using the property -- is using the power through this substation; correct?

A I can't say only reason, but a majority of the reason, yes.

Q Okay. Did the Olson Road line segment exceed the 75 megawatt capacity in April of 2022, before the line went on -- before the transmission line was completed and went online or went into service?

A I do not recall that off the top of my head.

Q Well, the project didn't begin construction on the Tallman property until April 2022, so it wasn't completed in April 2022. Correct?

A Correct.

Q And the new 230 kilovolt --

Is that kilovolt?

A Yes.

Q The new 230 kilovolt transmission line wasn't operable or in service until after April 2022; correct?

A Correct.

Q So if your projection in Paragraph 3 was correct, then what was done to eliminate the impact of the 115 kilovolt line being at overcapacity?

A I don't recall specifically, but I could -- I could talk about what could have happened.

Q I want to know what did specifically happen in April of 2022. Do you recall specifically, as you sit here today, having to scramble your system in order to obviate outages and disruption in service caused by a 75 megawatt over -- you know, re -- of the line reaching beyond the 75 megawatt capacity?

MR. EPLEY: Object to form.

A I do not recall what the loading was on the Olson Road 115kV line segment April 2021.

Q BY MR. CAHN: It wasn't a big enough deal for you today to remember; correct?

MR. EPLEY: Object to form.

A I don't recall.

Q BY MR. CAHN: It didn't cause such a mass disruption in UEC's overall services that it created an indelible memory for you that everything went to -- fell apart in April of 2022; correct?

A I don't require -- or I don't recall any significant outages or results.

Q Okay. When did the 230 kilovolt transmission line go in service?

A I don't recall the exact date.

Q Give me a ballpark.

A After COVID. Sorry. Let me see. The -- it would have been -- had to be -- had to be right at the end of 2022, I'm guessing.

Q Possibly into early 2023?

A Possibly. I don't recall the exact date.

Q Okay. So sometime December/maybe January, 2022/2023?

A Maybe.

Q Paragraph 9, you wrote that the construction of the 230kV transmission line will take approximately nine months to complete and is planned to start beginning in August of 2021 in order to be completed by the critical April 2022 deadline.

Do you see that?

A I see that.

Q And, but as you recall just a moment ago, the critical April 2022 deadline was missed and it went online sometime at the end of 2022, possibly into the beginning of 2023; correct?

A Correct.

Q Were there any significant power outages or transmission line problems during the period of April 2022 to when the 230 kilovolt transmission line went in service

at the end of 2022 or early 2023?
A I don't recall any significant outages or results from the delay in the installation of the 230kV line.
Q As you sit here today, there's nothing that jumps out at you as a outage or disruption of service that was directly related to the 115kV line segment reaching its overcapacity of 75 megawatts in April of 2022; correct?
A Correct.
Q Okay. Paragraph 11, you wrote, "Any delays in obtaining immediate occupancy and use of the Easement...will not only increase costs for the construction...but will also jeopardize UEC's ability to continue providing safe, reliable electric service to its members served by the Boardman 115kV -- kilovolt system."
Do you see that?
A I see that.
Q Was UEC unable to provide safe and reliable electric service to its members served by the Boardman 115kV system through the end of 2022/beginning of 2023?
A Was UEC -- Can you repeat the question, please?
MR. CAHN: Kim, can you repeat the question, please.
(The question was read by the reporter.)
MR. EPLEY: Object to form.
A I -- I do not recall any major system outages or safety concerns during that time frame.
Q BY MR. CAHN: Okay.
Sorry, I'm loading something up.
Okay, past that.
This may seem like it's taking forever, Mr. Lankford, but this is actually good, because it means I'm taking things out of the discussion.
A Please. Take your time.
Q Let's take a look at Exhibits 208 and 223, real quickly.
MR. CAHN: 223 first, please.
(Deposition Exhibit No. 223 was presented.)
Q BY MR. CAHN: Mr. Lankford, do you recognize Exhibit 223?
A Yes.
Q And what is this?
A This is UEC's alternate route map.
Q Okay. And this identifies a preferred route for the transmission line, the 230kV transmission line, an Alternate Route Number 1, and an Alternate Route Number 2; correct?
A Correct.
Q Okay. Were you involved in determining the preferred route versus the alternate routes?
A My team would have been. Not me directly.
Q Okay. Were you sitting in meetings providing input and your perspective on these particular routes?
A I likely would have been in meetings related to the route analysis, yes.
Q Okay. And did you understand why the purple route was the preferred route, versus either of the other two alternatives?
A Yes.
Q Why was the purple route the preferred route?
A At the time of this map, I believe we had acquired most of the easements along the preferred route.
Q And the preferred route has a number of what you called dead-end posts, or angled posts as Mr. Echenrode called them yesterday; correct?
A Correct.
Q And, in fact, the preferred route has what appears to be eight angled or dead-end routes in the -- or posts in the segment that runs from the start to where it intersects with Alternate Route Number 2, and Alternate Route Number 2 appears to have three angled or dead-end posts; is that correct?
MR. EPLEY: Object to form. Compound.
A So I see where the intersection of Alternate Route 2 and preferred route separate. There are eight PIs on the purple, which is the preferred route, and three PIs on blue, which is Alternate Route 2.
Q BY MR. CAHN: Right. And as you testified earlier and Mr. Echenrode said yesterday, all of these dead-end posts or angled posts cost significantly more than the in-transit posts; correct?
A They can, yes.
Q Okay. And did you have an understanding as to which was the most cost-effective route for the transmission line?
A I -- I believe, at this time, we did have pretty detailed cost estimates for each of the identified alternatives, yes.
Q And which one cost more and which one cost less, then?
A I can't recall how they were -- how they fell out.
Q Okay. Well, let's take a look at Exhibit 208.
(Deposition Exhibit No. 208 was presented.)
Q Is this the detailed cost estimate that you referenced a moment ago prepared by Toth Engineering?
A I'm not sure of the date and how it corresponds to the map, but it -- it looks to be like it could work, yes.
Q Okay. And there's a reference to the preferred route, a reference to Alternate Route 1, and Alternate Route 2; correct?
A Yes.

Q And the preferred route has a rounded project cost of $12,410,000; correct?
A Can you -- can you repeat that, please?
Q The preferred route has a rounded project total cost of $12,410,000; correct?
A I see that, yes.
Q Okay. And that includes, within that budget, land acquisition services; correct?
A Yes. I see that.
Q Okay. And Alternate Route 2, the route with five less dead-end posts or angled posts, was 12,000 -- I'm sorry, 12,100,000; correct?
A Yes.
Q So about $300,000 less in cost than the preferred route; correct?
A Yes.
Q And land acquisition was included within that $12.1 million estimate; correct?
A Appears to be, yes.
Q And despite the savings --
And, by the way, easement acquisition payments are included in both; correct?
A Appears to be, yes.
Q And easement acquisition payments are almost triple the easement acquisition payments in -- let me rephrase that.
The easement acquisition payments in Alternate Route 2 are almost triple the easement acquisition payments in the preferred route; correct? 1.4 million to 575,000? Do you see that?
A I see those numbers, yes.
Q Okay. And yet, despite the high number of easement acquisition payments, the cost for the Alternate Route 2 was less than the preferred route; correct?
A Yes.
Q And so, even though there was a cost savings and even though there were less right-angle or dead-end posts, was it your position that the preferred route was a better route?
MR. EPLEY: Object to form.
A Can you repeat the question, please?
Q BY MR. CAHN: Despite the fact that Alternate Route Number 2 was considerably less in cost than the preferred route and included a significantly less number of right-angle or dead-end posts, did you believe that the preferred route was the better route?
MR. EPLEY: Object to form.
A We -- so, I'm having a hard time answering that question because there's -- there's more that goes into the route analysis than -- than just the cost.
Q BY MR. CAHN: Okay. Let's look at Exhibit 230 -- 223 again.
(Deposition Exhibit No. 223 was presented.)
Q So, other than the cost, which, for Alt Route Number 2, is significantly less and which runs along the BPA transmission line, so it's sort of coupled up with an already existing high-power line, what is -- what makes the preferred route better than the alternate route?
MR. EPLEY: Object to form.
A I can't remember the specifics. If I remember correctly, Alternate Route 2 would have possibly taken out some irrigated farmland and it crossed a wetland, if I remember correctly. So, environmentally sensitive areas.
Q BY MR. CAHN: Would the cost of environmental remediation or wetland remediation have been factored into the cost analysis that was done for Alternate Route 2 versus the preferred route?
A I don't recall if it was or not.
Q And wetlands can be remediated. You run your lines -- UEC has run lines through wetlands before; correct?
A We have.
MR. EPLEY: Object to form.
Q BY MR. CAHN: You have; correct?
A We have.
Q You've either done remediation or done environment work-arounds to enable you to have your transmission line go through wetlands and other environmentally sensitive areas; correct?
MR. EPLEY: Object to form.
A We've -- we've had to -- I can think of one -- one structure we had to do wetland mitigation on.
Q BY MR. CAHN: So it's something that can be done. It's not something that is impossible; right?
A Sure.
Q Okay. What else makes this preferred -- this more expensive, more-difficult-to-construct preferred route better than the alternative route?
MR. EPLEY: Object to form.
A Again, I think, at this point, we had a majority of the easements along the preferred route. There might have been two or three landowners we were still working with at this point.
Q BY MR. CAHN: You had a cost estimate of acquisition, but your belief is that the cost estimate had already been expended?
A I'm not sure I follow your question. Can you please rephrase it.
Q Well, looking at Exhibit 208, acquisition payments are listed as a line item for both routes. So had you

already acquired easements, or was this an estimate for what easement acquisition costs were going to be back when you were considering the proposed routes?

MR. EPLEY: Object to form.

A I don't -- I don't have that information. Is there a date on this document?

Q BY MR. CAHN: Well, this came from your files, so it is what we got from UEC.

A I can't speak to which easements had been paid and which are estimated to be paid based upon this document compared to the map.

Q So you don't really know whether or not all the easements had been already acquired at the time you were making your consideration of which route to go forward with?

MR. EPLEY: Object to form.

A I based my response -- if you want to go back to the other exhibit, the map.

Q BY MR. CAHN: Sure.

(Deposition Exhibit No. 223 was presented.)

A I'm looking at the date in the bottom -- just underneath "Umatilla Electric Cooperative" in blue, February 12th, 2020.

Based upon that, it's my assumption we had the majority of the easements secured for the preferred route.

When I say bought property, I meant, even before the route was determined, UEC was buying easement rights for the route; correct?

MR. EPLEY: Object to form.

A Yes. We were securing easements prior to identifying the final route.

Q BY MR. CAHN: Or even having a sense of what was an anticipated route; correct?

MR. EPLEY: Object to form. Misstates testimony.

A Can you repeat the question, please?

Q BY MR. CAHN: That's fine.

MR. CAHN: Kamille, have you been able to find it?

MS. SIMONS: Is that the Toth on 10/20 --

MR. CAHN: Yeah, the 3/19/2020 one.

MS. SIMONS: Yeah.

(Deposition Exhibit No. 237 was presented.)

Q BY MR. CAHN: So this is the testimony of Louis Toth before the PUC, March 19, 2020. Do you see that?

A I do.

Q Did you review Mr. Toth's testimony before it was presented to the PUC?

A I likely would have, yes.

Q Okay. And in it, he includes a chart that shows the status of land acquisition.

Q So that's in -- sorry, what you say, February 2020.

Let's take a look at the PUC testimony and the materials that were provided to the PUC when UEC requested a certificate of necessity from the PUC. We're in process, so give us a moment.

While we're looking at this, Mr. Lankford, did you or anyone at UEC commission the acquisition of easements before you had determined which was the final route that the transmission line was going to take?

A Can you repeat the question, please?

Q Yeah. Did you start buying easements before you knew what the final transmission line was going to be?

MR. EPLEY: Object to form.

A I believe we were acquiring easements before we had a preferred route or even route alternatives identified, yes.

Q BY MR. CAHN: So, before you had done all of the analysis necessary to determine whether or not this was the best route for the transmission line, you were already buying property for it?

MR. EPLEY: Object to form.

A I don't believe we bought any property for the acquisition of these easements.

Q BY MR. CAHN: Bought easements for the line. Easement is a property interest, I apologize.

MR. CAHN: Kamille, can you pull that up?

MS. SIMONS: Yeah, I'm looking for it right now. It's 60 pages.

MR. CAHN: Yeah. It's also in the original resolution, I think.

MS. SIMONS: Yeah, that's right. Yeah, it is in there.

MR. CAHN: Let's go to the resolution. It may be easier to find in the original resolution.

MS. SIMONS: Take that down and open this. I don't know. I'm just trying to close it.

MR. CAHN: I know.

Let's go off the record for a few seconds while we find that, so that we're not --

MS. SIMONS: It's here.

MR. CAHN: You've got it? Okay. So hold on.

(Deposition Exhibit No. 212 was presented.)

Q BY MR. CAHN: Mr. Lankford, this is the "Resolution 2019 11 006 Umatilla Electric Cooperative," "Amending resolution declaring public need to acquire easements for transmission and distribution system improvement and authorizing the acquisition of easements."

Do you see that?

A I do.
Q Did you ever review a resolution when it was passed by the Umatilla Electric Cooperative board?
A I would have seen it afterwards, yes.
Q Okay. And let's go down to the chart that's included at the bottom.
So this is a list of 15 properties that were needed to acquire -- needed to be acquired for the transmission line. Do you see that?
A I do.
Q And there's five or six easements that needed to be acquired; correct?
A I see that, yes.
Q And there's Number 14, which is an alternate route, needs acquisition. Do you see that?
A I see that, yes.
Q And is that the -- okay.
So as early as March of 2020, there was still quite a bit of property that needed to be acquired for this project; correct? When the resolution of necessity was initially passed by the UEC board of directors; correct?
MR. EPLEY: Object to form.
A If you could, what was the date of this resolution?
Q BY MR. CAHN: It was November 2019.

MR. CAHN: Let's look at Exhibit 2-0 -- the map again.
(Document was presented.)
MR. CAHN: Go in a little bit closer.
(Complied.)
Q BY MR. CAHN: Do you know where easements were being acquired versus going on existing right-of-way?
A Can you -- can you repeat that question?
Q Yeah. Looking at the map, where were the easements that you were acquiring versus running the route on the existing right-of-way?
A I'm still not sure I track what you're saying. Which existing right-of-way?
Q So streets or places where UEC had an existing right-of-way. Did you --
Let me ask you this way. Did UEC have a goal of utilizing as much public right-of-way or existing right-of-way as possible for this project?
A One of our criteria for doing that analysis is to rebuild existing right-of-way or within existing right-of-way or parallel existing right-of-way, yes.
Q Okay. So, in looking at this, can you identify where easements need to be acquired versus running the line on existing right-of-way or parallel to existing right-of-way?

A And the date of the map was February 2020?
Q That iteration of the map was February 2020. There are other iterations of the map.
A And can you repeat the question, please?
Q The question was, there was still a significant number of properties that needed to be acquired for the project as part of the preferred route when the resolution was passed; correct?
A You highlighted five, I believe. Yes.
Q Actually, six. There's five that need acquisition, and then Number 14 -- well, there's Number 4, Number 6, Number 7, Number 10, Number 11; and Number 14 needed acquisition.
MR. EPLEY: Object to form.
Q BY MR. CAHN: Is that correct?
A I -- I'm not sure what the alternative route is on Number 14, but, yes, I see what you're -- you're highlighting.
Q Okay. So, at this point in time, had UEC already concluded that it was going forward with the preferred route versus the more cost-effective Alt Route Number 2?
MR. EPLEY: Object to form.
A I don't recall. I wasn't in that meeting, that I remember.
Q BY MR. CAHN: And if you go to --

MR. EPLEY: Object to form.
A Yeah, I can -- I can kind of highlight where there's existing right-of-way on here.
Q BY MR. CAHN: Where is that?
A You can see the BPA transmission lines. That's a major utility corridor that runs through the middle of Boardman east to west. We've got many county roads. You've got the interstate that runs right through the middle of the page.
There's some various miscellaneous small/big/otherwise distribution lines that are scattered around. I'm not sure where all those are at specifically. And then --
Q So if you had run the route, Alternative Route 2 parallel to the existing BPA transmission line, you would have been avoiding -- well, you would have been following the project criteria of siting your line parallel to existing right-of-way; correct?
A As one of the criteria, yes.
Q Okay. And the BPA transmission line is located in areas where a small -- if you had to acquire an easement, it was going to be directly adjacent to what was already a high-power utility -- electric utility; correct?
A As -- as one of the factors, yes.
Q Okay. And so I'm still trying to understand why

Alternate Route Number 2 is not your preferred route, if it's cheaper and it goes over existing -- or parallel to existing right-of-way and can avoid problems because it's already running tangent to the BPA transmission line.

MR. EPLEY: Object to form.

A What was the question, Mr. Cahn?

Q BY MR CAHN: Question is, I'm trying to understand why -- Alternative Route Number 2 meets all the design criteria that you were referring to, why it's not your preferred route, because -- given that it's cheaper and it meets your routing criteria.

MR. EPLEY: Object to form. Misstates prior testimony.

A Yeah. As I mentioned earlier, it would have taken irrigated farmland out of production, as well as gone through the middle of some wetland.

Q BY MR. CAHN: Can you identify where the irrigated farmland is that it would have taken out of production?

A You can kind of see it where Alternate Route 2 and -- and the preferred line separate, the purple and blue line separate in the top part of the page. There's a crop circle that you can see vaguely in the background.

So then, east of Laurel Road, south of the BPA corridor, and your blue highlight that you have going through the screen right now kind of goes through the bottom part of that crop circle.

Q Okay. And that's already directly adjacent to the existing BPA right-of-way; correct?

A That crop circle is, yes.

Q Okay. And as Mr. Echenrode said yesterday, you can still plant crops underneath your power line; correct?

A Yeah.

Q Okay. And where is the wetland that you were concerned with?

A I -- I can't really tell. I believe it's -- I believe there's a couple spots, but the big one is where "Alternate Route 2" is typed out, if I remember correctly.

Q Again, directly adjacent to the BPA transmission line, which has already addressed wetland concerns when it went in; correct?

A I'm not sure when it went in.

Q And those wetland concerns, as you identified, can be mitigated as part of any project; correct?

A I can't confirm if they would be allowed to be mitigated, but it is something we can explore, yes.

Q And did you do any investigation and exploration into wetland mitigation as part of the analysis of Alternative Route Number 2?

A I can't speak to if we did or not.

Q You don't know if you did?

A I'm not sure, no.

Q And you haven't seen any wetland remediation reports or cost estimates or anything relating to wetland remediation as part of the Alternative Route Number 2 analysis?

A I don't recall seeing any for this project.

MR. CAHN: Let's take two minutes and I may be done. I just want to double-check something.

(There was a pause in the proceedings.)

Q BY MR. CAHN: Mr. Lankford, I'm back. A couple of very quick things. If you look at Exhibit 208, which we'll pull up again, that's the budget.

(No response.)

MR. CAHN: Kamille, are you getting that?

(No response.)

MR. CAHN: Kamille, are you there?

MS. SIMONS: I am.

MR. CAHN: Can you pull up 208.

(Deposition Exhibit No. 208 was presented.)

MR. CAHN: Ah, thanks.

Q BY MR. CAHN: So, Mr. Lankford, looking at Exhibit 208, there's also a line item for environmental, is there not?

A Yes, it appears so.

Q And the line item for environmental is a little higher for Alternative Route Number 2 than it is for the preferred route or Alt Route 1; correct?

A Is it 200 to 250, is that what it says?

Q That's what it says.

A Okay.

Q So somebody at UEC or Toth, in their analysis, factored in increased easement acquisition payments and increased costs for environmental concerns into the total budget for Alt Route Number 2 and still concluded that it was cheaper than the preferred route. Do you see that?

A I do --

MR. EPLEY: Object to form.

Q BY MR. CAHN: You do see that?

A I see that.

Q Okay. And so, easements are taken care of, wetlands are taken care of. Alternate Route Number 2 follows the UEC criteria. Anything else that makes it a less desirable route than the preferred route?

A I can't speak to the conclusion that you just repeated, but there's -- there's still the fact that it would take a crop circle -- part of a crop circle out of production.

Q As long as -- unless the -- that crop circle could be construct -- or could be utilized underneath the power line.

A Where there's not a structure.
Q Right. So there's just a post. In between the posts, you can still grow crops; right?
A Yes. But the pivot irrigation itself can't move through the pole, it has to go around it.
Q And that would have been factored into the easement acquisition payment component of Alt Route 2 cost analysis; correct?
MR. EPLEY: Object to form. Calls for speculation.
A I'm not sure if it does account for the loss production of -- of an irrigated crop.
Q BY MR. CAHN: You don't know what's in there?
A I don't know what's in there.
Q You don't know what's in any of these numbers.
MR. EPLEY: Object to form.
A I don't, off the top of my head.
Q BY MR. CAHN: Okay. So as you sit here today, you've identified a couple of things that appear to have been addressed in the cost estimates as inadequacies of Alternate Route 2, but you can't say whether or not these cost estimates resolve those issues or not; correct?
MR. EPLEY: Object to form.
A Can you please repeat the question?
Q BY MR. CAHN: As you sit here today, you've identified a couple of issues with Alternative Route Number 2, but you cannot say with any level of certainty as to whether or not those deficiencies were resolved by the cost estimates that appear to address those issues in Exhibit 208.
MR. EPLEY: Object to form.
A I -- I can't speak to the date of these estimates, nor what is in these estimates as compared to the alternate route segments that we looked at on the other exhibit.
Q BY MR. CAHN: So you don't know if this -- if this was addressed -- if those issues were addressed in the budgeting for the project.
MR. EPLEY: Object to form.
A I can't -- I can't speak to the specifics of that off the top of my head.
Q BY MR. CAHN: Were these issues discussed with Amazon Data Services as part of their agreement to pay for the costs of the project?
A Which issues?
Q Any of the issues relating to the various route alternatives, especially the fact that preferred route -- or Alt Route Number 2 is cheaper than the preferred route.
A I don't recall any conversations with Amazon on specific challenges to any route segment analysis or the specifics within the acquisition payments or environmental or other buckets.
Q And if you had gone with Alt Route Number 1, even though it was 800,000 -- $400,000 more than the preferred route, Amazon would have picked up that cost, so it wouldn't have mattered; correct?
MR. EPLEY: Object to form.
A Can you repeat the question?
Q BY MR. CAHN: Yeah. The question is, if you had chose to go Alt Route 1, even though it was about 400,000 more than the preferred route, it would not have mattered, from a cost perspective, to UEC, because ADS was going to pay for it; correct?
MR. EPLEY: Object to form.
A ADS would have been responsible for the cost, yes.
Q BY MR. CAHN: So if you had gone with Alt Route 1 and avoided the Tallman property entirely, it would not have been a financial impact to UEC; correct?
MR. EPLEY: Object to form.
A That's a -- that's tricky, because there is -- there is, like, a precedent-setting amount on easement acquisitions. I'm not sure I understand your question entirely.
Q BY MR. CAHN: My question is, if you had gone with Alt Route Number 1 instead of the preferred route, it would not have been a financial impact on UEC, because ADS was going to pay for the difference; correct?
A For this project --
MR. EPLEY: Object to form.
A For this project, it would have not been a financial impact to UEC. I cannot speak to that for future projects that we would have used this for analysis on.
Q BY MR. CAHN: Okay. And that led me to what you just said a moment ago, which is that you're afraid of setting a precedent with respect to easement acquisition costs, if you overspend on easements in this project; is that correct?
A I would say for any project.
Q So if you -- if a property owner says their property's worth more, it's important to UEC to keep that valid -- let me strike that -- it's important to keep the cost of the easement that it acquires down for UEC, because it will be acquiring easements in the future and it wants everyone to -- strike that question.
I'm trying to understand what you just said. As I understood what you just said, UEC wants to keep the cost of easement acquisition down because it will benefit UEC's future projects if easements are paid for at a lower rate on this project. Is that correct?
MR. EPLEY: Object to form.

A I'm not sure -- I'm not sure I agree with what you stated.

So we -- UEC is a not-for-profit member-owned electrical cooperative, so it's -- it's -- we're constantly looking out to manage costs to maintain fair and reasonable rates for our entire membership.

Q BY MR. CAHN: Right. And that includes setting a precedent for easement acquisition costs; correct?

A So, as I --

MR. EPLEY: Object to --

Q BY MR. CAHN: -- projects don't cost as much?

MR. EPLEY: Object to form.

A Can you repeat the question, please?

Q BY MR. CAHN: That includes keeping easement acquisition costs down for future UEC easement -- projects acquiring easements; correct?

A It requires --

MR. EPLEY: Object to form.

A It requires managing all costs for all projects, yes.

Q BY MR. CAHN: And UEC doesn't want to set a precedent today that could be used against it tomorrow; correct?

MR. EPLEY: Object to form.

A Can you repeat the question again, please?

Q BY MR. CAHN: UEC does not want to set a precedent today that could be used against it tomorrow; correct?

MR. EPLEY: Object to form.

A Yes.

MR. CAHN: Those are the questions I have for you, Mr. Lankford. Thank you for your time today. I am done, and we can conclude your deposition.

MR. EPLEY: Well, I have additional questions.

MR. CAHN: Okay.

MR. EPLEY: And if we can -- it's been a little bit since we've taken a break, so if we can take maybe a five-minute break.

MR. CAHN: If possible, if you've got less than ten minutes, I'd like to finish it out. I really was hoping to be on the road at 12:30.

MR. EPLEY: Well, Bruce, I think it'll help me to be able to go back through my notes and make this more efficient, if we can just take five minutes.

MR. CAHN: Okay.

(A recess was taken.)

EXAMINATION

BY MR. EPLEY:

Q Mr. Lankford, do you recall Mr. Cahn asking you questions about Alternative 2?

A Yes.

Q And he was asking you about the reasons that UEC did not select Alternative 2?

A Yes.

Q I want to share my screen.

(Deposition Exhibit No. 237 was presented.)

Q And just to confirm, can you see a document where, at the top, it says "Before the Public Utility Commission"?

A I see it.

Q Okay. Did Mr. Cahn show this document to you during your testimony?

A Yes.

Q And is this the testimony of Louis Toth that was submitted as part of the PUC proceeding?

A Yes.

Q I want to take a look at a page that is Bates numbered 1st John 388. Do you see that?

A Yes.

Q Okay. On the top of this page it says, "Route Selection Summary For Olson Road 230kV Planned Transmission Line"; correct?

A Correct.

Q Did Mr. Cahn show you this document when he was questioning you today?

A No.

Q Have you seen this document before?

A I've likely reviewed it, but I can't remember it.

Q Okay. So you hadn't recently reviewed it prior to your testimony today?

A No.

Q Why don't we scroll down to -- let's see. This is the third page of that section of the document with a Bates number 1st John 390. Do you see that?

A I do.

Q Do you see a table with a reference to Alternative Route 2?

A Yes.

Q Can you read the portion of the table to the right of that that discusses Alternative Route 2?

A "Alternative Route 2 (shown as blue color) is not selected because of environmental impact and challenges. The line stretches approximately two and a half miles adjacent to BPA's lines. The route, however, crosses a crop circle, wetlands, and properties that are zoned as residential."

Q Okay. Thank you. Does that refresh your recollection that Alternative Route 2 crosses properties that are zoned residential?

A I did not remember that, so it does refresh my memory, yes.

Q Okay. And is it UEC's practice to avoid crossing

residentially zoned properties with 230 kilovolt transmission lines?
A It's -- it's one of the criteria that we look for, yes.
Q Okay. Mr. Lankford, do you recall Mr. Cahn talking with you about a loop road?
A Yes.
Q And you said that you had coordinated with the City and County to ensure that UEC project would be compatible with that loop road; is that right?
A Correct.
Q And was it your understanding that the project would be compatible with the loop road when the project was submitted to the PUC?
A That was my understanding, correct.
Q Okay. And was it your understanding that the project would be compatible with a loop road when this condemnation case was filed in July of 2021?
A Can you repeat the question, please?
Q Sure. Was it your understanding that UEC's transmission line project was compatible with the loop road when this lawsuit was filed in July 2021?
A It's -- as far as I know, the conceptual layouts that we did through the summer of 2020 I don't think changed from that time to construction.

Q Okay. And is it correct that the loop road is a City project, to your knowledge?
A I believe it is a City project, yes.
Q Okay. Do you recall Mr. Cahn asking you some questions about the city code with respect to the loop road?
A I do.
Q Would you have relied on the City to know what type of road was going to be built by the City?
A I would suspect that my team would be looking to the City to help guide them, yes.
Q Okay. And with respect to the City's code, would you or UEC have relied on the City to advise you if the City's project was incompatible with the city code?
A I think that -- I think the efforts that we were putting forth in working with the City, the County, and the Port of Morrow show that we were trying to all get on the same page and identify any potential issues, yes.
Q Do you recall Mr. Cahn asking you about communications with Mr. Balfour?
A Yes.
Q And you said that you had identified a property that had recently been sold in the area to Mr. Balfour; is that right?
A Correct.

Q Do you have any reason to doubt that Mr. Balfour exercised his independent professional judgment in selecting the appropriate comps to be used in his appraisal?
MR. CAHN: Objection. Lacks foundation. Calls for speculation.
Q BY MR. EPLEY: You can answer.
A Can you repeat the question, please?
Q Sure.
MR. EPLEY: Kim, could you read the question back.
(The question was read by the reporter.)
MR. CAHN: Same objection. Calls for speculation. Lacks foundation. Is a hypothetical.
A I -- I have no doubt that Mr. Balfour acted independently in his role as an appraiser.
Q BY MR. EPLEY: And are you aware of whether the property that you had identified was used as a comp by the appraiser retained by Defendant 1st John in this lawsuit?
MR. CAHN: Asked and answered.
A What was the question?
Q BY MR. EPLEY: Sure. Are you aware of whether the property that you had identified to Mr. Balfour was, in fact, used by the appraiser that has been retained by 1st John, LLC, in this case and used as a comp in his appraisal?
MR. CAHN: Objection. Asked and answered.
A I have not seen 1st John's appraisal of the property.
Q BY MR. EPLEY: Okay. Mr. Lankford, does Amazon Data Services own this transmission line?
A Umatilla Electric Cooperative owns this transmission line.
Q Does Amazon Data Services operate this transmission line?
A No. The UEC operates its own facilities.
Q Does the construction of this 230 kilovolt transmission line provide benefits to UEC's electric system generally?
A Brian, I want to clarify my last answer to that last question on UEC operating its facilities.
So UEC or Bonneville Power operate UEC's electrical facilities.
Q Okay. Thank you for that clarification.
A Right.
Q Does the construction of the 230 kilovolt transmission line provide benefits to UEC's electric system generally?
A Yes.
Q And those are benefits that inure to UEC customers other than Amazon?

A Yes.
Q Can you describe for me some of those benefits?
A Yes. There's the -- the Olson Road substation that this 230kV line ties into UEC's system can also serve a good portion if not all of the city of Boardman out of that same substation.
Q And, okay.
A There's a distribution tie out of that substation into the distribution system that serves the city of Boardman.
Q Does that increase system reliability?
A Yes.
Q And does that increase system resiliency?
A Yes.
Q Do you recall Mr. Cahn asking you questions about the cost for an angled pole?
A Yes.
Q Do the costs for transmission line poles vary based on various factors, including height, foundation, or other things?
A Yeah, many factors, everything from soil to water table to frost line to wind, ice, conductor size, insulator type, framing, height, any other necessary clearances required; span length, for example.
Q So is there one cost for an angled structure?

FURTHER EXAMINATION
BY MR. CAHN:
Q So, very quickly, Mr. Lankford, during the last break, did you have any conversations or communications with Mr. Epley --
A No.
Q -- Epley?
A No.
Q Have you had communications or conversations with Mr. Epley, either text, email, or through chat, during this deposition?
A During the very first break, he checked in on me, yes.
Q Okay. And you mentioned a moment ago that UEC owns the transmission line components. But Amazon Data Service is paying for the line expansion; correct?
A They pay for UEC's facilities, yes.
Q And while the 2300 -- or, the 230 kilovolt transmission line has benefits, its need was generated by -- sorry.
While the 230 kilovolt transmission line has general benefits to the UEC system, the need for the 230 kilovolt transmission line came from Amazon Data Services' utilization of electricity through UEC; correct?
MR. EPLEY: Object to form.

A Not in my experience.
Q Okay. I also want to ask you, Mr. Cahn asked you about whether UEC had the consent of 1st John to construct the project on its property. Do you recall that?
A Yes.
Q Are you aware that UEC moved for advanced occupancy in this case?
A Yes.
MR. CAHN: Objection. Calls for a legal conclusion.
Q BY MR. EPLEY: What is your understanding of what happened with that motion?
A We --
MR. CAHN: Object to the form.
A We were granted the advanced occupancy based upon our CPCN.
Q BY MR. EPLEY: And what is the CPCN?
A Gosh, you would ask me that. Convenience -- certificate of public convenience and necessity for a transmission line.
Q And are you aware that the court granted an order permitting UEC to occupy this easement area?
A I was.
MR. EPLEY: I think that's all I have right now.

A Can you repeat the question, please?
Q BY MR. CAHN: While Mr. Epley asked you if the city and the county and all the residents that are served by UEC generally receive a benefit from this project, my question is, but the need for this project came from Amazon Data Services' utilization of energy from UEC; correct?
A So the Amazon's request for service drove the need for the transmission line and the substation to serve that -- that load center. And, yes, it does have benefit to the community for that.
Q Right. But some of the reliability issues is because the city of Boardman has to coexist with this very high-level, high-volume utility user; correct? Amazon --
MR. EPLEY: Object.
Q BY MR. CAHN: -- Data Services?
MR. EPLEY: Object to form.
A I'm not sure I follow, Mr. Cahn.
Q BY MR. CAHN: Well, what makes the system unreliable without the transmission line improvements is that more and more of the electricity being utilized through the system is being consumed by Amazon Data Services; correct?
A Those -- those two things are different.
Q Amazon Data Services' utilization of energy is what is causing overload in the UEC system; correct? Which

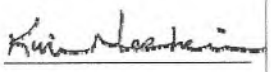
created the need for this project; correct?
A Their -- their request to build their site required facilities to serve it, and UEC made extra effort to tie those same facilities back into the community of Boardman through the distribution system separate from Amazon.
Q Would UEC have done that, had Amazon not come to UEC and said, "I need transmission line capacity to my data service centers"?
MR. EPLEY: Object to form. Calls for speculation.
A At that point in time, there wasn't a need for a substation at that location, without the request from Amazon.
Q BY MR. CAHN: Thank you.
And who have you been working with or who is your contact at Amazon Data Services?
A At that time? I can't remember who my direct contact was at that time. There's a lot of people there.
Q So do a lot of people from Amazon Data Services contact you on a regular basis?
A There's -- there's a half dozen that I'm in regular communication with.
Q Who are they?
A The ones that I'm in communication with today are a lot different than the ones from a few years ago. They change regularly. Do you want me to list today's?
Q Give me who you're talking to -- who you remember having worked with at Amazon Data Services in your tenure as the manager of engineering.
A Oh. Okay. I'll just list some names.
(Names spelled phonetically.)
A We've got Travis Metcalf. Steven Goulet, I believe is his last name. There's David Wright. There's Charlie Deitch. There was Nat Salstrom. Oh, there was -- who am I missing? Stan Hollowell.
Oh, gosh. Terrible with names, too. This is tough. I can see their faces.
Q Not trying to test you. If you can't remember further, that's fine.
A Feels like a test.
Q But suffice to say, as you suggested a second ago, you get calls a lot from a number of people at Amazon Data Services on a regular basis; correct?
A I speak with -- with Amazon regularly, and their personnel shifts regularly.
Q Okay. And you speak with them regularly about their energy needs?
A Yeah -- yes.
Q Do you speak with Amazon Data Service representatives more regularly than any other customer of UEC?
A Yes.
MR. CAHN: No further questions.
MR. EPLEY: Okay. I don't have anything additional.
MR. CAHN: So we are going to -- for the record, we utilized exhibits, in addition to exhibits that have already been marked as provided to the court reporter, Exhibit 252, 243, 250, 208, 223, 252, and -- oh, and the board resolution; we didn't mention it, but I think we're marking that as Exhibit 253.
MR. EPLEY: And we, in my questioning, talked about the Toth testimony, and I think -- I referred to Bates numbers, so we need to get that in. But we can choose a number to mark that as that we haven't used already and I can circulate that.
MR. CAHN: That's fine.
MR. EPLEY: So, Kim, can we --
(A discussion was held off the stenographic record.)
MR. EPLEY: Let's then mark what was produced as -- with the first page with Bates number 1st John 332 as Exhibit 260.
(Deposition Exhibit No. 260 was marked for identification.)
MR. CAHN: Okay. And then the only other caveat, Kim, is that we'll need this draft as soon as we can get it. And it can be rough. We understand.
MR. EPLEY: Okay.
MR. CAHN: With that, we can sign off.
MR. EPLEY: And just for the record, we'll reserve the right to read and sign. And same for Mr. Echenrode yesterday, as well. May have forgotten to put that on the record.

(DEPOSITION ADJOURNED AT 1:54 P.M.)
(SIGNATURE RESERVED.)
* * *

CERTIFICATE

I, Kim Nerheim, an Oregon Certified Shorthand Reporter and a Washington Certified Court Reporter, hereby certify that said witness appeared before me by videoconference at the time and place set forth in the caption hereof; that at said time and place I reported in stenotype all testimony adduced and other oral proceedings had in the foregoing matter; that thereafter my notes were transcribed through computer-aided transcription, under my direction; and that the foregoing pages constitute a full, true and accurate record of all such testimony adduced and oral proceedings had, and of the whole thereof.

Witness my hand at Portland, Oregon, this 29th day of February, 2024.



Kim Nerheim
Oregon CSR No. 90-0138
Expires 9/30/2026
Washington CCR No. 0003038
Expires 3/28/2024

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CEIVED
FEB 24 2020

February 18, 2020

Mr. Robert Echenrode
General Manager
Umatilla Electric Cooperative
750 W. Elm
P.O. Box 1148
Hermiston, OR 97838

Dear Mr. Echenrode:

The Community Development Director has performed a review of the Umatilla Electric Cooperative's ("UEC") proposed route for construction of a 230 Kv transmission line. Based on the information provided, the proposed line will extend from the planned Hwy 730 Switchyard at the intersection of Hwy 730 and I-84 to the planned Olson Rd. Substation south of Boardman, total transmission line length is approximately 4.3 miles. This route would pass through two commercial areas of the City of Boardman which include the Service Center Sub District (SC) and General Industrial (GI).

Within the SC zone, transmission lines are permitted outright pursuant to City of Boardman Development Code Table 2.2.200.B §(2)(b). The SC Zone is designed to accommodate heavy commercial uses and light industrial uses along portions of the I-84 corridor.

Within the GI zone, transmission lines are permitted outright pursuant to City of Boardman Development Code Table 2.3.110.A §(2)(b). As outright permitted uses, no land use approval is required, and the City does not directly regulate this use.

Please let me know if you require any additional information.

Respectfully Submitted,

Karen Pettigrew

Karen Pettigrew
Boardman City Manager

Problematic -

City does Regulate this use.

IN THE CIRCUIT COURT OF THE STATE OF OREGON

FOR THE COUNTY OF MORROW

UMATILLA ELECTRIC COOPERATIVE, an Oregon cooperative corporation, Plaintiff, vs. 1ST JOHN 2:17, LLC, an Oregon limited liability company, successor-in-interest to Terry Tallman and Cheryl Tallman, as tenants by the entirety, Defendant.	) Case No. 21CV28343

VIDEOCONFERENCE DEPOSITION OF
ROBERT ECHENRODE

Taken on behalf of Defendant

* * *

BE IT REMEMBERED THAT, pursuant to the Oregon Rules of Civil Procedure, the deposition of ROBERT ECHENRODE was taken before KIM NERHEIM, a Certified Shorthand Reporter for Oregon and a Certified Court Reporter for Washington, on Tuesday, February 13, 2024, commencing at the hour of 9:00 a.m.; the witness responding to questions by videoconference; the questions being propounded and proceedings reported remotely via videoconference.

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Appearing by videoconference.

ALSO PRESENT: Jonathan Tallman
Kamille Simons

* * *

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(Defendant's Deposition Exhibits were previously marked for identification.)

THE REPORTER: Good morning. This deposition is being conducted by videoconference. It is being recorded on the Zoom cloud platform as an additional backup of the record and for disaster preparedness purposes only. The recording is the work product of LNS Court Reporting and will not be distributed to counsel, any party, or any other person.

I am an Oregon Certified Shorthand Reporter, Certificate Number 90-0138, which authorizes me to administer the oath remotely.

ROBERT ECHENRODE

having first been sworn by the Certified Shorthand Reporter, testified under oath as follows:

EXAMINATION

BY MR. CAHN:

Q Good morning, Mr. Echenrode. My name is Bruce Cahn. I'm an attorney representing 1st John 2:17, LLC. I believe you're aware of a lawsuit that Umatilla Electric Co-op has filed against 1st John, LLC. Is that correct?

A Yes.
Q Okay. And we are here today in a deposition in that lawsuit that UEC brought against 1st John. Is that your understanding?
A That's my understanding.
Q Okay. And just a little bit of background for yourself.
Have you had your deposition taken before?
A I have.
Q On how many occasions have you had your deposition taken?
A Probably about a half dozen to a dozen, maybe.
Q And were many of those in the context of a condemnation case?
A There were probably three or four in condemnation; others in liability issues; and several were on testimony before a regulatory agency.
Q Right. And, yes, and you've testified before regulatory agencies, as well, in your capacity, correct, professional capacity?
A I have, yes.
Q And that testimony in front of regulatory agencies is also under penalty of perjury, similar oath that you took a moment ago at the start of this deposition?
A I believe so.

Q Okay. And although you have had a lot of experience as a deponent, I do want to go over some ground rules at the beginning, so that we're on the same page, especially since this is remote.
And I didn't ask, but have you done a remote deposition before, as opposed to everyone in the same room type of deposition?
A Just -- just one.
Q Okay. How recently was that?
A Two years, maybe.
Q Okay.
A Two years ago.
Q Right. So, obviously, as you may remember from that experience, the remote deposition is a little bit more challenging, and so it does require a little bit more focus on our part to make sure that we're keeping a clean record.
So, first and foremost, even though this is being recorded for the purposes of aiding in the transcription, it is not a video deposition, so I need you to answer verbally and audibly with your responses. That means no shaking of the head, no nodding the head to state your affirmance to a question.
It also means I need you to say "yes," if the answer is yes, "no," if the answer is no, rather than "uh-huh" or "huh-uh," because it's very difficult for the court reporter to differentiate between those two.
Do you understand that?
A I do.
Q And it's also extremely important in this environment that you wait for me to complete my question before you begin answering and, likewise, I will extend the courtesy to you of trying to let you finish your answer before I begin my next question. That way, the court reporter will write down only what one person is saying at a time, rather than trying to write down overlapping statements.
Do you get that?
A Yes.
Q Okay. If you do not understand a question that I pose to you, please ask me to rephrase it. If you do not ask me to rephrase it and you answer the question, I, a judge, a jury, and anyone else who looks at this transcript is going to understand that you understood the question -- or, actually, I should say, anyone who reads the transcript will assume that you understood the question at the time that you answered it.
Do you understand that?
A Yes.
Q Okay. Finally, the oath that you took is the same oath as if you were testifying live in a court of law and has the same force and effect with respect to an oath in court as it would for your testimony today.
Do you understand that?
A Yes.
Q Okay. So a little bit of background for you. As I understand it, you have a bachelor's in electrical engineering from Ohio State. Is that correct?
A Yes.
Q And when did you receive that degree?
A 1985.
Q Okay. And you also have, as I understand it, a Master's of Business Administration from Oklahoma State University. Is that correct?
A Yes.
Q And when did you get your MBA from Oklahoma State?
A I plead 1992.
Q Between 1985 and 1992, just generally, what were you doing for professional work?
A I -- I held two positions. The first with Schindler Elevators in Lucerne, Switzerland; and with Indian Electric Cooperative in Cleveland, Oklahoma, before returning to school.
Q What was the last one, again?
A Indian Electric Cooperative.
Q Okay. So Schindler Elevator was, obviously, an

elevator company; and Indian Electric sounds like it was a utility. Is that correct?
A That's correct.
Q And is that your first foray into the professional world of electrical utilities?
A Yes.
Q And how long were you with Indian Electric?
A I believe until 1990 -- I started in, I think, 1988 and I went to school, worked part time, and I believe I left in about 1993.
Q Okay. And you have been at Umatilla Electric Co-op for how long?
A Since 2016.
Q And you've been the --
What is the current role with UEC?
A My current role is general manager/CEO.
Q And when did you become the general manager/CEO of UEC?
A In 2016.
Q So 20 years into your tenure?
A I don't understand.
Q I'm sorry. Maybe I've gotten the dates wrong.
When did you start at UEC again?
A Maybe I -- I gave it wrong. 2013 is when I started at UEC --

Q How do you spell that, please?
A C-a-r-r-o-l-l.
Q Oh, Carroll.
A Carroll, right.
Q Sorry. Go ahead.
I'm sorry. Carroll, what was it?
A Electric Cooperative.
Q Okay. And how long were you with Carroll?
A I believe until 2006.
Q And where did you go in 2006?
A I went to Northeast Oklahoma Electric Cooperative from 2006 to 2011.
Q And then where were you between 2011 and 2013, when you started with UEC?
A I was with Oklahoma State Bank.
Q I'm sorry. Oklahoma State Bank?
A Correct.
Q Okay. And what was your position with Oklahoma State Bank?
A I was the COO.
Q And what were your responsibilities as COO of Oklahoma State Bank?
A I was responsible for the employees and the teller line; compliance with the various banking rules and regulations.

Q Okay.
A -- and I became the CEO in 2016.
Q Okay. Thank you. That's --
A Me or you, I apologize.
Q Not a problem. It's early. Okay.
And what was your initial position with UEC?
A I was the manager of engineering for the first three years.
Q Okay. And in your position as manager of engineering, were you responsible for land acquisition?
A That was one of my responsibilities, yes.
Q And what type of land acquisition were you involved in beginning in 2013?
A I would have been responsible for overseeing distribution, transmission, and acquisition -- easement acquisitions, as well as real property acquisitions per the cooperative.
Q Okay. Let me back up now a little bit.
After you got your MBA and left Indian Electric, from 1993 to 2013, that's about a 20-year period. Briefly, can you tell me what positions or what companies you worked for and what positions you had?
A Leaving Indian Electric, I became the manager of engineering services at Carroll Electric Cooperative in Berryville, Arkansas.

Q Did you do any underwriting or loan evaluation --
A No.
Q -- in that capacity?
A No.
Q So you didn't do anything where you were looking at value of property that might be considered as collateral for loans that the bank would be making?
A That's correct. I did not do any of that type of work.
Q Okay. In your time with Carroll Electric, did you do land acquisition?
A It was my responsibility to acquire distribution, transmissions, and real property for substations.
Q Okay. And what about your position with Northeast Oklahoma Electric Cooperative? What exactly was your position there?
A At Northeast, I was the general manager.
Q And as general manager, was one of your responsibilities land acquisition for utility lines that were part of the network?
A Not directly, but it was an overall responsibility, yes.
Q Okay. With respect to your position with Carroll and the land acquisition that you were involved with with Carroll Electric, did you work with the appraisers

directly with respect to valuing properties that Carroll Electric wished to acquire?
A Yes.
Q Okay. Did you have any classes in your MBA program on land valuation, appraisal, and anything associated with determining the value of property?
A No, I did not.
Q Okay. Have you ever had any professional courses in land valuation, appraisal methodology, or anything related to the land acquisition process?
A Not on valuation, no.
Q What have you had in connection with the land val -- land acquisition process with respect to formal training?
A I've had a class on negotiation in my graduate degree.
Q Negotiation of -- generally, or negotiating real property purchase agreements?
A In general.
Q Okay. And was there a day or a week that you talked about negotiating real property values?
A No, sir.
Q Okay. So that wasn't a focus in class, how do you value property?
A Correct. It was not.
Q Okay. So the experiences that you've had in terms of land acquisition are all in the field in your professional services position; correct?
A I generally don't value property. But I have no formal training, it is all in the field, as we would say.
Q Working with others who are the ones who are trained.
A Correct.
Q Okay. Do you, as a general practice, read the appraisal reports that are provided to you for the land acquisition -- for the land that you seek to acquire for the various entities that you work with?
A Yes.
Q Okay. And do you look at the comparable properties that are being considered and whether or not they are truly comparable?
A I review the appraisal forms and note the comparables, yes.
Q Okay. Do you -- particularly with respected to Umatilla Electric, have you looked at the case law or the legal principles that apply in condemnation cases to determining what works as a comp -- or, what is a valid comparable or not?
A I can't say that I have looked at the case law, no.
Q Okay. And have you taken business law or any legal classes?
A I have not.
Q So with respect to the controlling legal principles in condemnation and in property valuation, you would rely on lawyers?
A I'm sorry. I didn't understand.
Q So with respect to your understanding of the legal principles concerning condemnation and land valuation in Oregon, you would rely on the advice of lawyers, rather than your own experience; is that correct?
MR. EPLEY: Object to form.
Q BY MR. CAHN: You can answer.
A All right. I rely on professionals, be it legal or land use; and technical consultants, engineering consultants, for example.
Q Right. Right. So for all of the things that are associated with the land acquisition process, you rely on others to provide you with the standards, principles, legal guidelines, and the like, with respect to those issues?
A Yes.
Q And you had mentioned earlier that you had testified in three to four different condemnation cases. Were those all in the state of Oregon?
A None were in the state of Oregon.
Q Okay. Those were in -- condemnation actions involving your prior positions with Carroll Electric or Northeast Oklahoma Electric Co-op?
A Yes.
Q Okay. And those were -- in what state were those condemnation actions initiated?
A Arkansas, for Carroll Electric. And I don't recall -- I don't recall if I did one in Oklahoma with Northeast.
Q Okay. How many properties have you participated in the acquisition of through eminent domain?
A Bringing to court, or the filing of the -- filing of eminent domain?
Q I'll start with -- first, with the last question. How many cases have been filed on your behalf that you've been involved in -- if I say "your behalf," in your professional capacity with either Carroll, Northeast Oklahoma, or UEC?
A To -- bringing to trial, or just --
Q No. Just --
A Oh --
Q -- filing cases.
A Very good. Filing. Perhaps eight. Probably no more than a dozen.
Q And you mentioned earlier that there were a few that were brought in Arkansas when you worked for Carroll; correct?

A Yes.
Q How many do you think were filed in Arkansas?
A Probably six.
Q And I think you mentioned that you didn't remember if you testified when you worked for Northeast Oklahoma Electric Cooperative, but did you have any condemnation actions filed there?
A I don't recall, Mr. Cahn.
Q Okay. So that would be how many, then, have been filed since you took on your initial position with UEC?
A Three or four have been filed.
Q Okay. And then you raised a good point a moment ago. How many of those cases have gone to trial?
A Prior to this case -- I guess, have gone to trial, or have been resolved at trial?
Q Well, did trial start?
A Gotcha.
I believe three of them went to trial.
Q Were those the ones in -- via UEC, or did that include the cases that were brought in Arkansas?
A They were all brought in Arkansas.
Q Okay. So all the -- so six cases that you can recall being filed in Arkansas, and three of them went to trial?
A That's -- that sounds appropriate.
Q Okay. And of the three to four that you filed in Oregon on behalf of UEC, how many of those, besides this case, have gotten as far as trial?
A None have gotten to trial, not counting this particular case.
Q Did all of those cases reach resolution through either a mediation or a negotiated settlement?
A Yes.
Q Okay. And in those negotiated settlements, did UEC pay more than its initial appraisal for the properties?
A I don't recall.
MR. EPLEY: Object to form.
You can answer.
A I don't recall, Mr. Cahn.
Q BY MR. CAHN: "Cahn." Thank you.
A "Cahn." Sorry.
Q Not a worry.
And did any of those cases resolve for less than the appraised value that UEC provided?
A At UEC, I don't recall. At Carroll Electric, I believe they all settled for less than the appraised value. I know one in particular was.
Q Whose appraised value, Carroll Electric's appraised value or the property owner's appraised value?
A Carroll Electric's appraised value.
Q Was that because of some circumstance that arose that reduced the value?
A I don't believe a circumstance arose. I think, in the case that I recall, it was a declaration or decision by a judge, and he ruled for less than the landowner requested and I believe paid -- or ruled for the appraised value deposited with the courts.
Q Okay. So it was consistent with the appraisal that Carroll Electric had provided --
A Yes.
Q -- less than the property owner. Gotcha, okay.
In the cases that you've been deposed related to condemnation, did you provide an opinion of value or what you thought the property was worth?
A I have not.
Q Okay. Have you reached a conclusion or an opinion of value on your own, independent of the appraiser hired in this instance, as to the value of the 1st John property that you're seeking to acquire?
MR. EPLEY: And I will interject and object on privileged grounds.
To the extent the answer will rely on any information provided by Cable Huston or any attorneys, I would advise you not to provide that information in response to the question.
But to the extent that you have other knowledge, you can answer.
A I am not a professional appraisal -- appraiser of property. I rely on others to, you know, provide me valuations. I do negotiate on prices in order to reach a settlement.
Q BY MR. CAHN: And just as a general instruction, I should have mentioned this at the beginning. I am not asking you for anything that came from counsel. And what Counsel just stated should be true of any answer you give for me. I do not wish to invade any communications you've had with counsel.
To the degree I'm asking you a question, I only want your independent knowledge and not anything that you would have learned or gleaned from a conversation with counsel.
Do you understand that?
A Yes.
Q Okay. On the three to four condemnation cases that UEC has brought since you've been involved with UEC, has Cable Huston been the law firm that has represented UEC in those matters?
A Yes, I believe so.
Q And in each of those matters, did UEC or Cable Huston engage the appraiser to appraise the property?
A An appraiser was engaged. I don't know who engaged

the appraiser.
Q Okay. And the appraiser was Oregon Valuation Group, in the instance of the Tallmans; is that correct?
A In the case of Mr. Tallman, yes.
Q And that that -- the appraiser was Mr. Balfour; correct?
A Yes, as I recall, yes.
Q Have you met with Mr. Balfour?
A I don't believe I've ever met him, nor spoken on the phone.
Q Has Mr. Balfour -- was Mr. Balfour the appraiser on the other cases that UEC filed for condemnation action?
A I believe so.
Q Okay. So has Mr. Balfour been primarily the appraiser that has been hired for condemnation purposes by UEC in connection with land acquisition?
A For the few filings for condemnation and appraisals, Mr. Balfour, I believe, has done -- done them, yes.
Q Did you select Mr. Balfour as the appraiser for these condemnation actions?
A I supported his hiring.
Q Did you do any independent investigation as to Mr. Balfour's experience before you supported his hiring?
A I reviewed his CV and his past experience.
Q Did you consider any additional or other appraisers for these engagements?
A I believe I would have. It's been six or seven years, I think, that Mr. Balfour has provided these services.
Q Was the first engagement with Mr. Balfour the Tallmans, or somebody else?
A For a previous project.
Q Okay. So going back to the Tallmans more specifically --
Oh, let me ask you this. Were you aware of the loop road that is planned for the Laurel Lane -- I don't want to call it area, but where the off-ramp is at Exit 165, are you aware of the existence of the City of Boardman, Morrow County, and ODOT's plan for a loop road in that area?
A I'm aware --
MR. EPLEY: Object to form.
Go ahead.
A I am aware of a planned road, and I believe part of it has been constructed. Whether it's been to the -- the plan or not, that, I can't speak to.
Q BY MR. CAHN: Okay. And the area that's been constructed, that's to the east of Laurel Lane; correct?
A That would be my understanding, yes.
Q And the Tallman property is to the west; correct?
A That is correct.
Q And let me ask, going back to personal, just so that I can orient myself, where do you reside? Where is your -- what city do you live in?
A I live in Hermiston.
Q You live in Hermiston. How far from Hermiston is Boardman?
A 20 miles.
Q Okay. How often do you come to Boardman and have -- how often do you come to Boardman on a regular basis?
A Once a month, perhaps. It tends to come in waves if there's meetings or not, but -- I would say once a month, but not once a week.
Q Okay. And UEC has an office in Boardman; correct?
A Yes, we do.
Q And you have an office, obviously, in Hermiston, I would imagine.
A Yes.
Q And elsewhere in the region, the service territory that's covered by UEC?
A I don't -- I don't understand -- understand the question.
Q Do you have other offices in the service territory covered by UEC?
A Yes. Or we rent or lease other facilities for office space.
Q Okay. And as I understand it, UEC covers Morrow County, Umatilla County, and parts of Union County; correct?
A Portions of Morrow County; many parts of Umatilla County; and a small fraction of Union County, small portion of Union County.
Q Okay. And so, you're aware of the loop road. And when you come to Boardman, do you drive around and sort of have an orientation or an understanding of changes in construction and development that's occurring in the area?
MR. EPLEY: Object to form. Vague and ambiguous.
Q BY MR. CAHN: It is a little vague. I'm trying to get a sense of what your knowledge of Boardman is and the development that's occurring in Boardman.
A I'm familiar with the interchange at Laurel Lane and I have exited there and have traversed Laurel Lane on a half dozen occasions.
Q Okay. And my understanding is that UEC has been experiencing some significant growth in the last five or so years. Was that a fair statement?
A UEC has experienced load growth.
Q When you say "load growth," what do you mean?
A Kilowatt hours; new customers; facility improvements

and expansion.
Q And it's been significantly high in the last few years; correct?
MR. EPLEY: Object to form. Vague and ambiguous.
Q BY MR. CAHN: Well, for example, it took about 77 years for UEC to sell its first billion kilowatt hours; is that correct?
A I believe that's -- approximately seven decades, yes.
Q Okay. But in 2019, you provided almost 3 billion kilowatt hours just in the year 2019; correct?
A I can't speak to how much in 2019, but I -- the growth has been in -- to that order of magnitude.
Q Okay. What's driving the growth within the UEC service area?
A It comes from our industrial and irrigation account holders.
Q And when you say "industrial," is there any specific industries or entities that are driving that growth?
A They're just industrial, be it fruit processing and commercial, you know, investments.
Q Well, I don't know what a commercial investment is in the context of industries that are driving growth.
A Well, there's -- yeah. So there's fruit processing or further processing, and then there's commercial investments or industrial investments in the ports and in other areas.
Q So, as I understand it, looking at the 2008 annual report, UEC reported that industrial customers made up 24.7 percent of its revenue; and in 2018, that number was up to 64.2 percent. Is that consistent with your understanding of the trajectory of growth relative to UEC's customers?
MR. EPLEY: Object to form. Compound.
Q BY MR. CAHN: You can answer.
A I believe it -- I believe our growth has demonstrated a percentage increase in the industrial-rate category.
Q When you say "percentage increase," you mean a significant growth in that particular area?
A An increase as you reported, yes.
Q So from 24 percent to 60-something percent?
A That would be fair, yes.
Q Okay. And this growth requires an increase in your infrastructure; is that correct?
A Yes, it does.
Q And who is paying for the increase in the infrastructure costs that are being expended to meet this growth?
A Generally, the -- those who create the demand or the load growth pay for the cost of it. Some of it is rate based, but, generally, predominantly, it was from the individual ratepayers who request the capacity.
Q Okay. I want to break that down a second.
So, rates. Are there different rates for commercial versus residential users?
A There are. Yes.
Q Okay. And do you charge the commercial users a higher rate than the residential users?
A On a kilowatt-hour basis, the commercial industrial rates are generally lower on a per-kilowatt basis than residential.
Q Is there a basis under which the commercial rates are higher or that the commercial ratepayer pays more?
A There are occasions, if the commercial -- or any ratepayer inefficiently uses their energy or their connection, it could be, on a per-unit basis, higher than a residential account. They could be connected to a large service and not utilize it; it could be down for maintenance or employment or seasonal issues.
And so, in that regard, one could argue that they -- they have a higher per-unit cost.
Q But, barring those circumstances, the commercial user gets a lower -- generally, a lower kilowatt-hour cost than a residential user?
A Per unit kilowatt hour, yes.
Q Is that a volume discount because the commercial user is then utilizing significantly more energy, so it's ultimately paying more in terms of gross dollars?
A Our rates are determined from a cost-of-service study that evaluates the impact of those classes to the overall costs for the utility and attempts to recover the return necessary to pay those bills.
There's more infrastructure for the larger customers, generally, and so, therefore, the volume per unit does make up for a higher bill that helps compensate for that.
Q So what I'm trying to understand is, if the commercial user is paying a lower kilowatt-hour rate, how are they compensating UEC for the cost of the infrastructure through rates to get the transmission line to their facility?
MR. EPLEY: Object to form. Asked and answered.
Q BY MR. CAHN: Please answer.
A There are two general components to the infrastructure. One is the initial cost, which is requested from the developer to make that contribution, and then through rates or ongoing costs for maintenance and other bearing costs not covered from the infrastructure charge.

Q Okay. So -- and you had mentioned it, but the -- that it's paid for through rates and it's paid for through direct payments. How are the -- how are direct payments -- strike that.

With respect to this project involving the Tallman property, is any industrial user paying for the cost of the infrastructure improvements necessary to expand the line for their ability to receive electrical -- electricity through UEC?

A The project -- the infrastructure costs were -- were and are paid by the customers requesting the service.

Q And who was the customer requesting the service?

A Amazon Data Services.

Q Okay. So AWS, or Amazon World Service, requested the expansion; is that correct?

MR. EPLEY: Object. I believe that misstates testimony.

Q BY MR. CAHN: You can tell me if I'm incorrect. Did AWS request the expansion of the line?

A Amazon Data Services made a request for service. And as part of UEC's bylaws and policies, they're responsible for the infrastructure cost to make the connection.

Q Okay. So that includes the poles, the lines, the engineering, everything associated with this expansion is a direct cost that'll be passed along to the customer, Amazon Data Services?

A I don't know about everything, but they are given a proposal of which they can accept or not accept, and that includes providing the service that they requested, very -- very much like for any residential, commercial, or irrigation account.

Q Were you -- did they -- were -- strike that.

Did UEC give Amazon Data Services, or ADS, a proposal for the cost of the infrastructure improvements that include the line that's going to go through the Tallman property?

A I believe they did.

Q And did they approve -- did that include a cost budget for the infrastructure improvements?

A Yes.

Q And did they approve the cost budget?

A Yes.

Q Did the cost budget include land acquisition costs?

A I don't know if it did or not. I just know the overall...

Q Did you review the budget proposal that was provided to Amazon Data Services?

A I did not.

Q Who prepared the budget proposal that was provided to ADS?

A I don't know. I assume the manager of engineering or the engineer would have done so.

Q Who was the manager of engineering for UEC on this project?

A Josh Lankford would have been the engineering manager.

Q Okay. Would you expect land acquisition costs to be included within the overall budget for the project?

A I think that would be reasonable. Yes.

Q And so, if it were and ADS approved it, that is something that ADS would be responsible for paying; correct?

MR. EPLEY: Object. Calls for a legal conclusion.

Q BY MR. CAHN: You can answer.

A We would have -- we would have expected the requester to reimburse Umatilla Electric for the cost to acquire -- reasonable land use costs.

Q Okay. And did the proposed budget that was approved by ADS include either contingencies or line items that were not definitive but that they would be responsible for regardless of what the cost would be?

A I believe they were offered a not-to-exceed agreement.

Q And do you know what the not-to-exceed amount was?

A I don't recall.

Q Do you recall seeing it?

A I -- yes, I would have -- I would have seen it upon execution.

Q And is that something that Mr. Lankford would have been responsible for?

A He would have put -- put the business terms together. I believe I would have executed it.

Q Okay.

MR. CAHN: And, Brian, just as a note for the court reporter and you, we're going to request a copy of the project proposal that was provided to ADS and executed by Mr. Echenrode. We have not received that in discovery.

MR. EPLEY: Well, you're welcome to make that request, and we can talk about it off record.

MR. CAHN: The request is made, and we can talk about it.

Q BY MR. CAHN: Okay. So that is helpful.

Has UEC engaged ADS in any conversations relating to the acquisition of the Tallman property?

A Not that I'm aware of. We would have reported the status whether the easements were acquired or not during the course of construction.

Q Okay. You haven't said to them, "Hey, we're in a

lawsuit and we've offered X and the Tallmans are requesting Y and we want your input on how to resolve this" --

A No.

Q -- "given that you're going to be the one -- you're going to be the one paying for the cost"?

MR. EPLEY: Object to form.

Q BY MR. CAHN: You've not had that conversation?

A No.

Q Okay. Scan down a second. UEC is going to -- hold on a second. Sorry. The computer is slow when --

Let's look at -- we're going to share screen and put on Exhibit 202.

(Deposition Exhibit No. 202 was presented.)

Q BY MR. CAHN: Okay. Mr. Echenrode, do you -- sorry. Mr. Echenrode, do you recognize Exhibit 202?

A I do.

Q This is the easement that is being sought in this lawsuit; correct?

MR. CAHN: Kamille, keep it on. Thank you.

A Yes. That represents what I believe is to be the easement request from the Tallmans.

Q BY MR. CAHN: Okay. And I note that it does -- Mr. Epley aptly described it yesterday as a stair step; it comes down, it makes a right turn, and then it makes another right turn, and yet a third right turn before it continues on to the right side of the page; is that correct?

MR. EPLEY: Object to form.

A There was a lot of right turns there, Mr. Cahn, so -- I don't know if that's correct, but --

Q BY MR. CAHN: Okay. So, from top to bottom, starting at the top of the page, the transmission line appears to go down what looks to be a street. Is that correct?

A It heads south on property owned by Port of Morrow. It is not a street, to my knowledge.

Q Okay. But it's on Port of Morrow property. And then it makes a turn -- going from north to south, it then makes a turn to the east, a right-angle turn to the east; correct?

A Yes.

Q And then, as it transverses the Tallman property, it then makes another right turn from the east to the south; correct?

A Yes.

Q And then it makes another right turn from the south back to the east; correct?

A I believe it's a left turn, but a right-angle turn.

Q Right-angle turn, correct. And that is a right angle, that is what I meant. Thank you.

And that means that there's one, two, three right-angle turns in this configuration of the easement; is that correct?

MR. EPLEY: Object to the form. Vague and ambiguous as to "the easement."

Q BY MR. CAHN: Within the easement area, which is the shaded area that covers the portion of the line that we've just been describing, there are two right turns -- or two right-angle turns; and just outside of the easement area on the Port of Morrow property, there's a third right-angle turn; is that correct?

A There are -- there are three poles on the easement, the Tallman easement, and there is a pole on -- to the west of the Tallman property on the Port of Morrow.

Q Okay. And each of those right-angle turns, is there a different cost associated with a right-angle turn than lines that are running at a straight line, poles that are carrying the line straight versus making turns?

A Generally, angled structures cost more than what we call tangent structures or in-line structures.

Q Sorry, taking a note.

And what is the price difference, if you know, between a tangent or an in-line structure and an angled structure?

MR. EPLEY: Object to form. Vague and ambiguous.

Q BY MR. CAHN: What's the cost difference?

A It depends on the construction and materials, the size of the line. But, generally, it would be a mult- -- a factor for a angled structure, depending on the degree of the angle, but it could be anywhere from two to multiple times the tangent structure.

Q Had the route continued south rather than making the right-angle turn that we see on Exhibit 202 and only made one right-angle turn on the southern side of the Morrow property, Morrow County property, would that have saved UEC money?

MR. EPLEY: Object to form.

A There are routes that cost more and less. That particular description, it would have reduced the cost by two angled structures and replaced it with a tangent structure cost.

Q BY MR. CAHN: Which would have been half to significantly less than the cost of the three -- of the two additional angled structures; correct?

A Not necessarily --

MR. EPLEY: Object to form.

A Not necessarily. The Morrow County had proposed taller poles to accommodate their property, and so there would have been additional costs associated with your

analysis, Mr. Cahn.
Q BY MR. CAHN: Were you involved in conversations directly with Morrow County with respect to moving the line to the southern side of their property?
A I've had conversations with Morrow County commissioners regarding the ultimate route, but I don't recall conversations about moving the line.
Q Who did you speak with on the Morrow County board of commissioners with respect to the location of the line?
A I would have spoken with Jim Doherty, Don Russell, and Melissa Lindsay. They were the sitting county commissioners at the time.
Q And how many times did you speak with the county commissioners during the time that you were trying -- that you were setting up the route for the line expansion?
A There was just one conversation that I recall. Subsequent to the PUC filing, I -- I know Melissa Lindsay has reached out to me to seek a compromise of routing, and I recall a meeting that she had called to discuss that.
Q Okay. So let me break that down.
So, prior to the PUC filing, you had this larger meeting with the entire Morrow County board of commissioners?
MR. EPLEY: Objection.
A No.
MR. EPLEY: Misstates testimony.
A No. I -- I had individual telephone conversations --
Q BY MR. CAHN: Okay.
A -- with the three commissioners, separately, independently.
Q And what was your conversation with each of the commissioners?
A I --
MR. EPLEY: Objection. Vague.
Q BY MR. CAHN: Let me back up.
Why did you only -- why did you speak with them individually and not as a collective board?
A That was just what I chose to do. It was a -- I contacted them as representatives of the County to get their feedback and opinions of the routes and their use for the property.
Q And what did they tell you with respect to their opinions of the route and their use of the property?
A Generally, they were supportive of the need for the line and they recognized the impact on the county, and they also recognized the impact on the joining landowners.
Q Well, what do you mean by they recognized the impact on the county and adjoining landowners? What did they tell you with respect to the route and the impacts?
A They all sought to find a compromise that was good for the community.
Q Did that include working with UEC to avoid the stair-step easement that we're looking at, Exhibit 2, and have a single right angle on the southern side of the Morrow County property?
A I don't know if it included it. Those were -- those were discussions with the Tallmans and Morrow County to find a viable path to complete the route of the line.
Q Did you have conversations with Morrow County about that alternative to this easement configuration?
A What do you mean by that configuration?
Q 202. Did you have conversations with Morrow County, yourself, with respect to a configuration that was different than what's on Exhibit 202?
A I inquired of the commissioners individually their comments on this route or a route that was bordering the southern part of the Morrow County property.
Q And what did they tell you in terms of a route that bordered the southern portion of the Morrow County property?
A They were willing to --
MR. EPLEY: Object to form.
Q BY MR. CAHN: Go ahead.
A I think that they recognized the challenges. It was going to impact one or the other or both landowners, and they relied on UEC to select a route to move forward with.
Q You started to say "they were willing." What were they willing to do?
A They would consider an easement and we negotiated with the County for such an easement, but it was never executed.
Q Why was it -- was it a --
Were you involved in those negotiations?
A Yes.
Q Was there a written easement that was presented to Morrow County?
A Yes.
Q And why was it not executed?
A I don't know.
Q Did you do a cost analysis between what the cost of the line going through the easement that we see as Exhibit 202 was versus the cost of the line going through an easement on the southern side of the Morrow County property?
A I did not, no.
Q Did Mr. Lankford prepare a budget analysis of the two alternatives?
A I don't believe so.
Q Did anyone at UEC prepare a budget analysis to determine if there was a cost savings or not?

A I don't believe so, no.
Q So you don't know if the cost of the two right-angled posts or structures on the Tallman property in Exhibit 202 would be offset by any requirements of Morrow County in connection with running the easement on the southern side of the property; correct?
MR. EPLEY: Object to form.
A Umatilla Electric was attempting to acquire an easement to construct the line. And either easement/both easements were necessary to construct the line.
Q BY MR. CAHN: Well, my question to you is, you don't know if the cost of running the line on the southern side of the Morrow County property would have been more or less than the cost of running the line as configured on Exhibit 202; correct?
MR. EPLEY: Object to form.
A No. I did not do a cost analysis, to answer that question.
Q BY MR. CAHN: Okay. I'm looking for something really fast. Hold on a second. The problem is that the preview of these notes is not as big as I was hoping.
Ah, there it is.
MR. CAHN: Can you pull up Exhibit 223, please.
(Deposition Exhibit No. 223 was presented.)
MR. CAHN: Let's blow that up a little bit.
(Complied.)
Q BY MR. CAHN: So, Mr. Echenrode, you can see, this is a Umatilla Electric Cooperative Toth drawing of the routes for the electric line that is the project that we're talking about. Do you see that?
A I see it, yes.
Q And there are a couple of different routes, based upon color coding in the diagram; is that correct?
A I see three colors outlining various routes: a preferred route, an Alternate Route 1, and an Alternate Route 2.
Q Right. And the preferred route is the route that has the stair-step line through the Tallman property that we just looked at in Exhibit 202; is that correct?
A Yes.
Q And the Alternate Route 2 is a route that goes on the southern side of the BPA line, is that correct, the BPA easement for its transmission lines; correct?
A It -- the alternate route continues west from the preferred route along the south side of the BPA transmission line before crossing under and then to the north side of the transmission line.
Q And what is your understanding as to whether or not that preferred route -- or that the Alternate Route 2 was more -- cost more or cost less than the preferred route?
A I don't recall.
Q Okay. I'm looking for a specific document. Give me one second.
MS. SIMONS: 208?
MR. CAHN: Yeah. Is it 208? Yes, 208. Thank you.
(Deposition Exhibit No. 208 was presented.)
Q BY MR. CAHN: So Exhibit 208 is a cost analysis of the -- the preferred, alternate, and Alternate 2 routes; is that correct?
A Yes. It appears to be so, yes.
Q Do you recognize this document from Toth Engineering?
A Yes. It's a PUC filing exhibit, I believe.
Q Right. And so the cost of the preferred route was 12 million -- the total cost was $12,410,000; correct?
A Yes.
Q And the cost of the Alternate Route 2 that went on the southern side of the BPA transmission line was 12,100,000; correct?
A Yes.
Q A little over $300,000 less than the preferred route. Correct?
A Yes.
Q And going back to Exhibit -- the line --
MR. CAHN: The exhibit with the line --
MS. SIMONS: 223?
MR. CAHN: Yeah, 223.
(Deposition Exhibit No. 223 was presented.)
Q BY MR. CAHN: And the Alternative Route 2 has only what looks, at least from this page, to be one, two -- maybe three right-angle structures, while the preferred route has -- has eight right-angle structures? Is that about right?
A That appears to be about correct, yes.
Q Okay. So your preferred route cost more, had more engineering, and had more angled routes or angled structures than the cheaper Alternative Route Number 2; correct?
MR. EPLEY: Object to form.
A The costs demonstrated were estimates. But the preferred route had more turns or angled structures and the estimate was at a higher cost.
Q BY MR. CAHN: Okay. And those turns, as you mentioned earlier, are anywhere from two to many more times the cost of the tangent or in-line structures that are necessary or would have been necessary on Alternate Route 2; correct?
MR. EPLEY: Objection. Object to form.
Q BY MR. CAHN: You can answer.

A The angled structures do cost more than tangent structures.
Q Okay. And Alternate Route 2 would have avoided taking the easement in its present configuration from the Tallmans; correct?
A Alternate 2 -- I don't know if it crosses the Tallmans' property, but it would not have crossed the Tallman property as the preferred route indicates.
Q Right. And it would not have caused any of the damages that the Tallmans are alleging in this case to their property because of the location of the property line; correct? Because of the location of the easement.
A It would have created damage -- potential damages to other landowners, but I can't speak --
Q Right.
A -- the damages that the Tallmans are speaking to.
Q But it would have traversed the existing BPA transmission line, so it would have been adjacent to what was already a utility easement; correct?
A The Alternate Route 2 was adjacent to an existing BPA -- a series of BPA transmission lines or utility corridor, as was the preferred route except for where we could not obtain easements.
Q And had -- even looking at the preferred route in this exhibit, 223, had you worked out a transaction with Morrow County, you would have, again, saved the cost of the right-angled structures and avoided any potential impacts to the Tallman property if you had moved the line to the southern side of the Morrow County property; correct?
MR. EPLEY: Object to form.
Q BY MR. CAHN: You can answer.
A That's a complicated question. Could I ask you to restate it?
Q Yeah. It's a simple question. Had you moved the -- had you kept the preferred route but moved the easement -- the line to the southern side of the Morrow County property, you would have saved the cost of the two right-angled structures and avoided any potential impacts or damages to the Tallman property; is that correct?
MR. EPLEY: Object to form.
A That is not correct.
Q BY MR. CAHN: Why is that not correct?
A There was still an easement necessary from the Tallmans to get from Laurel Lane west to the Morrow County property, regardless --
Q Well, correct. But on the southern side, again, adjacent to the BPA transmission line, not along the border between the Tallmans and Morrow County; correct?
A I -- I can't speak to if there's any Tallman property on Alternate Route 2.
Q I'm not talking about Alternate Route 2, Mr. Echenrode. I'm talking about looking at the preferred route, where the stair step is, had the -- had UEC taken the line further down the road to the Port of Morrow property, to the southern side of the Morrow County property, you would have avoided the costs of the two right-angled structures that we talked about earlier and any potential impacts or damages to the Tallman property caused by the current location of the easement.
MR. EPLEY: Again, object to form.
A You would replace one angled structure with another angled structure, all right. And, again, I believe the way the question was stated, there would still be an easement required from the Tallmans. I don't think it would have necessarily eliminated any damages that they're proposing or claiming.
Q BY MR. CAHN: What do you understand the Tallmans' damages to be as a result of the current configuration of the easement that we looked at in Exhibit 202?
A I don't know what their damages are being claimed.
Q Have you asked them?
A I have not.
Q You had numerous conversations with the Tallmans and Jonathan Tallman in the 2020/2021 time frame; correct?
A Yes.
Q And in these conversations, did you discuss with them having the line go to the southern side of the Morrow County property?
A Initial discussions were to route the -- the preferred route straight west and then north along the southern portion of Morrow County property, yes.
Q And were the Tallmans in favor of you routing the line to the southern side of the Morrow County property and then going due west?
MR. EPLEY: Object to form. It's vague and ambiguous.
A I would say that there were a number of conversations trying to cross the Tallman property because of existing easements we had already secured, including crossing the property at an angle or in another route.
The majority of discussions were regarding the preferred route as shown here or a route that included an easement necessary from Morrow County.
Those were the essential limitations of the discussions.
Q BY MR. CAHN: And did they express to you a preference for having the UEC negotiate the easement with Morrow County versus the preferred route as it's listed here or noted here?

A Yes.
MR. EPLEY: Object to form.
Q BY MR. CAHN: And so they expressed a clear preference to putting the property -- the easement on the southern side of the Morrow County property and then connecting to an easement going east to west on their property where they -- where it's located on the preferred route; correct?
A No.
Q They did not express that?
A They expressed the route as shown as preferred route, in my discussions with Terry Tallman.
Q In your discussions with Terry Tallman, he said he did not want you to go on the southern side of Morrow County's property?
A He did not want to impact Morrow County and would prefer to go around.
Q Go around in what way?
A Go around as demonstrated in the preferred route with the stair step.
Q Did you have any conversation with Jonathan Tallman about this issue?
A No.
Q Okay. You never spoke with Jonathan Tallman about a preference to go around the Morrow County property and avoid the stair step?
A At the time, Jonathan Tallman was not a property owner. Terry and Cheryl Tallman were. And Mr. Tallman represented himself as the authority on this.
Q Did you have any written agreement with Mr. Tallman concerning the preferred route?
A I'm sorry. Did I have any written?
Q Yeah.
A No.
Q Okay. And, in fact, there are some emails or communications where Mr. Tallman -- sorry, Mr. Terry Tallman indicated that there were problems and complexities with respect to the preferred route that he wished to try to resolve with UEC; correct?
A I -- I don't recall. There could be.
MR. EPLEY: Bruce, we've been going for a little bit --
MR. CAHN: Oh, yeah. Let's take a break. It's been about an hour and 20 minutes, so let's take a comfort break. We can come back at 10:30.
MR. EPLEY: Okay.
(A recess was taken.)
Q BY MR. CAHN: So, Mr. Echenrode, before the break, you had mentioned that you had some conversations -- individual conversations with the various Morrow County board of commissioners. And those conversations were before the PUC filing; is that correct?
A Yes, I believe that's correct.
Q Okay. And then you said that there was one subsequent conversation that you had with Lindsay --
And I don't remember her last name.
A I believe it's Melissa Lindsay.
Q Melissa Lindsay, that's right.
-- with Ms. Lindsay subsequent to the filing; is that correct?
A Yes.
Q And when was the conversation -- the subsequent conversation with Ms. Lindsay?
A I don't -- I don't recall when that was, you know --
Q After --
A After the filing with the PUC.
Q After the filing with PUC.
Was it after your filing of the lawsuit against the Tallmans?
A No, I don't believe so.
Q Okay. Do you know when you filed the lawsuit against the Tallmans?
A I believe it was in 2021, perhaps.
Q Correct. Yes, it was in 2021.
So, before filing the lawsuit but after the PUC filing, you had a conversation with Ms. Lindsay. And what did Ms. Lindsay say to you in that conversation?
A She asked if there was an opportunity to find a compromise with the routing across the Tallmans.
Q And did she express any particular alternative that she was suggesting?
A She invited the UEC, the Tallmans, and other general public members to a meeting that was held at the Port of Morrow to discuss alternatives.
I don't -- I would not characterize that she had a preferred alternative. I believe this was probably after the PUC certificate was issued, and so, therefore, the opportunities were rather limited to involve other people.
Q Did you engage -- did you have the meeting that you just described --
A Yes.
Q -- with the various stakeholders?
A Yes.
Q And was there any discussion in that meeting about modifying the route to go around the Tallman property, at least the stair-step portion of the Tallman property?
A Yes.
Q And was there a discussion of what it would entail to do, with respect to potentially modifying your filing with

the PUC?
A I believe it was more of a discussion of whether or not the County could offer an easement in an acceptable form to UEC that would reduce the impact to the Tallmans.
Q And from those discussions, was there a continuation of the negotiations of an easement that would be from Morrow County on the southern side of their property?
A Yes.
Q And is that the easement that we were talking about earlier that was negotiated and not signed?
A I --
MR. EPLEY: Object to form.
A I believe so. I believe Ms. -- Commissioner Lindsay asked if there was an opportunity for the Tallmans and UEC to consider crossing the County and would that be a benefit for the Tallmans and would UEC consider it, and both Mr. Tallman and UEC agreed to continue discussions, provided the County would execute an easement.
Q BY MR. CAHN: And which Mr. Tallman attended that meeting?
A Both Terry Tallman and his grandfather. Jonathan was not present.
Q Okay. So, in that meeting, Terry Tallman said he would consider or that he was in favor of a easement on the southern portion of the Morrow County property?

A I would not characterize it as that, Mr. Cahn. He was simply asked would they consider allowing the -- would he consider a solution that would be acceptable to cross the County while still impacting him that east/west portion, and he indicated he would consider that, as did UEC, and then we retired to a separate room to discuss what that would look like.
Q Okay. And was a written document the result of these conversations?
A I don't believe so.
Q Okay. Was there a written Morrow County easement that was presented to Morrow County to sign?
A I do believe Morrow County was presented an easement to cross their southern property and, as a result, you know, of these discussions.
MR. CAHN: Okay. I'm going to make a note for the record and for Mr. Epley that we will want a copy of the written easement that was presented to Morrow County and should have been provided to us in discovery.
Q BY MR. CAHN: Moving forward. And any modification of the route could have been presented through an amendment process with the PUC; is that correct?
MR. EPLEY: Objection. Calls for a legal conclusion.
Q BY MR. CAHN: Well, in your experience working with the PUC, the PUC will accept modifications to certificates after the fact; correct?
A I don't know.
Q Have you ever sought a modification of an existing PUC certificate?
A I have not.
Q Okay. Are you aware of the process for amending a PUC certificate?
A I am not.
Q Have you talked with -- actually, I can ask this. Have you talked with counsel about the potential for a modification of a PUC certificate or an amendment to process?
MR. EPLEY: Object. That calls for a privileged communication --
MR. CAHN: No, it doesn't. I can ask about the topics. I don't ask -- I cannot ask about the content. I am allowed, under Oregon law, to ask if he had a conversation with counsel about a process for amending a PUC certificate.
MR. EPLEY: You can ask that question.
But, Mr. Echenrode, I would advise you not to give anything in your answer that reveals legal advice provided by counsel.
Q BY MR. CAHN: And I do not want legal advice, I just want to know if you had the conversation.
A I don't recall having the conversation to modify the PUC certificate.
Q Okay. So as you sit here today as the general manager and CEO of Umatilla Electric Co-op, you do not know if there's a process available to amend PUC certificates after they've been issued?
A I do not.
Q Okay. And you didn't study what it would take to submit a modification request to go to change the route to avoid the stair step and to go around the Morrow County -- southern side of Morrow County property; correct?
A Did not --
MR. EPLEY: Object to form.
A I did not.
Q BY MR. CAHN: Okay. And did you follow up with Ms. Lindsay or anyone else at Morrow County about the easement that was submitted to them and where it was in the approval process?
A As I recall, that -- those discussions were handed off to, I believe, the district attorney or the county counsel, and I had one or more conversations with -- I believe it was Justin Nelson, but I could be wrong on the name.
Q Okay. And what were your conversations with

Mr. Nelson, or whomever it was who was the Morrow County counsel, concerning the easement?
A We were trying to discuss the business terms and the -- of the easement so that it did not impact the County's use of the property.
Q Do you know what the County's use of the property is?
A I know they share and they intend to use it for, like, a -- a yard, I guess, storing vehicles and such. I believe they wished to -- and this was at the time -- store gravel and other roadwork-type materials.
Q So, all things that could be done under the existing power lines if the easement went on the southern side of the property; correct?
MR. EPLEY: Object to form. Speculation.
A I don't know. There was discussions that they wanted to be able to use the property to its fullest intended purposes.
Q BY MR. CAHN: Right, for parking vehicles, for gravel storage as a yard; correct?
A Yes.
Q Okay. And they didn't share with you that they had any plans to develop improvements, structures on this property; correct?
A There were, as I recall, limitations to the lie, and I know UEC attempted to alleviate those concerns that he had. I believe it centered around stockpiling of graveling and road materials along the southern end of the property -- southern edge or whatever of their property.
Q Right. Stockpiling road materials and gravel; not building a structure that was prohibited within the easement area.
A I don't recall anything regarding a structure.
Q Right. And in your once-a-month visits to Boardman and your six or so trips down Laurel Lane, have you ever seen any improvements on the Morrow County property?
A No.
Q No. It's still a vacant lot; right?
A To the best of my knowledge, yes.
Q Right. Okay. And so you had one to two conversations with Mr. Nelson, or somebody who was the county counsel, to discuss these deal points. And then where did it go? What happened?
A It's --
MR. EPLEY: Objection. I think that misstates prior testimony.
A It was not resolved.
Q BY MR. CAHN: Did you follow up with Mr. Nelson or Ms. Lindsay or anyone else with the County?
A My last conversations were with Mr. Nelson, and I don't recall where it went -- I don't believe it ever went to the commissioners to discuss publicly to decide, so I don't know if they didn't or we didn't, but -- I don't -- I can't speak to their processes.
Q Who else at UEC was involved in the conversations with Morrow County about an easement on the southern edge of their property?
A At -- during this time frame?
Q Yes.
A I believe there was just me.
Q Okay. So you didn't follow up and you didn't direct anyone else to follow up with the County to see what was going on with the easement after your last conversation with Mr. Nelson?
MR. EPLEY: Object to form. Misstates testimony.
A I can't say I didn't follow up. The conversation just never went further. The reason, whether you characterize it as a follow-up or not, I can't say, but I did not direct anyone else to have conversations with the County.
Q BY MR. CAHN: Okay. And Mr. Lankford and nobody else at UEC was involved in these meetings or conversations with the County concerning the potential change in the route?
A Across the County's property? No, I don't believe so.
Q Okay. Okay, let's shift gears for a quick -- actually. I'm going to share screen with you. Hold on one second.
So, before the break, we were talking and you had mentioned some conversations or meetings that you had with Terry Tallman, and I asked if he ever expressed to you any complex -- or concerns with the easement, in light of the complexities that it would have with respect to their use of the property.
Do you remember that scope of questioning right before the break?
A You asked if there was any damages, I believe. I don't recall anything about scope of -- whatever you characterized.
Q Well, you mentioned that Mr. Tallman agreed that -- with the property -- with the easement going in the stair-step fashion. Do you remember saying that in your testimony?
A I remember Mr. Tallman sharing with me he would prefer to have it all on him than to impact the county.
Q And you're aware, though, that Mr. Tallman expressed to you concerns with the location of the easement with respect to the complexity that it would have with respect to the Laurel Lane loop road; correct?

MR. EPLEY: I'm going to interject and object to form. Particularly when we're talking about Mr. Tallman and we have Terry Tallman and Jonathan Tallman. I'm unclear on who we're talking about at this point.

MR. CAHN: That's a very fair point. Thank you, Mr. Epley.

Q BY MR. CAHN: Terry Tallman expressed to you concerns with the location coupled with the proposed loop road, did he not?

A I don't believe he expressed any concerns with the loop road. His inquiry to me was could they work together and not impact him with both a transmission easement and a road easement.

Q Right. That the loop road was already planned for the property, and he asked you to work your route so that it would not impact the existing loop road; correct?

MR. EPLEY: Object to form. Assumes facts.

A I don't believe the loop road was planned at this point. They were attempting to survey it, and nobody was -- nobody had put a plan for a loop road, it was a -- it was a concept or an idea for the IAMPs.

And it was UEC's surveying of the route and shared with the parties so that the road could align with the easement, to the best of my knowledge, was my understanding, Mr. Cahn.

Q BY MR. CAHN: Do you understand that the IAMP -- that under the IAMP, an ordinance was passed that set the route in its current location in 2011?

MR. EPLEY: Object to form.

A I'm not aware -- I'm not aware of setting it to a route. My understanding, it was an east and west wing of loop road, but I don't know that any resolution defined the exact location.

Q BY MR. CAHN: Have you had conversations with Morrow County and the City of Boardman with respect to the ordinance that set the loop road in its present location?

A No.

Q Okay. Were you part of the land use process when the IAMP was issued or effective relating to the location of the loop road?

A No.

Q Were you involved in any way with the 2011 ordinance with respect to the existence and location of the loop road?

A I was not employed by Umatilla Electric in 2011.

Q Correct. So --

A No.

Q Other than a conversation or an understanding that you have -- well, let me back up.

Where did you reach the understanding that there is no set location for the loop road?

A That would be my understanding based upon the -- those who were attempting to survey for the road were adjusting it.

This was a conversation, also, with landowners to the east of Morrow Road. It was a general concern that they didn't want to agree to a transmission route until they knew where the road was, and vice versa.

And those were all resolved, I believe, on the east side and, therefore, were respectively resolved by all parties, other than perhaps the Tallmans on the west side. But I can't speak to that. That's my understanding.

Q Okay. And your understanding comes from a conversation you had with some outside person?

A With Josh Lankford.

Q Okay. So Mr. Lankford told you that there's no set location for the loop road?

A I would not characterize it he said there was no set location; is that UEC was working with the -- the City and other agencies working to set the location so as to coordinate the routing of the road and the transmission line.

Q Okay. But you weren't part of any of those conversations, so you don't know if the conversation was as you just described or if the conversation was, "The loop road is here, you have to adjust your easement to go around it"; correct?

A I cannot speak to what was said at a meeting I wasn't -- I didn't attend or a conversation I didn't have.

Q Okay. So your knowledge is just second-, thirdhand.

A At best.

Q At best, okay.

A Regarding -- regarding loop road.

Q Okay. And Mr. Terry Tallman told you early on that these issues needed to be resolved before you locked in your easement; correct?

A I don't recall him saying it had to be resolved. I know it was a concern that was generally proposed, and Terry -- I don't recall a conversation where Terry was very specific about the road and placement, just that everybody work together and coordinate.

Q Okay. And work together and coordinate to make sure that the UEC line and the loop road did not negatively affect his property; correct?

A To minimize the impact --

Q Right.

A -- would be my characterization.

Q Okay. So let me ask you a couple of questions.

Initially, there was an offer for an option on the -- well, let me back up. Strike that.

UEC is placing a transmission line on property owned by the Tallmans; correct? Well, owned by 1st John, which is currently owned by Jonathan Tallman. Correct?

A UEC -- yeah -- could you -- could I ask you to repeat the question?

Q UEC is placing poles and a power line on property owned by 1st John 2:17, LLC, which is currently owned by Jonathan Tallman; correct?

A Yes. There are poles already on the property owned by 1st John.

Q Right. And three of those poles are --

Well, those three poles are affixed to the property; correct? They sit on the property.

A They -- they sit within the easement that we have requested, yes.

Q Well, yes. But on the property that is owned by 1st John.

A Yes.

Q Okay. And the power lines themselves run above the property that is owned by 1st John.

A Yes.

Q And 1st John is restricted in some things that it can do underneath those power lines; correct?

A There are --

MR. EPLEY: Object to form. Calls for speculation.

Q BY MR. CAHN: You're aware of what can and cannot be done underneath power lines of UEC, that you're the general manager and CEO of; correct?

A I'm aware that we would seek to be able to use the easement as requested for the enjoyment of the line.

Q I'm not talking about easements or anything else, I'm talking about the line itself. Underneath your power line, if your power line is 30 feet up, I could not build a building to 29 feet, could I?

A No.

Q Right. So you've got three posts that take up, what, about a hundred square feet? More?

A I don't -- I don't know how much.

Q Okay. But they take up a significant amount of square footage.

MR. EPLEY: Object to form.

A They have a square-footage impact. I don't know to what level or whether it's significant or not.

Q BY MR. CAHN: And between those posts, there are restrictions on what a property owner can do underneath those power lines; correct?

A For safety purposes and access, there are restrictions, yes.

Q Right. And the access is important. So if I did something that was valuable to me underneath those power lines but you needed to have access -- you, UEC, needed to have access in order to maintain or fix the line, it could go onto the easement and break, trample on, or impact what I'm doing underneath the line; right?

MR. EPLEY: Object to form.

Q BY MR. CAHN: You have priority over the uses, so that you can maintain and repair your line; correct?

MR. EPLEY: Again, object to form. Calls for a legal conclusion. Calls for speculation.

Q BY MR. CAHN: You can answer.

A I don't know who "you" are in your reference.

Q UEC.

A U -- an easement that we acquire, we generally outline the rights of clearing vegetation, fire hazards, restricting obstacles that would prevent us access to the line and maintaining the line, as well as ensuring that general safety rules are adhered to.

Q Right. So, underneath the line, if I planted very valuable apple trees and there was a need for UEC to come out and access the line and those apple trees were in the way, UEC could cut those apple trees down so it could access the line and repair it; correct?

MR. EPLEY: Object to form.

A UEC would have the ability, under general terms of our easements, to remove any obstacle that prevented us from accessing the line or maintaining the line. Apple trees may not grow high enough to cause a problem and, therefore, may not be impacted.

The landowner other easement access might offer us an alternative path into the area that we were interested in.

Q BY MR. CAHN: But if they were in the way, you could remove them.

A I believe the easement rights would allow for that, yes.

Q And probably without having to pay damages; correct?

MR. EPLEY: Object to form. Calls for a legal conclusion. Calls for speculation.

Q BY MR. CAHN: Your understanding. You can answer.

A It's my understanding that if the easement was acquired and you planted the trees afterwards, you might not be compensated for that.

Q Right. So, in light of all that, why did UEC not acquire or attempt to acquire the property in fee simple?

A We generally do not acquire the property in fee simple. It is more economical and it affords us the necessary rights and privileges to construct the line and

utilize the line, yet still allow the landowner to utilize their property in the best way they see fit.
Q With the restrictions that you've just identified in terms of use; correct?
A That there would be restrictions as -- as negotiated in the easement, yes.
Q But if it's not negotiated and it's just being taken, it's whatever you put in the easement that you ask the court to assign.
A Yeah, I don't know, if it's taken through condemnation or eminent domain, what the restrictions might be. I think they would be as the court ordered.
Q And so, you choose to take property vis-a-vis an easement for your convenience, not because -- well, you choose to do so for your convenience at UEC; correct? That's a UEC choice.
A UEC acquires rights to construct the facilities necessary to serve our members and our members' loads. What we choose is probably no different or very -- very different than the access that BPA has across the Tallman property or other electrical infrastructure --
Q That's not the question, Mr. Echenrode. The question is --
MR. EPLEY: Mr. Cahn, can you please let Mr. Echenrode finish his answer.

Q BY MR. CAHN: So, as I was saying, Mr. Echenrode, UEC chose to acquire the easement, that's a UEC choice, versus fee simple property ownership for the transmission line route; correct?
A We elected to acquire easement rather than fee simple.
Q Okay. And that includes for the three footings that the property owner has no ability to use, because those poles are sitting on their property and there's nothing they can do with the area that the poles are sitting; correct?
A The easement allows us to set poles and other infrastructure under the terms of a negotiated easement.
Q And this is not a negotiated easement. This is a taken easement. So the taken easement, there's no negotiation and there's no use that can be made by the property owner on the property sitting underneath the poles; correct?
A I believe Umatilla Electric has attempted to negotiate with the landowner to take into consideration his needs and uses and offered fair compensation.
Q But that's -- regardless of whether you've attempted to or not, that's not what we're dealing with today. What we are dealing with today is UEC is filing a lawsuit to acquire an easement, not fee simple ownership, for the property underneath its transmission line, including the property under the three posts that have no utility or usage to the property owner; correct?
MR. EPLEY: Object to form.
A We're offering fair compensation as determined by the courts for those rights.
Q BY MR. CAHN: So, again, that right includes three posts that the property owner has no ability to use that property of whatsoever; correct?
MR. EPLEY: Object to form.
A The poles are impacting the property, Mr. Cahn. I don't -- I don't understand your line of questioning.
Q BY MR. CAHN: I can't grow any crops on the ground underneath the poles, can I?
A Not to my knowledge, no.
Q I can't build a structure or an improvement under the poles, can I?
A I don't believe so.
Q Okay. And, yet, the property owner will pay the taxes on those poles; correct?
A The believe the landowner can file for an exemption because of those restrictions and has -- Mr. Terry Tallman has done so on other easements that have impacted his property.
Q And the property owner still pays taxes on the portion of the line between the poles that are limited by your easement in terms of what uses can be accomplished or conducted under those power lines; correct?
MR. EPLEY: Object to form.
A The landowner has a right to identify to the County and for assessed values, which I believe are lower than the other uses, as Mr. Terry Tallman has done previously.
Q BY MR. CAHN: So, but let me be clear. UEC is not paying taxes -- property taxes for its easements over the Tallman property; correct?
A We are not paying property taxes for the easement across the Tallman property.
Q And UEC would pay property taxes if it acquired property in fee simple; correct?
MR. EPLEY: Object to form.
A I don't know, Mr. Cahn, whether or not UEC can acquire fee simple and provide the necessary land use requirements because of the parcels and such. I have -- I can't recall where I have acquired fee simple property for a transmission line.
Q BY MR. CAHN: You're aware that one of the challenges to the UEC transmission line that was submitted to the Land Use Board of Appeals was that the City of Boardman code required that only a property owner seek a permit for construction of improvements such as the transmission

line; correct?
A I know Mr. Tallman or the Tallmans objected to the UEC filing. I cannot speak to what the City's code does or does not allow.
Q Did you investigate the city code before you made the determination -- or, before you made the election to acquire an easement over the Tallman property, to determine whether the city code would allow UEC to seek a permit for its construction project?
A I did not research the city code, no, I did not.
Q Was that something Mr. Lankford was responsible for?
A I can't speak to that. I don't know.
Q Was there anybody that you tasked within UEC to investigate the city code to see what type of property ownership UEC required as part of its building permit application?
A I would have expected our attorneys would have reviewed the various land use requirements and advised us.
Q But nobody within UEC was the land use specialist who looked into that?
A Not to my knowledge, no.
Q Who else was involved in discussions and negotiations with the Tallmans, Terry Tallman, Jonathan Tallman, and 1st John, other than yourself?
A I don't know. I believe UEC used a consultant, initially. I was not brought into these, really, discussions until later; I think when the last four or five easements were not obtained.

So I don't know the individuals who participated through the chronological time frame of initial discussions and through -- up until I was involved.

Q So the original UEC consultant, who was that?
A I don't know. I know the design engineer was Toth & Associates, but I don't know if they were involved in the land use aspects.
Q What we call right-of-way acquisition. You don't know --

Is it "Toth" or "Toth"?
A It's "Toth." It's pronounced "Toth." It often is mispronounced as "Toth." We all have that challenge from time to time.
Q As you note, I called it "Toth" earlier, so I stand corrected.
A Understood.
Q So you don't recall if Toth was the right-of-way consultant who was tasked with acquiring properties along the line?
A I would assume so, but I can't say that I recall definitively.
Q Okay. But there were right-of-way consultants, either through Toth or somebody else, who was initially involved in land acquisition on behalf of UEC for this project; correct?
A Yes, I believe so.
Q Okay. And they may or may not have had conversations with the Tallmans; you're not sure if they did or who it was who might have had those conversations; correct?
A Correct.
Q Okay. And then you got involved when you were down to the last three or four easements that needed to be acquired?
A Yes, I would characterize it as the handful of easements remaining.
Q And how many were there that you got involved in?
A I believe there were four landowners and several of them owned multiple pieces of property impacted, such as the Tallmans. So I believe there's four landowners and five or six parcels.
Q Okay. And were you able to negotiate resolution of three of those landowners and all of the parcels that they owned?
A UEC was successful in negotiating with all the remaining landowners and across all the parcels, except for those impact -- the Tallmans --
Q Right.
A -- Terry and Cheryl; and ultimately, now, 1st John.
Q Okay. And so you got involved around what time frame with the Tallmans, Cheryl and Terry first?
A Probably in late '19, perhaps. Prior to the PUC filing.
Q Right. So in late 2019, and in fact -- I'm going to share screen for a quick second. Figure out how to do this.

(Deposition Exhibit No. 8 was presented.)

Q BY MR. CAHN: Okay, Mr. Echenrode, I believe, I'm hoping, I'm sharing screen on a document that was marked as Exhibit 8 yesterday in Jonathan Tallman's deposition, or the deposition of the 1st John 2:17 person most knowledgeable deposition yesterday.

And this is a letter from Terry Tallman -- Terry and Cheryl Tallman to you dated December 5, 2019. Do you see that?
A I can't see the exhibit mark or who signed it. I only see the top half of December 5th and --
Q Can you see the bottom?
A So I see Mr. Tallman's signature. I don't see the exhibit mark, if --
Q It isn't there, because Mr. Epley didn't have it marked in advance, we marked them as we went.

A All right. But I do see the document.
Q Yeah. And I'll represent to you that this was marked yesterday as Exhibit 8. And this was dated December 5, 2019, and it appears to have been received --
Is that a "Received" mark for UEC?
A It appears to be, yes.
Q -- on December 9, 2019, and it says "by KW."
Do you know who "KW" is?
A I believe that would be my assistant, Katrina Ward.
Q Does that look like Ms. Ward's initials?
A I think so.
Q Okay. And in this letter, Mr. Terry Tallman thanks you for a letter that you sent to him, and he notes that he appreciates your time in asking and answering questions; that they worked with several Toth Associates over the last ten months.
And then he goes on to say that "every time we met with the different Toth negotiators in the meetings things sort of" -- he expresses that he had to meet with different people at different times and it didn't go very far.
So is this around the time frame that you got involved in your discussions with the Tallmans, December time frame, 2019?
A It seems to be. It could have been 30 days earlier or more. I don't recall, Mr. Cahn.
Q There was a conversation, at one point, about acquiring the Tallman property by UEC; is that correct?
A Yes.
Q Was that a conversation that you were involved with?
A No.
Q Who was involved in that conversation?
A I learned of the Tallmans' offer to sell us the property from Josh Lankford. I don't know if he had a direct conversation.
Q Do you know who drafted a form of purchase and sale agreement to acquire the Tallman property --
A I --
Q -- by the UEC?
A I assume UEC legal counsel, but I do not know.
Q So UEC's legal counsel prepared a -- you believe prepared a purchase and sale agreement to acquire the Tallman property for a million-2-6-5?
A I --
MR. EPLEY: Objection. Object to form.
A I don't believe I ever saw the document. I just know it was being -- an offer was proposed by the Tallmans, and it probably took me some time to get comfortable with it, and then I said let's put it together and see if they would accept it.
Q BY MR. CAHN: Okay. And so that was something that you did approve of and allowed to be submitted to the Tallmans for their consideration, the proposed purchase and sale agreement.
A I supported drafting a purchase and sale agreement based upon the terms that were discussed. I was not party to that. I really wasn't involved at that particular time, Mr. Cahn. And so I knew that it was being discussed, and I believe it was offered.
Q And you mentioned that Mr. Lankford may have been involved. Was that a conversation that he was having with the Tallmans, that you --
A That -- I -- that, I do not know. I don't know if he had that delegated or not.
Q Okay. And do you know if he delegated within UEC any conversations with the Tallmans or negotiations with the Tallmans?
A I don't know.
Q Okay. After you became involved in November/December 2019, did you delegate responsibility for negotiations or discussions with the Tallmans to anybody else at UEC?
A I don't believe so.
Q Okay. So the only person who was having conversations with the Tallmans, up until the filing of the lawsuit, was yourself?
MR. EPLEY: Object to form.
A Yeah, I don't believe that's an accurate state -- there could have been others who had conversations, I'm -- I just did not delegate.
Q BY MR. CAHN: Okay. Who do you think might have had a conversation with the Tallmans, other than yourself, during the 2019 to 2021 time frame, between when you got involved in these conversations and UEC filed its lawsuit?
A I have no idea who they would be. I could speculate that Mr. Lankford, just out of, you know, courtesy, responded to the Tallmans, but, you know, we could have had a service man talking to the Tallmans regarding service quality or outages or anything like that. That part, I just can't answer, Mr. Cahn.
Q Okay. I want to be very clear that I'm only asking about discussions regarding the land acquisition of some form of property interest in the Tallman property for the transmission line project.
So, to limit your world, I don't want to talk about service technicians to assist with power outages, I'm only focused on UEC representatives who spoke with the Tallmans concerning the acquisition of property interests for the transmission line project, okay?
A Thank you, sir. I don't believe anyone was speaking on behalf of Umatilla Electric, from this time frame on,

with the Tallmans, either Jonathan or Terry Tallman.
Q Okay. And --
A And, if I may. I believe there may have been a group meeting with others present, okay. But as far as speaking on behalf of Umatilla Electric, I don't believe there was anyone else.
Q Other than yourself, who would have been at meeting --
Who can you recall being at meetings with the Tallmans on behalf of Umatilla Electric?
A I recall a meeting, probably in 2020, simply because of the pandemic. And the Tallmans, both Terry and his father, requested to meet with Umatilla Electric. And I know Josh Lankford was present in the one meeting I recall.
Q Okay. So, so far, I've got a universe of yourself and Mr. Lankford talking with the Tallmans about land acquisition. Anyone else?
A Not that I'm aware of -- I don't believe anyone else -- well, I don't believe anyone else sat in any of those meetings that I recall.
Q Okay. Or phone conversations or...
A That I was a party to, I have no knowledge of.
Q Okay. Now, you mentioned that you looked at and approved the acquisition concept of the property from the Tallmans in fee simple; correct?
A I did not look at. I supported the general terms as they were discussed with me to be tendered to -- to the Tallmans.
Q And those general terms included purchasing the property for $1,265,000?
A I --
MR. EPLEY: Object to form.
A Purchasing the property that was described. I don't recall the dollar amount.
MR. CAHN: Kamille, do we have the --
MS. SIMONS: 205.
MR. CAHN: 205. Thank you. Pull it up, please.
(Deposition Exhibit No. 205 was presented.)
Q BY MR. CAHN: So this is Exhibit 205.
MR. CAHN: If you can make that a little bigger, please.
(Complied.)
Q BY MR. CAHN: Do you recognize this document, Mr. Echenrode?
A Only as one of the exhibits. I was not party to it.
Q Okay. But do you recall seeing it sometime in November 2019?
A I don't believe --
Q Or --
A I don't believe I ever saw it. I don't -- I never executed it. But I know it was being discussed and tendered.
Q Okay. But you didn't review a document to purchase property on behalf of UEC before it was sent out?
A I did not. Not this particular document.
Q Okay. And do you see under Section 2, the purchase price, $1,264,950? Do you see that?
A Yes.
Q Okay. Does that refresh your recollection of what UEC was willing to pay in connection with this potential proposed transaction?
A My understanding was there was a dollar per acre depending on how many acres -- or dollar per square foot, I'm sorry. And so I never did the math. So this...
Q Now, if you look at the Recital A, it's 10 acres plus 6.23 acres plus 11.88 acres; correct?
A That's what I see, yes.
Q So that's about 28 acres. Do you see that?
A I see the three numbers. I believe your math.
Q Okay. Do you have -- and I invite you, it's -- I compute 28 acres, 28.11 acres, using a calculator.
A Plus 6.23.
Q Correct.
A So 21, 27, so close -- something above 28 acres.
Q Yeah. 28.11 is what I came up with.
A I'm not very good at blackboard math, Mr. Cahn.
Q Okay. Fair enough.
A All right?
Q And, but if I divide that -- if I divided 1,264,950 by 28.11 acres, I get $45,000 an acre. Do you have any reason to dispute that?
MR. EPLEY: Object to form.
A Yeah, I understood it to be a dollar a square foot, and I couldn't tell you what it was per acre, but...
Q BY MR. CAHN: So you were willing to pay a dollar a square foot for the property?
MR. EPLEY: Object to form.
Q BY MR. CAHN: You, UEC. You as the general manager and CEO of UEC was willing to purchase the Tallman property for a dollar a square foot; correct?
A We tendered the offer. Almost all the agreements would have been subject to board approval. And, of course, there -- I'm sure there's contingencies involved.
Q But it would have been your position, as the general manager and CEO, to purchase the property for a dollar a square foot?
A I would have recommended to the board to proceed with the purchase if the other contingencies were met, yes.

Q Right. So the dollar a square foot was something you felt was within at least a -- a reasonable value for the property?

MR. EPLEY: Object to form.

A As I understood it, Mr. Tallman wanted a dollar a square foot based upon another purchase we made and, therefore, I was willing to move forward with a purchase and sale agreement for his consideration.

Q BY MR. CAHN: At a dollar a square foot.

A At a dollar a square foot.

Q Okay. Thank you.

MR. EPLEY: Bruce, it's been about an hour since our last break. Is this a good stopping point?

MR. CAHN: Yeah. Let's take a break and we'll pause here.

(A recess was taken.)

Q BY MR. CAHN: Okay. So, Mr. Echenrode, you mentioned that you and possibly Mr. Lankford had conversations with Terry Tallman prior to the property being sold to 1st John; is that correct?

A Yes.

Q And did anyone other --

Well, first off, did you have any understanding or concern that Mr. Terry Tallman may not have had all of his capacity, in his conversations with you?

A I had no knowledge or awareness of that.

Q Did anyone tell you, prior to the sale of the property to 1st John, that Mr. Tallman was suffering from dementia?

A I don't recall anyone telling me that he was suffering from dementia.

Q Okay. And you had mentioned that Mr. Jonathan Tallman was not involved in any conversations with you until around the time that 1st John acquired the property; is that correct?

A There was an occasion that Mr. -- Jonathan Tallman was involved in a meeting with the family at The Farmer's Cup, the business, that included Terry Tallman, Cheryl Tallman, Jon Tallman, and the father of Terry Tallman. But he was generally not involved in the discussions of the property until he took ownership of the property.

Q Okay. But Derrin Tallman was in conversation with you prior to 1st John taking over possession of property; correct?

A I believe I had a phone call or two and, I think, two emails from Derrin. I don't recall whether it was before or after the property was transferred.

Q Okay. And in those conversations with Mr. Derrin Tallman, did he express any concerns to you concerning his father, Terry's capacity?

A I don't recall, no.

Q Have you dealt with anyone who has dementia or diminished capacity, in your experience?

A I can't say that I have, no.

Q No, okay. So if there were signs, you wouldn't have been trained or have experience to recognize them; correct?

A No, I wouldn't.

Q Okay. Let's take a quick look at Exhibit 206.

MR. CAHN: Kamille, thank you.

(Deposition Exhibit No. 206 was presented.)

MR. CAHN: And if you can make that a little bit bigger, please.

(Complied.)

Q BY MR. CAHN: So this appears to be a letter from you to Terry and Cheryl Tallman dated November 27, 2019. Do you see that?

A Yes.

Q And do you recognize this letter as something that you prepared or signed and wrote to the Tallmans?

A If I can see my signature at the bottom, but it would seem reasonable.

(Complied.)

A Yes. That's my signature.

Q Okay. Is this a letter that you personally wrote or had someone write for you?

A I believe that I wrote it, with input of the chain of events or the chronological order of events.

Q Got it. So who else had input on this letter?

A I believe Josh would have had -- Josh Lankford would have had feedback for me as to the proper order of -- the chronological order.

Q Okay. And we looked earlier at -- I think it was Exhibit 208 that said -- or, no, it wasn't 208. We looked earlier at a December letter from Mr. Tallman to you saying "thank you for your letter."

Do you believe that Mr. Tallman was referencing this Exhibit 206 as the letter that he received from you in his correspondence?

MR. EPLEY: Object to form. Lacks foundation.

Q BY MR. CAHN: To the degree that you -- was there any other letter that you wrote to Mr. Tallman, prior to his sending you a response letter on December 9 -- well, dated December 5th, 2019?

A Not that I recall.

Q Okay. And if you go up a little bit on, it says "Final Offer for Easement Acquisition." Do you see that?

A M-hm.

Q I'm sorry? Yes? Is that a "yes"?
A Yes. I'm sorry. Yes.
Q Not a worry. Just making sure that we get this correct for the court reporter.
And it says -- looking for it -- it says that there is an offer attached. It says, "Attached to this letter you will find our final offer for the easement terms."
This is a document we received from UEC; as you can see, at the bottom, it has a Bates Number UEC 278. But it is unclear to us what the offer was that was connected to this letter in the documents that were produced by UEC, so I was wondering if you could share with us what the offer was.
Back in November 2019, what was the final offer for the easement terms?
A The easement document would have had an offer amount which indicated compensation. I don't recall the dollar amount.
Q Do you know if the dollar amount was based upon an appraisal by Mr. Balfour?
A I don't believe so.
Q Okay. And let's take a quick look at Exhibit 207.
(Deposition Exhibit No. 207 was presented.)
Q BY MR. CAHN: Do you recognize Exhibit 207, "Memorandum of Easement Option Agreement"?
A That looks like a, you know, document we would have shared with various landowners; in this case, the Tallmans -- Terry and Cheryl Tallman.
Q Okay. And is there an amount of compensation that was included within the option?
A If an offer was made, it would have included it. I don't know if this was just the form of the document tendered to them for review and comment.
Q Okay. But you're not aware of what the compensation was that you were offering in November of 2019 to the Tallmans in their final -- in UEC's final offer?
A No, I'm sorry, I -- I don't recall.
Q Okay. Take a look at Exhibit 11. 211, sorry.
(Deposition Exhibit No. 211 was presented.)
Q BY MR. CAHN: Do you recognize Exhibit 211, Mr. Echenrode?
A Yes. That would have been an offer letter --
Q And it's dated -- it's dated July 14, 2022 -- I'm sorry, 2020; is that correct?
A That's when it's dated, yes.
Q Okay. And this is a utility line option and easement agreement. Do you see that?
A Yes.
Q And there's an option payment of $5,000 and easement payment of $45,000, other consideration of $60,000, and a thousand dollars a year extension payment. Do you see that?
A I do. Yes.
Q So the total is about $110,000, plus --
A Ah --
Q Is that right?
A I don't recall whether or not the option payment is deducted from the easement payment later on, but it's approximately -- adding those three numbers up, appears to be $110,000.
Q So a minimum of 105, maximum of 110,000.
A That seems reasonable.
Q And then with a -- and this was for an option that might be exercised at some point in time; and, if it needed to be extended, that it was a thousand dollars a year to extend the option; correct?
A That's what -- yes. I believe that's correct.
Q And what was the option that you were -- what was the option for?
A It was to acquire an easement for a -- for a transmission line across the property listed here.
Q Okay. And this was something that UEC was willing to pay to the Tallmans for the line; correct?
A This was an offer, yes.
Q Okay. Let's take a quick look at Exhibit 215. And we're going to compare it with 216. But let's start with 215.
(Deposition Exhibit No. 215 was presented.)
Q BY MR. CAHN: This is a letter from you dated June 1, 2021, to the Tallmans; correct? And you can go to the bottom to see your signature.
A Yes.
Q And in it, you say you've determined that it's necessary to obtain the easement and that, in accordance with ORS 35.346, "UEC offers to pay you $14,600 as just compensation and compensable damages for the enclosed 'Electric Utility Easement', which is supported by the enclosed appraisal."
Do you see that?
A I do.
Q Okay. This letter is dated June 1, 2021, and has your signature but has no enclosures. But if you look at Exhibit 216.
MR. CAHN: 216. 1-6.
(Document was presented.)
MR. CAHN: So, Kamille, while you're at it, we're going to go 216, 217, 218, and 222.
MS. SIMONS: Okay. I didn't realize I was muted.

This is 216.
MR. CAHN: No, it's not. That's 233.
MS. SIMONS: My screen stopped sharing. That's why.
MR. CAHN: Okay. So if you pull up 216, 217, 218, and 222, we'll go in that order.
MS. SIMONS: Okay. Sorry. My screen stopped sharing.
MR. CAHN: Oh, that's all right. No worries.
MS. SIMONS: Okay. So here's 216.
(Deposition Exhibit No. 216 was presented.)
MR. CAHN: Go up to the date, please.
(Complied.)
Q BY MR. CAHN: 216 is a day later than 215; it's dated June 2nd, 2021, instead of June 1st, 2021. And, otherwise, it looks to me to be the same letter, with the same language about ORS 35.346, the offer to pay of 14,600, et cetera.
Can you explain the difference between the two letters in terms of the dates and why the final letter went out on June 2nd rather than June 1st?
A No, other than June 1st may have been a draft and -- I don't -- I don't know that anything has changed in there. The generality of the offer based upon the appraisal was, I think, the purpose of the letter.
So I don't know if we didn't make it -- the mail on time, since it says "Certified." I don't know.
Q Okay. And so this one -- this letter, 216, includes a form of easement that you wished for the Tallmans to agree to and an appraisal from Mr. Balfour that said that, despite everything else that you've talked about, the value of the property is only 14,600 and that's what UEC is willing to pay; correct?
MR. EPLEY: Object to form.
A The appraisal was for $14,600 as -- as determined as just compensation for this -- this process.
Q BY MR. CAHN: And in it, Mr. Balfour concluded that the value of the property was 65 cents a square foot, rather than the dollar a square foot that you were willing to pay earlier; correct?
MR. EPLEY: Object to form.
A I don't recall Mr. Balfour's valuation details.
Q BY MR. CAHN: Are you aware that Mr. Balfour valued the property at less than a dollar a square foot?
A I don't recall. I know he valued the property before the taking and after the taking.
Q Are you aware that Mr. Balfour, even though you agreed with me earlier that there was no usage of the property owner for the property under the three posts, only valued the easement impact at 90 percent of ownership rather than 100 percent of ownership? Are you aware of that?
MR. EPLEY: Object to form.
A I don't understand the question.
Q BY MR. CAHN: So, instead of impacting the value of the property for the easement at 100 percent because you're putting three posts on the property and the property owner cannot use the property under the posts, Mr. Balfour did not conclude that it was fully impacted; rather, he concluded that those posts only impacted the property by 90 percent, rather than 100 percent. Were you aware of that?
MR. EPLEY: Object to form. Misstates the appraisal.
A I don't know the determination that Mr. Balfour used to set his value.
Q BY MR. CAHN: Would you agree -- do you agree with Mr. Balfour that those posts only impact the property by 90 percent, rather than 100 percent?
MR. EPLEY: Object to form.
A Again, I -- I don't understand where the 90 percent comes from, Mr. Cahn, nor the 100 percent. 100 percent, I assume you mean fee simple.
Q BY MR. CAHN: No. I mean if the property -- if the property owner cannot use the property in any way, shape, or form, would the property owner have -- would you agree that it's being 100 percent impacted, rather than 90 percent impacted?
MR. EPLEY: Object to form.
A I believe the easement's being negotiated up to this filing. The landowner had rights to use the property. And it was not 100 percent impacted.
Q BY MR. CAHN: So they have rights to use the property underneath the three posts as...?
A I guess he could drill a well. I have no idea about what -- how you're referring to "under the posts." I don't know what you --
Q So --
A -- how you -- the property channels underneath the posts, but I would expect Mr. Balfour to take that into consideration.
Q Would you allow somebody to undermine the posts that are carrying your transmission line by digging underneath them?
A I would not allow anyone to interfere with our enjoyment of the line and its purpose. But whether oil or minerals or water that landowner could utilize under that, I don't think we're -- we encumber that issue. I think you're splitting some hairs here.

MR. CAHN: So, Kamille, can you go in this document. It's Page 65 of Mr. Balfour's appraisal. It's got a UEC number of 78.

(Document was presented.)

MR. CAHN: There you go. Ah, that's 87.

MS. SIMONS: I have a bit of a lag. There we go.

MR. CAHN: Okay. Perfect.

Q BY MR. CAHN: Okay. So this is the summary page of Mr. Balfour's appraisal. And he concludes, if you note under "Fee Value slash SF," that the property is only worth 65 cents a square foot. Do you see that?

A Yes.

Q And -- oh, okay. Well, with respect to the parcels that -- or the easement area underneath the wires, he concludes that the impact of that easement is only 20 percent of the property owner's rights. Do you see that?

MR. EPLEY: Object to form.

A I see "20 percent" under the "Easement Impact."

Q BY MR. CAHN: Right. And that relates to the areas underneath the wires, not underneath the poles.

MR. EPLEY: Again, object to form. If you want to give him an opportunity to review this document and confirm the facts you're representing, that's one thing, but I'm going to object to form.

MR. CAHN: You can object to form.

MR. EPLEY: Summarize --

MR. CAHN: Mr. Epley, you can object to form, that's your right. What you're not allowed to do is give speaking objections or interfere with the deposition.

So, object to form. Thank you. And we can move forward.

Q BY MR. CAHN: So, looking at the paragraph that precedes the numbers, it says, "As...discussed, a 45,493-square-foot (Parcel 1) and a 68,306-square-foot (Parcel 2) perpetual easement and right of way is proposed on the subject. The acquisition area will obtain the subject's surface and aerial rights in the proposed acquisition area."

And then he does say the three poles to be constructed will essentially acquire all the property rights, so he values that at 100. I stand corrected.

But he values the easement impact on everything other than the three poles at 20 percent. Do you see that?

A I see a 20 percent easement impact, yes.

Q Okay. And that's an easement impact, even though, as you described earlier, the property owner can't exclude you from the property; can't do anything on the property that would impact or make it difficult for you to maintain your line; can't put anything under the line that could be a fire hazard; can't build up to -- from the ground up to just under the property line, can't do anything of that nature. Can't fence it out so that nobody can go in there, because that would exclude you from the easement.

All of those things you described earlier, those are restrictions on the easement area; correct?

A No.

MR. EPLEY: Object to form.

Q BY MR. CAHN: That is not --

A Those are not -- that is not correct. The landowner has a right to construct a fence, as long as he doesn't -- he or she doesn't prevent us from access, so it's not uncommon to put a gate in. So all those items that you listed are not entirely correct.

Q Okay. Taking a gate out, we can't put a building underneath the wires; correct?

MR. EPLEY: Object to form.

A I believe there are transmission easements that have structures underneath them that do not encumber the entire width and length of the easement and are not at such height that they pose a safety issue.

Q BY MR. CAHN: So I'm talking specific to this easement to this property. Can the Tallmans build a structure underneath the -- within the easement and underneath the power line that --

MR. EPLEY: Object to form.

Q BY MR. CAHN: -- that goes to the top of the easement -- or goes to the top of the -- just underneath the power line?

A They cannot create a safety hazard by building it as high as you imply.

I don't know Mr. Tallman's or your engineering skills; I would question mine from time to time. So, I'm sorry. It's a very broad question that I cannot answer. If you might propose a building, we would consider it, and give them ideas or suggestions.

Q As long as it doesn't impact your line. And if it does impact your line, you can take it out at no cost; correct?

MR. EPLEY: Object to form.

Q BY MR. CAHN: That was your testimony earlier. Is that correct?

A We will enforce an easement -- easement rights that we have with the landowner that does not allow to us provide service for the intended purpose of the easement.

Q Right. And so that, do you agree with Mr. Balfour that putting these wires over the Tallman property is only a 20 percent impact, versus anything greater?

MR. EPLEY: Object to form.

A I have acknowledged Mr. Balfour's appraisal and have used that in our offering to the Tallmans in this situation. I have no knowledge of whether it's worth 20 percent more or less.

Q BY MR. CAHN: Okay. So you have no knowledge as to whether or not Mr. Balfour's appraisal is correct, you're just utilizing it in the negotiations with the Tallmans.

MR. EPLEY: Objection. Object to form.

A I have engaged a professional who's licensed and skilled in the valuation of property and, much like other professionals in engineering, accounting, and legal professions, I have taken their findings.

Q BY MR. CAHN: But you don't know, based on your knowledge and your experience in land acquisition, if this is an accurate reflection of the impact of the easement on the Tallmans' remaining rights; correct?

MR. EPLEY: Object to form.

A I do not know.

Q BY MR. CAHN: Okay. And you don't know if this is an accurate reflection of the value of the Tallman property; correct?

MR. EPLEY: Object to form.

A I'm not qualified to make that determination.

Q BY MR. CAHN: Okay. Let's take a quick look at Exhibit 217.

(Deposition Exhibit No. 217 was presented.)

Q BY MR. CAHN: So Exhibit 217 is an email from Jonathan Tallman to you, Robert Echenrode, dated July 2nd, 2021. Do you see that?

A I do.

Q And do you recall receiving this email from Mr. Tallman?

A Other than reviewing it here, I don't recall it.

Q Okay. You sent the offer letter that we just looked at, Exhibit 216, to Cheryl and Terry Tallman; correct?

A I did.

Q At some point in time, you became aware that Jonathan Tallman was the actual -- well, that 1st John 2:17, LLC, was the actual owner of the property and not Terry and Cheryl Tallman any longer; correct?

A I -- I did -- I did learn or discover that 1st John 21 became the owner of the property.

Q Okay. Did you make a formal offer under ORS 35.346 to 1st John 2:17, LLC, to acquire the property?

MR. EPLEY: Object to form.

A At the time of the offer on June 2nd, the Tallmans owned the property and that was our -- and my understanding was our obligation to send it to the owner of record at that time.

Subsequently, 1st John became the owner. The exact timing of that, I don't know.

Q BY MR. CAHN: But it was prior to you filing the lawsuit, because you did not sue Cheryl and Terry Tallman; UEC did not sue Cheryl or Terry Tallman, UEC sued 1st John 2:17, LLC; correct?

A I believe the letter was sent as part of the filing to John -- to Terry and Cheryl Tallman. There was a requirement of a number of days that the offer had to be made and, subsequent, we learned -- UEC learned that 1st John owned the property.

And so I don't know the legal aspects of the timing and who was officially sued or not sued. I'd refer to counsel to answer that.

Q Okay. So are you aware of whether or not your lawsuit was filed against Cheryl and Terry Tallman?

A I don't recall the original filing, under whose name it was filed against.

Q Okay. That's fine. But you didn't make a subsequent statutory offer under ORS 35.346 to 1st John 2:17, LLC; is that correct?

MR. EPLEY: Object to form.

A I don't believe so.

Q BY MR. CAHN: I'm sorry. Could you repeat that?

A I don't believe we -- we did -- we made another offer directly to 1st John.

Q Okay. Thank you.

Now, did you continue having conversations with Mr. Tallman, Jonathan Tallman, in an effort to try and resolve this matter?

A There were conversations or emails, not many, where a proposal was made or articulated, and UEC did not move forward with -- with that.

His proposal, as I recall, during this time, was somewhat disjointed and had a number of contingencies that he was not able to resolve. I recall I -- he felt that he could obtain these easements from the County and the landowner to the west, I believe he refers to it here as Stiffler LLC, and it was all dependent on this and that and a number of configurations.

I encouraged him to obtain those easements for those rights that he's alleging or speculated he can accomplish and then we can talk, because, at this point, construction was becoming eminent, materials were being ordered, design was being finalized.

Q Okay. So this July 2nd proposal, as he calls it, "Proposal for Tallman property," was presented to you for your consideration; correct?

A Yes.

Q And then, if we take a look at Exhibit 218.

(Deposition Exhibit No. 218 was presented.)

Q BY MR. CAHN: This is a letter from you six days later; correct?
A And I -- looking at the date, yes, it appears so.
Q Okay. So, instead of encouraging him to go get easements and to work on those proposals, you write, "Accordingly, UEC respectfully rejects the two proposals in your July 2nd, 2021 email"; and then you go on to say, "As a matter of compromise, UEC is willing to pay a total all-inclusive settlement of 75,250," in exchange for execution of the easement, and that that offer will remain open for three days -- for a couple of days, and the letter was sent on July 8th, which was a Thursday, and then you had a intervening weekend of Saturday and Sunday, and so he had until Monday at 5 p.m. to accept or not and the option -- or the offer would be withdrawn -- would disappear. Correct?
MR. EPLEY: Object to form.
Q BY MR. CAHN: -- term you use.
MR. EPLEY: Object to form.
A I think the letter states, you know, UEC's intentions and it's -- it was dated on the 8th and an offer was made that expired at 5 p.m. on the 12th.
Q BY MR. CAHN: And no other offer was made to Mr. Tallman by UEC, that you're aware of, prior to the filing of the lawsuit?
A I don't believe so.
Q And Mr. Tallman has reached out to you on a couple of occasions to discuss trying to resolve this matter, has he not?
A I don't believe he has reached out to discuss this matter after this letter was sent.
Q Well, let's take a look at Exhibit 222.
(Deposition Exhibit No. 222 was presented.)
Q BY MR. CAHN: This is an email from you to Jonathan Tallman dated June 7, 2022. Do you see that?
A I see that.
Q And that was a year after -- about a year, 11 months, after you sent out your letter. And in your email you write, "Katrina shared with me your June 6, 2022 email regarding mediation."
Do you see that?
A I see that.
Q So Mr. Tallman reached out to you to discuss potentially mediating this matter, did he not?
A He reached out to Katrina asking for mediation, or to consider it. And I responded.
Q And you responded that you "wish to reiterate UEC's desire to reach a conclusive settlement on the proceedings between us and our path forward is with this goal in mind. Please have your representatives reach out to the Cable Huston firm."
Do you see that?
A Yes.
Q So you were willing to engage in a mediation, according to your email, in June of 2022?
A I was willing to discuss terms of a mediation and directed him to the Cable Huston law firm.
Q And did UEC enter into a mediation with the Tallmans, after it was requested in June of 2022?
A No, not to my knowledge.
Q Okay. You haven't participated in mediation with the Tallmans; correct?
A I have not.
Q And you have not authorized anybody else at UEC to participate in a mediation with the Tallmans; correct?
A I have not.
Q And you have not had any further conversations with Mr. Tallman in an effort to resolve this matter in any way, shape, or form since June 7, 2022; is that correct?
A Mr. Tallman had requested, subsequent to this date, to speak to the PUC board of directors. That would have been my only other communication. But I don't believe it was regarding this easement for those conversations.
Q Okay. So --
A I have spoken with Mr. Tallman at one or more annual meetings. Again, nothing discussing this resolution -- resolution of the lawsuit or easement.
Q Right. Even though he reached out to you to do so, it hasn't happened; right?
A It has not happened.
Q Okay. And since you became -- you became -- I'm sorry. Go back to my notes.
I'm sorry. You became general manager and CEO of UEC in 2016; is that right?
A Correct.
Q And in 2016, UEC had about $12 million in net operating income; is that about right?
A It could be.
Q We can take a look at Exhibit 226.
(Deposition Exhibit No. 226 was presented.)
Q BY MR. CAHN: Let's pause right there. Do you recognize this cover sheet from the Oregon Public Utility Commission, 2016 Oregon utility statistics?
A I'm aware that UEC collects statistical information, but I can't say I'm familiar with this form.
Q Do you review the PUC's utility statistics every year?
A No.
Q In your position as CEO of one of the Oregon utilities that are regulated by the PUC, you don't review

their annual reports?

MR. EPLEY: Object to form.

A I -- I can't say that I have, particularly 2016.

Q BY MR. CAHN: Do you have any reason to doubt the statistical information that is included within the Oregon Public Utility Commission annual utility statistics reports?

A I don't have any reason to refute what is recorded.

Q And, in fact, the information that's included in this report, we can scan down a little bit, it indicates a number of data relating to Oregon -- sorry, scan up again, please -- electric cooperatives in Oregon, and there's a list of seven, including UEC; correct?

A I see a number of them listed across the top that UEC is included.

Q Right. And these are all regulated entities such as UEC and are obligated to provide accurate data to the PUC that's compiled in these statistical reports; is that correct?

A I don't believe we're regulated by the PUC in this regard. I think the information is offered voluntarily. But I don't exactly know. I know we're not regulated by the PUC like other utilities.

Q Your rates and your line are subject to PUC approval; correct?

A No --

MR. EPLEY: Object to form. Calls for legal conclusion.

Q BY MR. CAHN: So your rates are not subject to PUC approval?

A They are not.

MR. EPLEY: Same objection.

Q BY MR. CAHN: And, okay. But PUC has to approve your utility transmission line projects?

A No.

MR. EPLEY: Objection. Calls for a legal conclusion.

Q BY MR. CAHN: So why did you go and apply for a certificate from the PUC for your utility line project?

A If UEC receives easements from all affected landowners regarding the transmission line, a PUC certificate is not necessary. If it does not receive all necessary easements, then, in order to be in a position for further legal action, a certificate of need is -- must be established.

At the time of filing, we didn't have all the easements acquired, and so, therefore, the petition before the PUC for a certificate of convenience and necessity was filed.

Q And I guess my question is, what property owners required a certificate of necessity from the PUC in order for you to acquire their property, beyond the Tallmans?

MR. EPLEY: Object to form.

A I don't know that any property owners require a certificate. It is -- it is a ruling by the PUC that the project, the electrical infrastructure, was deemed to be necessary to achieve the requirements of PUC -- of UEC based upon serving our members' loads.

Q BY MR. CAHN: Okay. Let me rephrase the question.

Other than the Tallmans, were there any property owners who had not negotiated an easement with UEC that UEC needed a public -- a certificate of public necessity in order to acquire the property through condemnation?

A I don't recall. There were, I believe, four landowners that I was involved in, and I simply don't recall the timing of when those easements were executed and the filing of the PUC was made.

Q Oh, I think I found it. Hold on a second, I may be able to help us, if I can... Yeah, that's it. Okay.

Let's take a quick look at -- let me find the exhibit now, now that I found the document.

MR. CAHN: Kamille, which number is the resolution, the amended resolution?

MS. SIMONS: I'm looking now.

MR. CAHN: Yeah, if you can pull up the amended resolution from November 2019, that would be great.

MS. SIMONS: Oh, yeah. It's Exhibit 212, I believe.

(Deposition Exhibit No. 212 was presented.)

MR. CAHN: Yeah. There you go. Thank you.

Q BY MR. CAHN: Mr. Echenrode, Exhibit 212 is the "Amended Resolution 2019 11 006 Umatilla Electric Cooperative," "Amending resolution declaring public need to acquire easements for transmission and distribution system improvements and authorizing the acquisition of easements."

Do you see that?

A No. I'm trying to --

Q Well, I just read, basically, the bolded title at the top and all of the all-capitalized statement in the first paragraph.

A Okay.

Q Is that what this document is?

A Yes.

Q Are you familiar with this document?

A I'm familiar with it, yes.

Q Is this something that you reviewed prior to submission to the UEC board of directors?

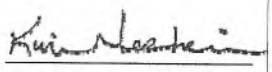
A Yes, I would have reviewed it.
Q Okay. And was this presented at a meeting of the UEC board of directors that you attended?
A I believe so.
Q Okay. And it was approved and adopted, on the second page, by Bryan Wolfe, President of the board of directors. Do you see that?
A Coming up, yes.
Q Bryan Wolfe was the president of the board of directors in April 2021?
A Yes.
Q Is he currently the president of the board of directors?
A Yes.
Q Okay. And if you look on Page 3, there's a table of designated easement properties. Do you see that?
A I do.
Q And there's a list of 14 properties. There's a column that says "Map Taxlot Numbers," and then underneath it are a series of map tax lots; then next to it is "Zoning," next column is "Zoning"; and then the next column is "Easement Status." Do you see that?
A I do.
Q Okay. And under "Easement Status," all of the 14 listed properties says easement status "Acquired" except for one; correct?
A Correct.
Q Okay. Does this refresh your recollection as to whether or not, in November of 2019, there were any easements that needed to be acquired except for the easement identified at Line 10 of Page 3 of Exhibit 212?
MR. EPLEY: Object to the form of the question.
A You're presenting an amended document that was made effective on April 1st of 2021, which I believe is subsequent to the PUC's order, at which time Mr. Tallman's property was not acquired.
I think in the original resolution 2019 would have reflected -- or could have reflected other property owners where easements had not yet been acquired.
Q BY MR. CAHN: So does UEC have a prior resolution that lists the property owners in the same manner as Exhibit 212 with respect to the status of the acquisition?
A I would believe that was included in PUC filings for the application.
Q Okay. And as we sit here today, the only easement that you have not yet acquired for this line is the Tallmans'; correct?
A Correct.
Q And you haven't had any discussion with Mr. Tallman about acquiring it since he reached out to ask for a mediation in 2022 to you; correct?
A I don't recall having a conversation.
Q Subsequent to -- since then, okay. Thank you.
MR. CAHN: It's 12:30. We're going to take a short five-minute break to let me go over a couple of things, and then we can come back and see where we are statuswise.
MR. EPLEY: Okay.
THE WITNESS: Okay.
MR. CAHN: So, five minutes.
(A recess was taken.)
MR. CAHN: Okay. Thank you, Mr. Echenrode. I appreciate your time today. Those are the questions I have for now. And I thank you for your time.
THE WITNESS: Thank you.
MR. CAHN: Kamille, can you identify for the record all the exhibits we used in today's deposition that we're attaching for the deposition transcript?
MS. SIMONS: 202, 232, 205, 206, 207, 211, 215, 216, 217, 218, 222, 212 -- and what was the last -- what was the resolution?
MR. EPLEY: That was 212.
MR. CAHN: That was 212.
MS. SIMONS: Okay. Got it.
MR. CAHN: Great.

(DEPOSITION ADJOURNED AT 12:35 P.M.)
(SIGNATURE RESERVED.)
* * *

CERTIFICATE

I, Kim Nerheim, an Oregon Certified Shorthand Reporter and a Washington Certified Court Reporter, hereby certify that said witness appeared before me by videoconference at the time and place set forth in the caption hereof; that at said time and place I reported in stenotype all testimony adduced and other oral proceedings had in the foregoing matter; that thereafter my notes were transcribed through computer-aided transcription, under my direction; and that the foregoing pages constitute a full, true and accurate record of all such testimony adduced and oral proceedings had, and of the whole thereof.

Witness my hand at Portland, Oregon, this 28th day of February, 2024.



Kim Nerheim
Oregon CSR No. 90-0138
Expires 9/30/2026
Washington CCR No. 0003038
Expires 3/28/2024

City of Boardman
PO Box 229
Boardman, OR, 97818
Phone: (541) 481-9252 Fax: (541) 481-3244

Building PERMIT# B18-040B
JOB LOCATION: 450 Laurel Road Boardman
JOB DESCRIPTION: Level building site pour 6" cement placing tiedowns & connections for septic system. Also meeting windload requirements outlined in plans.

Permit Type	Building	Permit Status	Issued
Work Type	New	Date Issued	05/21/2018
Use Type	Commercial	Date Expiration	11/17/2018
Constr. Area (Sq Ft)	1.0	Total Valuation	$81,251.00

Parcels

Parcel Number	Zone	Subdivision	Lot
4N2510-03207			

Contacts

Type	Full Name	Main Phone	Address
Owner	Terry & Cheryl Tallman	(541) 248-9031	706 Mt Hood Avenue Boardman OR 97818
Contact Person	Cheryl Tallman	(541) 248-9031	706 Mt Hood Avenue Boardman OR 97818

Contractors

Type	Name	Main Phone	License	License Exp
Builder	Robert Gallegos Concrete Const	(541) 567-0314	97877	2020-03-23

Fees

Type	Date Paid	Amount	Outstanding
Permit Fee New Construction	05/21/2018	$492.70	$0.00
State Fee	05/21/2018	$59.12	$0.00
Plan Review Fee	05/21/2018	$320.26	$0.00
		$872.08	$0.00

Work Items

Type	Quantity	Unit	Value per Unit	Total Value
New Construction	1.0	SQ FT	$81,251.00	$81,251.00

Conditions of Issuance

THE OWNERS OF THIS BUILDING AND THE UNDERSIGNED AGREE TO NOTIFY THE BUILDING OFFICIAL OF ANY CHANGES IN PLANS FOR WHICH THIS PERMIT IS REQUESTED.

Owner/Authorized Signature Terry K Tallman	Date 5/21/2018
Print Name TERRY K. TALLMAN	
Issuing initials: MS	Date 05/21/18

City of Boardman
200 City Center Circle
PO Box 229
Boardman OR 97818

(541) 481-9252

Receipt No: 4.000205

May 21, 2018

Terry Tallman

Boardman Jurisdiction - B18-040B	492.70
Boardman Jurisdiction - B18-040B	59.12
Boardman Jurisdiction - B18-040B	320.26
Total:	872.08
Check Check No: 00003	872.08
Total Applied:	872.08
Change Tendered:	.00

Duplicate Copy

05/21/2018 9:46 AM

Building Permit Application

☒ City of Boardman ☐ Morrow County

P.O. Box 229
200 City Center Circle
Boardman, Oregon 97818

Phone: 541.481.9252
Fax: 541.481.3244

PERMIT # B18-040B

ISSUED BY: MS

TYPE OF WORK	
☒ New construction	☐ Demolition
☐ Addition/alteration/replacement	☐ Other:

CATEGORY OF CONSTRUCTION	
☐ 1- and 2-family dwelling	☒ Commercial/industrial
☐ Accessory building	☐ Multi-family
☐ Master builder	☐ Other:

JOB SITE INFORMATION AND LOCATION	
Job site address: 450 LAUREL LANE RD	
City/State/Zip: BOARDMAN OR 97818	
Suite/bldg./apt. no.:	Project name: THE FARMERS CUP
Cross street/directions to job site: SOUTH ON EXIT 165 ON LAUREL LANE RD TURN RIGHT ON @ 1ST DRIVE ACCESS FROM I-84 ACROSS FROM PACIFIC PRIDE GAS	
Subdivision:	Lot no.: 3207
Tax map/parcel no.: 4N 25E 10	

DESCRIPTION OF WORK LEVEL BUILDING SITE. POUR 6" CEMENT PLACING TIEDOWNS & CONNECTIONS FOR SEPTIC SYSTEM ALSO MEETING WINDLOAD REQUIREMENT OUTLINED IN PLANS

PROPERTY OWNER	
Name: TERRY & CHERYL TALLMAN	
Address: 706 MT HOOD AVE SW	
City/State/Zip: BOARDMAN OR 97818	
Phone: (541) 248 9031	Fax: ( )

CONTACT PERSON	
Business name: THE FARMER'S CUP	
Contact name: CHERYL TALLMAN	
Address: 706 MT HOOD AVE SW	SITE: 450 LAUREL LANE RD
City/State/Zip: BOARDMAN, OR 97818	
Phone: (541) 248 9031	Fax: ( )
E-mail: CHERYL@TALLMAN.CX	

CONTRACTOR	
Business name: ROBERT GALLEGOS CONCRETE CONST	
Address: 78845 AGNEW RD	
City/State/Zip: HERMISTON OR 97838	
Phone: (541) 567 0314	Fax: ( )
CCB Lic.: 97877	3/23/20 State Reg #:

Authorized Signature: Terry K Tallman

Print name: TERRY K. TALLMAN Date: 5/3/2018

REQUIRED DATA: 1- AND 2-FAMILY DWELLING	
Permit fees* are based on the value of the work performed. Indicate the value (rounded to the nearest dollar) of all equipment, materials, labor, overhead, and the profit for the work indicated on this application.	
Valuation	
Number. of bedrooms:	
Number of bathrooms:	
Total number of floors:	
New dwelling area:	square feet
Garage/carport area:	square feet
Covered porch area:	square feet
Deck area:	square feet
Other structure area:	square feet

REQUIRED DATA: COMMERCIAL	
Permit fees* are based on the value of the work performed. Indicate the value (rounded to the nearest dollar) of all equipment, materials, labor, overhead, and the profit for the work indicated on this application.	
Valuation	$ 81,251.00
Existing building area: 620	square feet
New building area:	square feet
Number of stories:	
Type of construction: V-B	
Occupancy groups: B	
Existing:	
New:	

NOTICE

All contractors and subcontractors are required to be licensed with the Oregon Construction Contractors Board under ORS 701. If the applicant is exempt from licensing, the following reasons apply:

BUILDING PERMIT FEES*		
Building Permit Fee		
Plan Review Fee	65%	
State Surcharge Fee	12%	
Total		

***Notice:* This permit becomes null and void if the work or construction authorized is not commenced within 180 days, or if construction or work authorized is suspended or abandoned at any time after work is commenced.**

City Boardman

Building Department

INSPECTION REQUEST

Date Requested: 5.22.18 Time: _____ Type Inspection: Footing

Residential: ☐ Structural ☐ Mechanical ☐ Mobile Home Set-up ☐ Electrical ☐ Plumbing

Non- residential: ☒ Structural ☐ Mechanical ☐ Electrical ☐ Plumbing ☐ Other

Permit #: B18-040 Owner: Terry + Cheryl Tallman Address: 450 Laurel Lane

Inspection Scheduled: Date: 5.22.18 ☐ Mon. ☒ Tue. ☐ Wed. ☐ Thur. ☐ Fri. ☐ AM ☐ PM

Contractor: Robert Gallegos Concrete Const Phone #: (541) 567-0314

Comments: The Farmer's Cup

Request Taken By: BC

INSPECTION REPORT

Date Inspected: 5-22-18 Time: _____ Type Inspection: Footing

☒ Approved ☐ Unable to Inspect ☐ Reinspection Required

Comments:

SETBACKS BY OWNER

SLAB FORMED - APPROVED

OK TO POUR

☐ Call for Reinspection of Corrections ☐ Ok to Continue After Corrections Made

Owner / Contractor Signature: _____ Date: _____

Inspected By: Scott COOK Date: 5-22-2018

For Official Use Only

CERTIFICATE OF COMPLIANCE

Occupancy Authorized By: _____ Date: _____

City BOARDMAN

Building Department

INSPECTION REQUEST

Date Requested: 11.8.18 Time: _____ Type Inspection: Insulation

Residential: ☐ Structural ☐ Mechanical ☐ Mobile Home Set-up ☐ Electrical ☐ Plumbing

Non- residential: ☒ Structural ☐ Mechanical ☐ Electrical ☐ Plumbing ☐ Other

Permit #: B18-040 Owner: Terry + Cheryl Tallman Address: 450 Laurel Road

Inspection Scheduled: Date: 11.8.18 ☐ Mon. ☐ Tue. ☐ Wed. ☒ Thur. ☐ Fri. ☐ AM ☐ PM

Contractor: Gallegos Construction Phone #: (541) 567-0314

Comments: _____

Request Taken By: BC

INSPECTION REPORT

Date Inspected: 11-8-2018 Time: _____ Type Inspection: INSULATION

☒ Approved ☐ Unable to Inspect ☐ Reinspection Required

Comments:

INSULATION COMPLETE - APPROVED

OK TO ROCK

☐ Call for Reinspection of Corrections ☐ Ok to Continue After Corrections Made

Owner / Contractor Signature: _____ Date: _____

Inspected By: Brent Cook Date: 11-8-2018

For Official Use Only

CERTIFICATE OF COMPLIANCE

Occupancy Authorized By: _____ Date: _____

©pccbs541.923.3222 COUN1001

City Beardman

Building Department

INSPECTION REQUEST

Date Requested: 2.21.19 Time: _____ Type Inspection: Final

Residential: ☐ Structual ☐ Mechanical ☐ Mobile Home Set-up ☐ Electrical ☐ Plumbing

Non-Residential: ☒ Structual B18-040 ☒ Mechanical B18-068 ☐ Electrical ☒ Plumbing B18-059 ☐ Other

Permit #: B18-040 Owner: Terry + Cheryl Tallman Address: 450 Laurel Road

Inspection Scheduled: Date: 2.21.19 ☐ Mon. ☐ Tue. ☐ Wed ☒ Thur. ☐ Fri. ☐ AM ☐ PM

Contractor: Robert Gallegos Concrete Construction Phone #: (541) 567-0314

Comments: FARMER's Cup

Request Taken By: BC

INSPECTION REPORT

Date Inspected: 2-21-2019 Time: _____ Type Inspection: FINAL

☒ Approved ☐ Unable to Inspect ☐ Reinspection Required

Comments:

BLDG FINAL APPROVED

MECH FINAL APPROVED

PLBG FINAL APPROVED

BUILDING FINAL APPROVED

☐ Call for Reinspection of Corrections ☐ Ok to Continue After Corrections Made

Owner / Contractor Signature: _____ Date: _____

Inspected By: Scott Cook Date: 02-21-2019

For Official Use Only

CERTIFICATE OF COMPLIANCE

Occupancy Authorized By: _____ Date: _____

CERTIFICATE OF OCCUPANCY

This certifies that the building and property at :

Address: **450 Laurel Road**
Use of Building: **Business**

Building Permit No: **B18-040**
Owner: **Terry & Cheryl Tallman**

Has been inspected and was in compliance at the time of certificate issuance with the applicable provisions of the State of Oregon Structural, Mechanical, Plumbing, and Electrical specialty codes, and all City of Boardman ordinances. A change of occupancy group or use requires a renewal of this Certificate.

City of Boardman, Oregon
Code of Classification

Occupancy Group: **B**

Construction Type: **VB**

Brian Cook
Building Official

February 21, 2019
Date

OLD HICKORY SHEDS, LLC

P.O. BOX 331973
MURFREESBORO, TN 37133

GENERAL NOTES:

1. STRUCTURE HAS BEEN DESIGNED IN ACCORDANCE WITH THE 2015 INTERNATIONAL RESIDENTIAL CODE AND THE 2015 INTERNATIONAL BUILDING CODE.
2. ALL MATERIALS AND CONSTRUCTION SHALL BE IN ACCORDANCE WITH THE ABOVE CODES AT THE TIME OF MANUFACTURE.
3. DRAWINGS SHALL NOT BE SCALED FOR DIMENSIONS.
4. STRUCTURES ARE CLASSIFIED AS "MINOR STORAGE FACILITIES" (RISK CATEGORY I) AND SHOULD NOT BE USED FOR HUMAN HABITATION.
5. STRUCTURES ARE DESIGNED FOR LOCATIONS THAT HAVE A 3 SECOND WIND GUST OF 135 MPH.
6. SIDING FASTENERS SHALL NOT BE INSTALLED IN PANEL SIDING GROOVES IN THE FIELD OF THE PANEL OR WHEN THE SIDING GROOVES OCCUR AT CUT EDGES OF THE SIDING PANEL.
7. STRUCTURES ARE DESIGNED FOR LOCATIONS THAT ARE NOT IN FLOOD HAZARD AREAS. STRUCTURES SHOULD NOT BE USED IN OTHER LOCATIONS.
8. STRUCTURES ARE DESIGNED FOR LOCATIONS THAT HAVE A MAXIMUM GROUND SNOW LOAD OF 60 PSF AND A PARTIALLY EXPOSED TERRAIN CATEGORY AND SHOULD NOT BE USED IN OTHER LOCATIONS.
9. STRUCTURES SHOULD HAVE 25 YEAR RATED FIBERGLASS/ ASPHALT SHINGLES OR 29 GA METAL ROOFING OVER WOOD SHEATHING.
10. WOOD FRAMING SHALL COMPLY WITH THE ANSI/AWC "NATIONAL DESIGN SPECIFICATION (NDS) FOR WOOD CONSTRUCTION", 2015.
11. ALL ROOF DECKING IS TO BE 7/16" O.S.B.
12. ALL SIDING IS TO BE 1/2" or 5/8" TREATED T1-11 PLYWOOD.
13. ALL FLOOR JOISTS ARE TO BE PRESSURE TREATED SYP #2, OR BETTER.
14. ALL UN-TREATED WOOD FRAMING IS TO BE TO BE SPF #2 OR BETTER.
15. ALL EXTERIOR NAILS ARE TO BE ZINC COATED.
16. ALL FLOOR DECKING IS TO BE 5/8" OR 3/4" PLYWOOD.
17. ALL SKIDS ARE TO BE 4x6 PRESSURE TREATED, RATED FOR GROUND CONTACT.

ITEMS BY OTHERS:

THE FOLLOWING ITEMS ARE TO BE SUPPLIED AND INSTALLED BY OTHERS. THESE ITEMS MAY BE SUBJECT TO LOCAL JURISDICTION APPROVAL. OLD HICKORY SHEDS IS NOT RESPONSIBLE FOR THESE ITEMS.

1. THE COMPLETE FOUNDATION AND TIE-DOWN SYSTEM
2. RAMPS, STAIRS, AND GENERAL ACCESS
3. ELECTRICAL SERVICE HOOKUP

DESIGN CRITERIA:

1. RISK CATEGORY I
2. FLOOR LIVE LOAD: 40 PSF
   LOFT LIVE LOAD: 5 PSF
3. ROOF SNOW LOADS:
   GROUND SNOW LOAD, Pg = 60 PSF
   FLAT ROOF SNOW LOAD, Pf = 40 PSF
   EXPOSURE FACTOR, Ce = 1.0
   IMPORTANCE FACTOR, I = 0.8
   THERMAL FACTOR, Ct = 1.2
4. WIND LOADS ARE BASED ON THE FOLLOWING:
   DESIGN WIND SPEED: V = 135 MPH
   RISK CATEGORY I
   EXPOSURE CATEGORY C
   INTERNAL PRESSURE COEFFICIENT:
   GCpi = ±0.18
   COMPONENTS & CLADDING:
   ROOF-ZONE 1 = 13.7, -21.8 PSF
   ROOF-ZONE 2 = 13.7, -38.0 PSF
   ROOF-ZONE 3 = 13.7, -56.2 PSF
   WALL-ZONE 4 = 23.8, -25.9 PSF
   WALL-ZONE 5 = 23.8, -31.9 PSF

NOTE: C&C WIND PRESSURES SHOWN ARE FOR A 10 SQUARE FOOT EFFECTIVE AREA (Ae) AND MAY BE REDUCED FOR LARGER AREAS AS ALLOWED BY CODE.

5. SEISMIC LOADS ARE BASED ON THE FOLLOWING:
   RISK CATEGORY I
   SITE CLASS D
   DESIGN CATEGORY D

PIERS (IF REQUIRED):

1. PIERS ARE NOT REQUIRED WHEN THE SKIDS CAN BE SUPPORTED ON FIRM, LEVEL GROUND. PIERS ALONG INTERIOR SKIDS SHALL BE ORIENTED WITH THE LONG SIDE PERPENDICULAR TO THE SKID. PIERS ALONG THE OUTSIDE SKIDS OF BUILDINGS WITH 4 SKIDS ARE PERMITTED TO BE ORIENTED WITH THE LONG SIDE PARALLEL TO THE SKID PROVIDED THAT THE PIERS ALONG THE INTERIOR SKID ARE ORIENTED PERPENDICULAR TO THE SKID.
2. PIERS SHALL TYPICALLY BE 8"x8"x16" OPEN CELL OR SOLID CONCRETE BLOCKS, DRY STACKED TO A MAXIMUM HEIGHT OF 36". THE BLOCK IN CONTACT WITH THE GROUND AT EACH PIER SHALL BE A 4"x8"x16" SOLID BLOCK. OPEN CELL BLOCKS AND 2" THICK SOLID BLOCKS ARE NOT TO BE USED AS THE BASE OF ANY PIERS. OPEN CELL BLOCKS ARE TO BE PLACED ON TOP OF SOLID BLOCKS AS NEEDED WITH THE OPEN CELLS RUNNING VERTICALLY AND MUST NOT BE PLACED ON THEIR SIDE.

   CORNER PIERS OVER 20" TALL SHALL BE DOUBLE STACKED CONCRETE BLOCKS. TIE DOUBLE STACKED BLOCKS BY ALTERNATING THE DIRECTION OF BLOCKS ON EACH ROW.
3. OLD HICKORY SHEDS IS NOT RESPONSIBLE FOR THE PREPARATION OF THE PROPOSED SITE OR DETERMINATION OF THE SITE'S SUITABILITY TO SUPPORT THE PROPOSED STRUCTURE. IT IS THE PROPERTY OWNER'S RESPONSIBILITY TO DETERMINE IF SITE CONDITIONS ARE SUITABLE TO SUPPORT THE STRUCTURE.
4. PIERS SHOWN ON SHEET S-1 ARE CONCEPTUAL AND MAY NOT REFLECT ACTUAL CONDITIONS. THE PIER LAYOUT MAY BE ADJUSTED AS NEEDED BASED ON SITE CONDITIONS, PROVIDED THAT THE MAXIMUM SPACING SHOWN IS NOT EXCEEDED.

REGISTERED PROFESSIONAL ENGINEER
88719PE
OREGON
March 11, 2014
KEVIN L. NOLAN

LOFTED BARN--SNOW=60PSF--WIND=135 MPH--IBC 2015

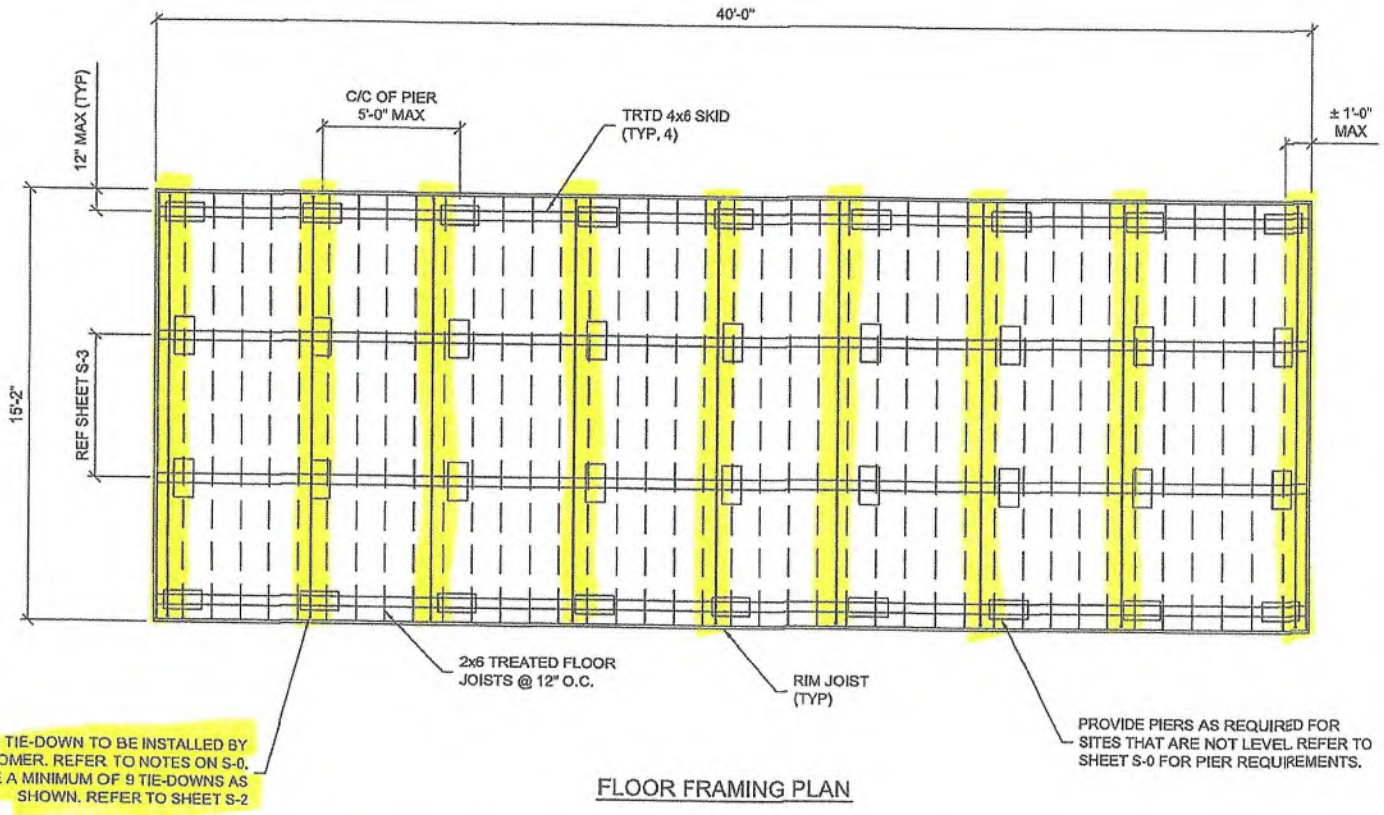
450 LAUERL ROAD
BOARDMAN, OR 97818
MORROW COUNTY

OLD HICKORY SHEDS

PROJECT NO:	TALLMAN
DATE:	05-14-2018
DRAWN BY:	KLN
CHECKED BY:	KLN
REVISION:	

SHEET NUMBER
S-0-LB
SCALE: NONE

APPROVED
Brett Cook
BUILDING OFFICIAL, CITY OF
BOARDMAN, ORE. DATE 5-16-2018



FLOOR FRAMING PLAN

REGISTERED PROFESSIONAL ENGINEER
88719PE
OREGON
March 11, 2014
KEVIN L. NOLAN
Exp: 12/31/18 5-14-18

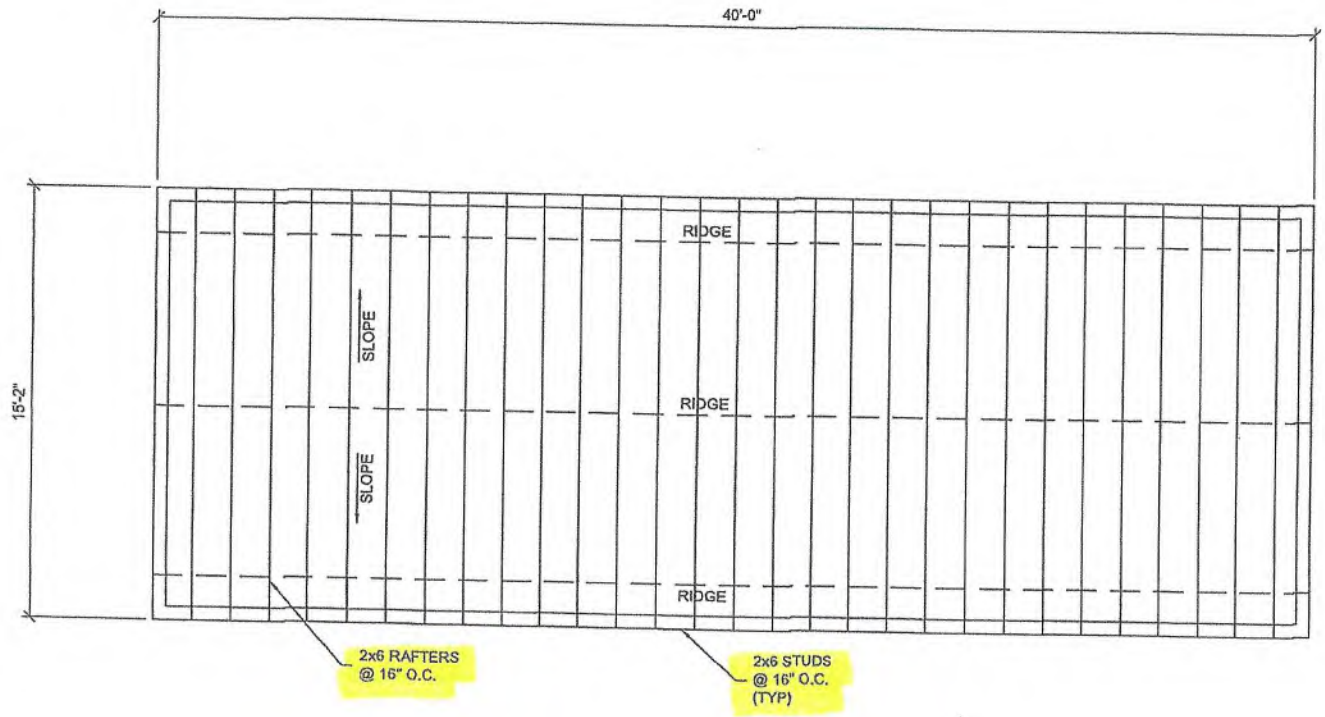
LOFTED BARN--SNOW=60PSF--WIND=135 MPH--IBC 2015

450 LAUERL ROAD
BOARDMAN, OR 97818
MORROW COUNTY

OLD HICKORY SHEDS

PROJECT NO:	TALLMAN
DATE:	05-14-2018
DRAWN BY:	KLN
CHECKED BY:	KLN
REVISION:	

SHEET NUMBER
S-1.0-LB
SCALE: 1/4" = 1'-0"



ROOF FRAMING PLAN

REGISTERED PROFESSIONAL ENGINEER
88719PE
OREGON
March 11, 2014
KEVIN L. NOLAN
Exp: 12/31/18
5-14-18

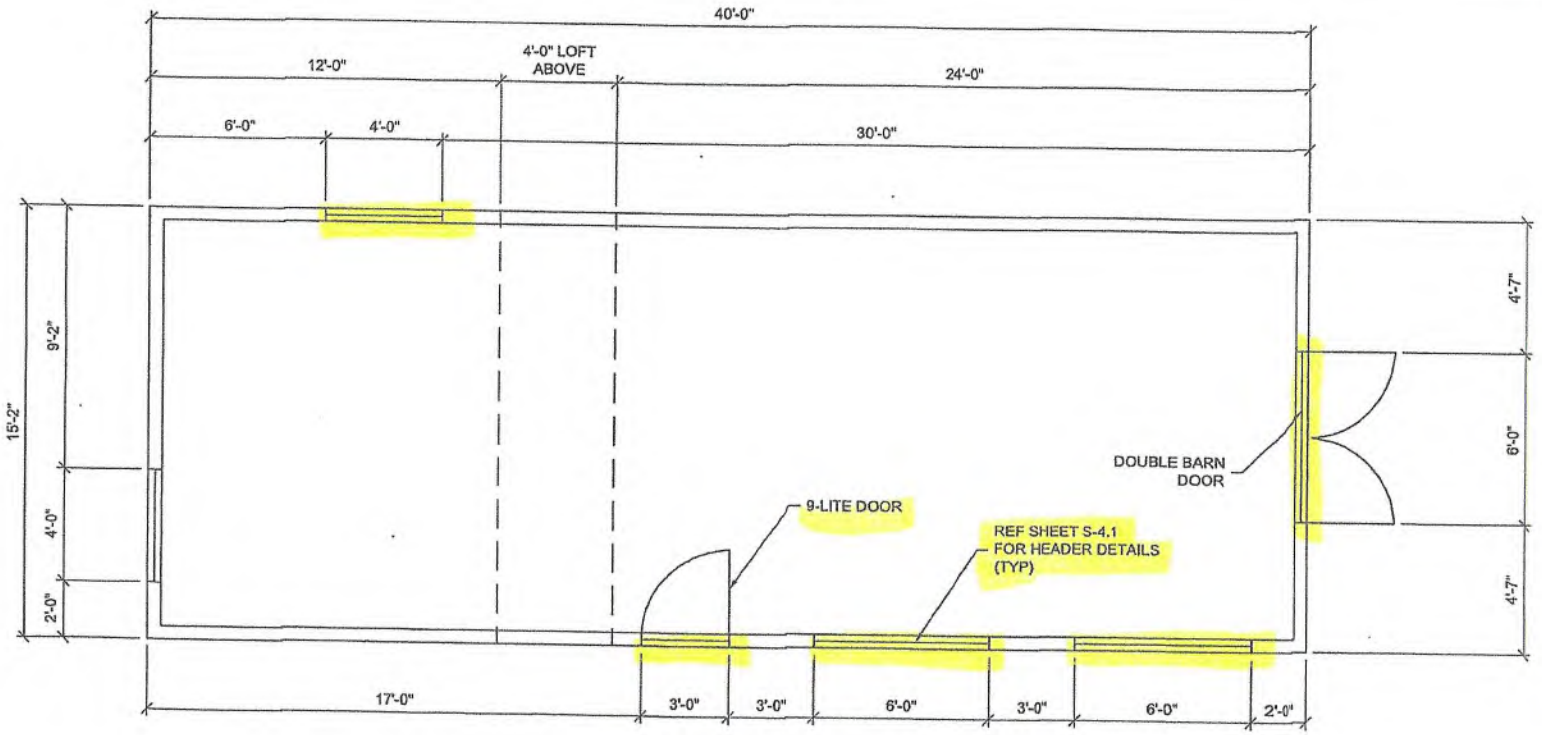
LOFTED BARN--SNOW=60PSF--WIND=135 MPH--IBC 2015

450 LAUERL ROAD
BOARDMAN, OR 97818
MORROW COUNTY

OLD HICKORY SHEDS

PROJECT NO:	TALLMAN
DATE:	05-14-2018
DRAWN BY:	KLN
CHECKED BY:	KLN
REVISION:	

SHEET NUMBER
S-1.1-LB
SCALE: 1/4" = 1'-0"



FLOOR PLAN

REGISTERED PROFESSIONAL ENGINEER
88719PE
OREGON
March 11, 2014
KEVIN L. NOLAN
Exp: 12/31/18
5-14-18

LOFTED BARN--SNOW=60PSF--WIND=135 MPH--IBC 2015

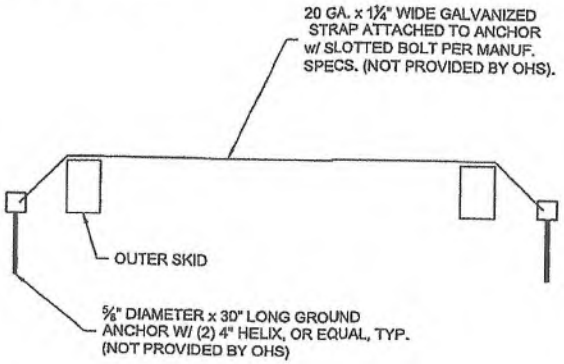
450 LAUERL ROAD
BOARDMAN, OR 97818
MORROW COUNTY

OLD HICKORY SHEDS

PROJECT NO:	TALLMAN
DATE:	05-14-2018
DRAWN BY:	KLN
CHECKED BY:	KLN
REVISION:	

SHEET NUMBER
S-1.2-LB
SCALE: 1/4" = 1'-0"

NOTE: 30" EYE ANCHOR W/ 4" HELIX AND 3/16" - 7x7 GALVANIZED CABLE AND CLAMPS MAY BE USED IN LIEU OF THE TIE DOWN SYSTEM SHOWN.



TIE-DOWN ANCHOR DETAIL
NOT TO SCALE

NOTES:
1) TIE-DOWNS AND EARTH ANCHORS ARE TO BE SUPPLIED AND INSTALLED BY THE CUSTOMER. OLD HICKORY SHEDS IS NOT RESPONSIBLE FOR THE TIE-DOWN SYSTEM. REFER TO NOTE SHEET S-0.

2) EACH TIE-DOWN IS TO HAVE TWO EARTH ANCHORS.

3) NINE TIE-DOWNS ARE RECOMMENDED. PROVIDE A TIE-DOWN NEAR EACH END OF THE BUILDING PLUS ADDITIONAL TIE-DOWNS EVENLY SPACED ALONG THE BUILDING. REFER TO SHEET S-1.0.

REGISTERED PROFESSIONAL ENGINEER
88719PE
OREGON
March 11, 2014
KEVIN L. NOLAN
Exp: 12/31/18 5-14-18

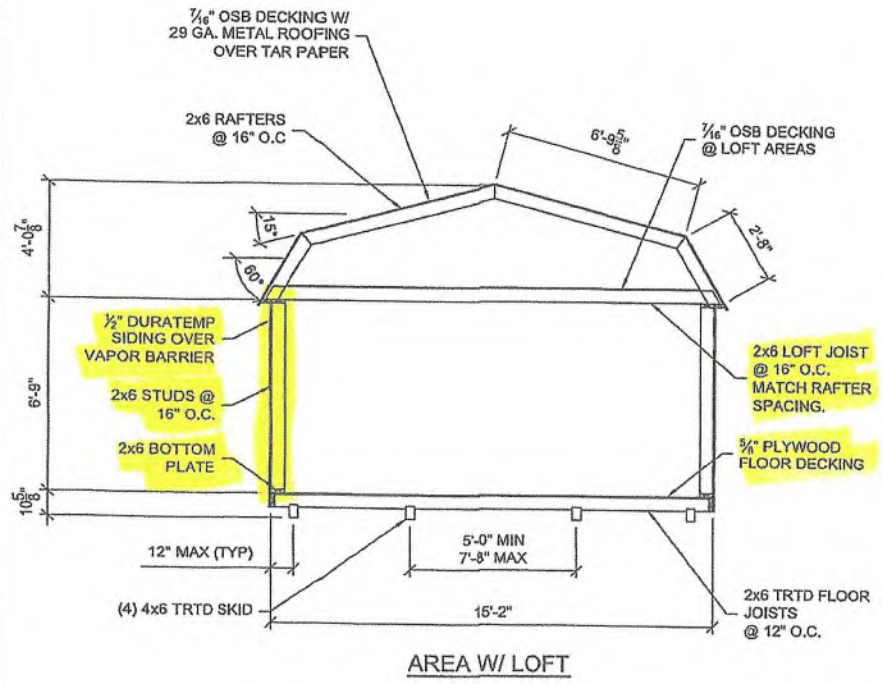
LOFTED BARN--SNOW=60PSF--WIND=135 MPH--IBC 2015

450 LAUERL ROAD
BOARDMAN, OR 97818
MORROW COUNTY

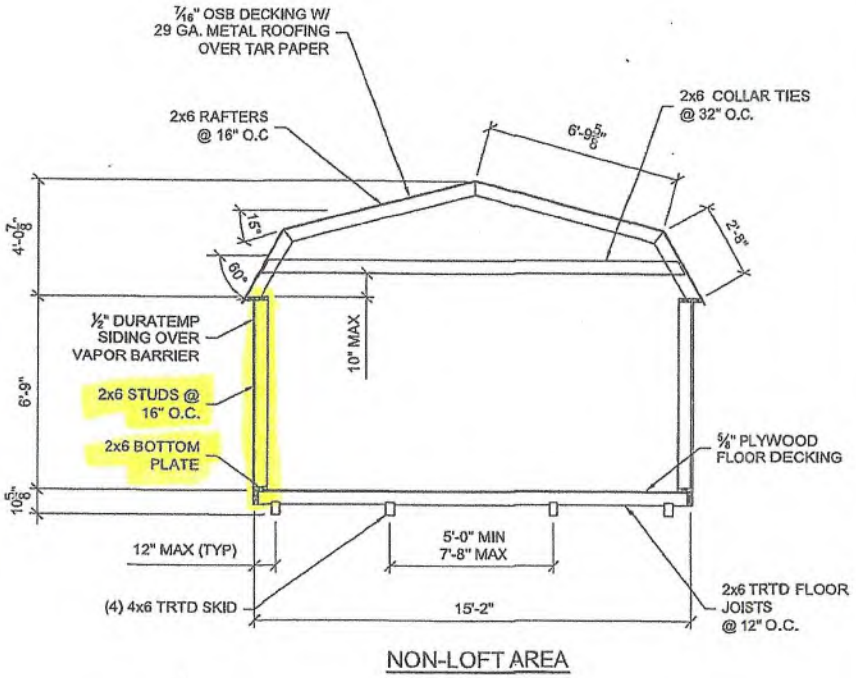
OLD HICKORY SHEDS

PROJECT NO:	TALLMAN
DATE:	05-14-2018
DRAWN BY:	KLN
CHECKED BY:	KLN
REVISION:	

SHEET NUMBER
S-2-LB
SCALE: NONE



AREA W/ LOFT



NON-LOFT AREA

BUILDING SECTIONS

NOTE: ACTUAL SKID SPACING MAY VARY PROVIDED THAT THE CENTER TO CENTER SPACING IS WITHIN THE MAX/MIN SPACING STATED.

REGISTERED PROFESSIONAL ENGINEER
88719PE
OREGON
March 11, 2014
KEVIN L. NOLAN
Exp: 12/31/18
5-14-18

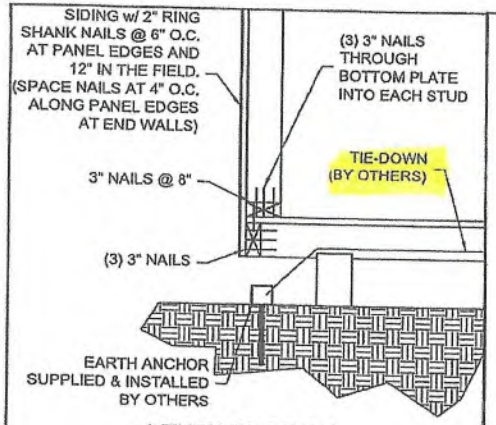
LOFTED BARN--SNOW=60PSF--WIND=135 MPH--IBC 2015

450 LAUERL ROAD
BOARDMAN, OR 97818
MORROW COUNTY

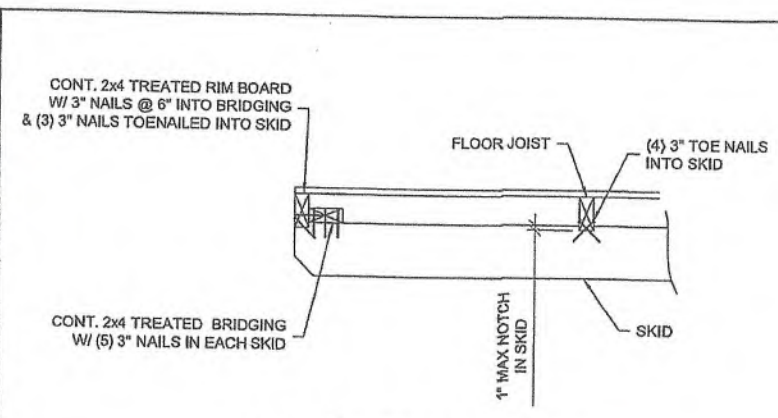
OLD HICKORY SHEDS

PROJECT NO:	TALLMAN
DATE:	05-14-2018
DRAWN BY:	KLN
CHECKED BY:	KLN
REVISION:	

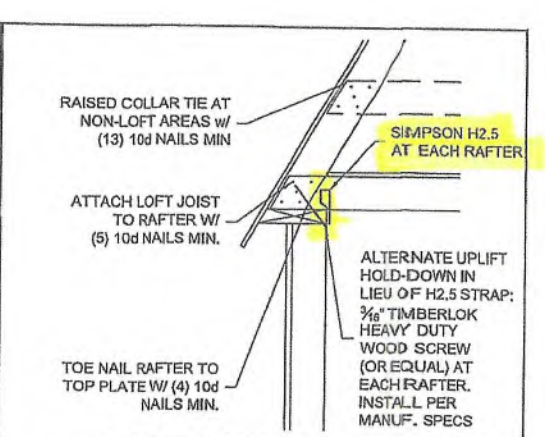
SHEET NUMBER
S-3-LB
SCALE: 1/4" = 1'-0"



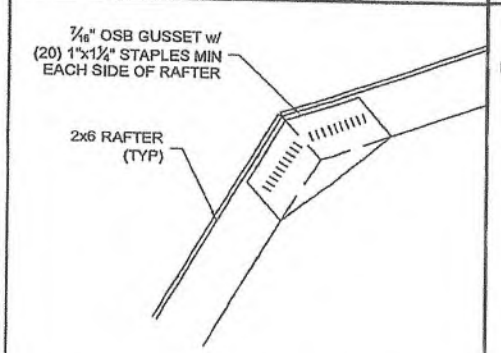
1-TYPICAL DETAIL



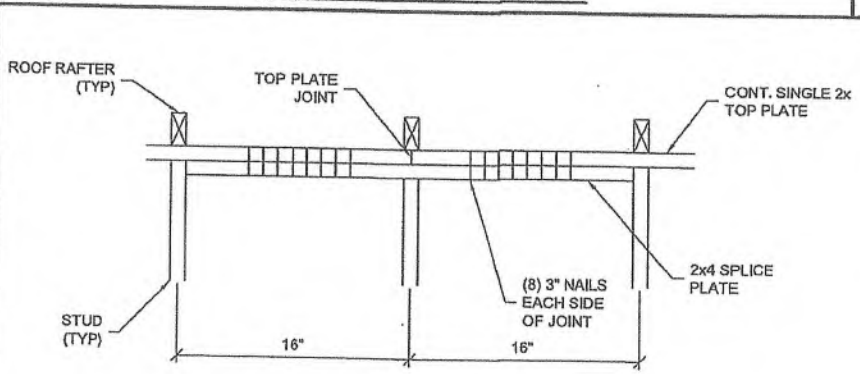
2-FLOOR JST TO SKID DETAIL



3-LOFT EAVE DETAIL



4-RAFTER SPLICE DETAIL



5- WALL TOP PLATE SPLICE DETAIL

REGISTERED PROFESSIONAL ENGINEER
88719PE
OREGON
March 11, 2014
KEVIN L. NOLAN
Exp: 12/31/18
5-14-18

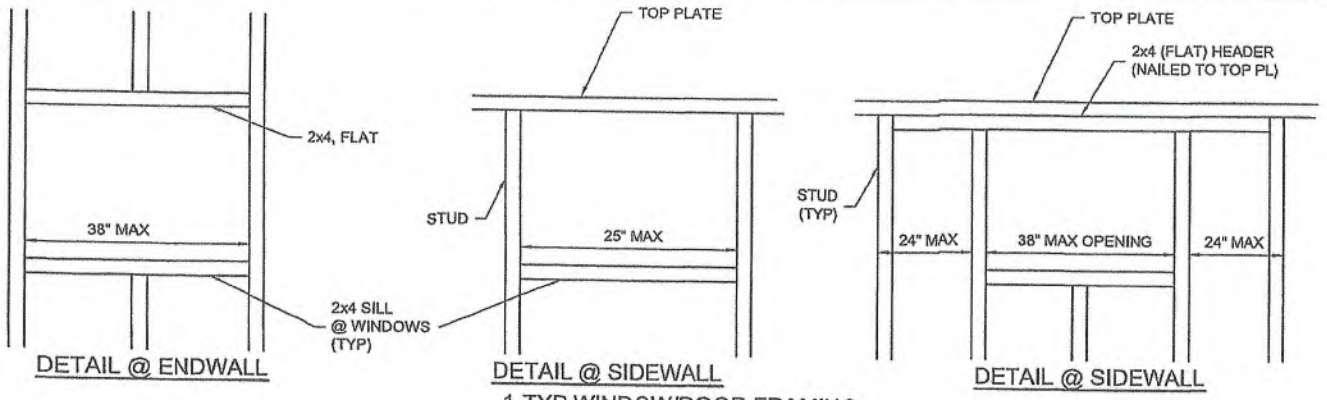
LOFTED BARN--SNOW=60PSF--WIND=135 MPH--IBC 2015

450 LAUERL ROAD
BOARDMAN, OR 97818
MORROW COUNTY

OLD HICKORY SHEDS

PROJECT NO:	TALLMAN
DATE:	05-14-2018
DRAWN BY:	KLN
CHECKED BY:	KLN
REVISION:	

SHEET NUMBER
S-4.0-LB
SCALE: 1"=1'-0

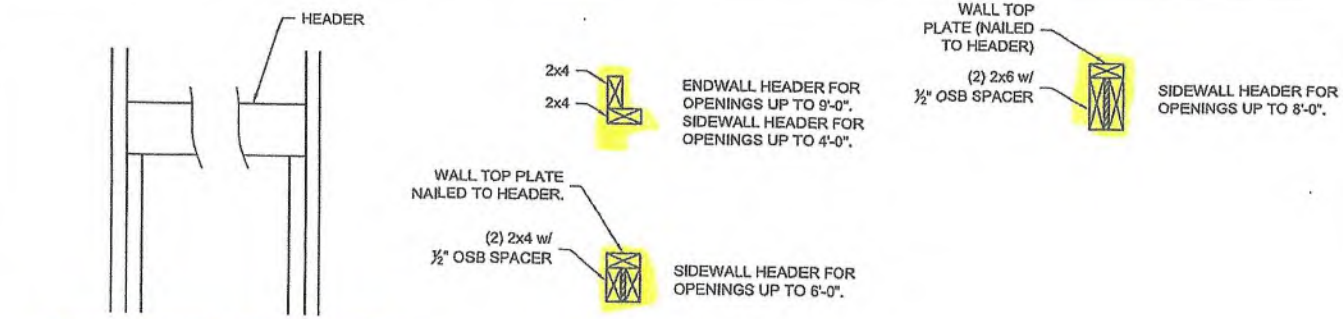


DETAIL @ ENDWALL

DETAIL @ SIDEWALL

DETAIL @ SIDEWALL

1-TYP WINDOW/DOOR FRAMING



NOTE: PROVIDE A JACK STUD UNDER EACH END OF LOAD BEARING HEADERS. NOT REQUIRED AT END WALLS.

2-HEADER SCHEDULE

REGISTERED PROFESSIONAL ENGINEER
88719PE
OREGON
March 11, 2014
KEVIN L. NOLAN
Exp: 12/31/18 5-14-18

LOFTED BARN--SNOW=60PSF--WIND=135 MPH--IBC 2015

450 LAUERL ROAD
BOARDMAN, OR 97818
MORROW COUNTY

OLD HICKORY SHEDS

PROJECT NO:	TALLMAN
DATE:	05-14-2018
DRAWN BY:	KLN
CHECKED BY:	KLN
REVISION:	

SHEET NUMBER
S-4.1-LB
SCALE: 1"=1'-0

ZONING APPROVAL

SA-07-2018

City of Boardman
Community Development Dept.
P.O. Box 229
Boardman Oregon 97818
(541) 481-9252
FAX: (541) 481-3244

File Number 2018-014 Date Received 5-3-18 Date Completed _____ Fee $50.00

Applicant / Contractor: Name(s) TERRY L TALLMAN

Mailing Address 706 MT HOOD AVE SW

Phone 541 248 4033 E-mail address terry@tallman.cx

Legal Owner (if different from applicant):

Name(s) _____

Address _____

Property Description:

Township 4N Range 25 Section 10 Tax Lot 3207

Physical Address 450 Laurel Road

Subdivision/Partition _____ Parcel Zoning _____

Proposed Set Backs: Lot Width _____ ft. Lot Depth _____ ft.

Front _____ ft. Side _____ ft. Side _____ ft. Rear _____ ft.

Proposed Structures: 1. Coffee Shop Sq Ft 640 Baths 1

2. _____ Sq Ft _____ Baths _____

3. _____ Sq Ft _____ Baths _____

Plot Plan: Attach a plot plan showing where on the lot the structures will be located. Identify setbacks, existing structures, location of access, septic system, drain field, and well if applicable. The drawing does not need to be to scale.

Certification: I, the undersigned, acknowledge I agree to the standards and limitations set forth by the Boardman Development Code. I propose to meet all standards set forth by the Boardman Development Code and any applicable State and Federal regulations. I certify that the statements and information provided with this application are true and correct to the best of my knowledge.

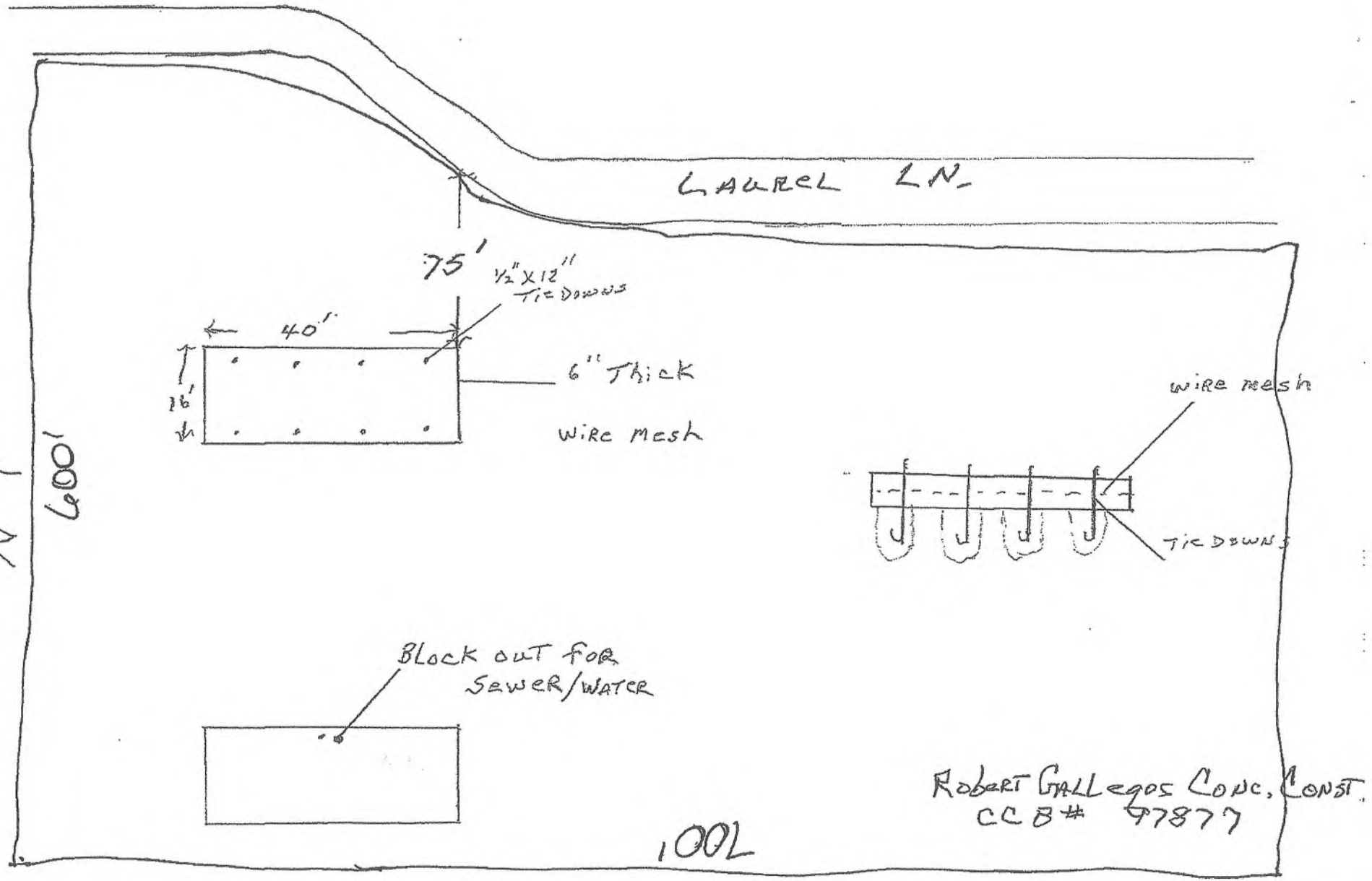
Signed: Terry K Tallman (Applicant / Contractor) SAME (Legal Owner)

Printed: TERRY K. TALLMAN (Applicant / Contractor) _____ (Legal Owner)

If this application is not signed by the property owner, a letter authorizing signature by the applicant must be attached.

Planning Approval Signature _____ Date 5/8/2018

Rev. 5/2014



THE FARMERS CUP

Record 250-18-000085-PRMT:
Onsite Permit
Record Status: Finaled
Expiration Date: 04/19/2019

Record Info/Schedule Inspections Payments

Work Location

460 Laurel LN
Boardman OR 97818

Record Details

Applicant:
706 MT HOOD AVE
BOARDMAN, OR, 97818
Home Phone:5412484033
terry@tallman.cx

Project Description:
Terry Tallman
Tallman -Construction Permit-

Licensed Professional:
Brady Rettkowski
Done-Rite Septic
30178 King Ln
Hermiston, OR, 97838
Home Phone:5415674742
DEQ Installer/Maintenance Provider 167

Owner:
TALLMAN, TERRY K & TALLMAN, CHERYL
706 MT HOOD AVE
BOARDMAN OR 97818

› More Details

Record 250-18-000085-PRMT:
Onsite Permit
Record Status: Finaled
Expiration Date: 04/19/2019

Record Info/Schedule Inspections Payments

Fees

Paid:

Date	Invoice Number	Amount
04/06/2018	6611	$100.00
04/06/2018	6611	$1,038.00

Total paid fees: $1,138.00

From: Jonathan Tallman
Sent: Thursday, March 19, 2026 6:06 PM
To: MCVEIGH-WALKER Chase * ODOE
Cc: Jonathan Tallman
Subject: EFSC comment for WREFIII docket
Attachments: Screenshot 2024-03-16 at 11.04.01 AM.jpeg; IMG_2969.jpeg; Decl. of B. Epley iso UEC Motion for Partial Summary Judgment (1.11.24).pdf; Echenrode KN-021324-RE_condtranscript_N.pdf; Karen PUC authority letter.pdf; Lankford deposition - condensed 306578_KN-021424-JL-FT.pdf

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You don't often get email from 1stjohn217llc@gmail.com. Learn why this is important

I submit this comment to ask that the WREFIII record clearly reflect my concerns regarding infrastructure transparency, cumulative load assumptions, and consistency between how related infrastructure is described in different forums and what the underlying documents and sworn testimony actually show.

My concern is not that EFSC directly controls my prior condemnation case. My concern is that EFSC is being asked here to approve a deadline extension and certificate split, and it should do so only on a record that is internally consistent, document-supported, and accurate about related infrastructure and load assumptions.

In related Boardman corridor matters affecting my property, the available records appear to use different descriptions of the infrastructure need, and those descriptions should be reconciled in a document-supported way.

For example, materials submitted by UEC in related proceedings describe the Highway 730–Olson Road 230-kV transmission project as needed to “reliably accommodate electrical growth in the Boardman area,” and state that UEC’s electrical load in the Boardman area grew from 62 MW in 2009 to 260 MW in 2019, with forecasted growth above 535 MW by the end of 2029. Those same materials describe the proposed line as extending from the planned Hwy 730 Switchyard to the planned Olson Road Substation, approximately 4.3 miles.

But sworn testimony in related proceedings ties the need for the Olson Road substation and transmission expansion much more specifically to Amazon Data Services load and request for service. In deposition testimony, Joshua Lankford testified that the Amazon data center at Olson Road is served out of the UEC Olson Road substation connected to the 115-kV line segment with the 75 MW limit, and that Amazon’s load growth contributed to the overload concern on that segment.

That testimony goes further. Mr. Lankford also testified that Amazon was “one of the main users” served out of the Olson Road substation; that if Amazon Data

Services had not been served out of that Olson Road line segment, the line would not have exceeded the 75 MW capacity in the way projected; and that Amazon was a “majority” of the reason for that projected overload.

Most importantly, Mr. Lankford testified that Amazon’s request for service drove the need for the transmission line and the substation to serve that load center, while also stating that UEC tied those facilities back into the community distribution system.

That distinction matters. A record that describes a project in broad area-growth and reliability terms is materially different from a record showing that the actual need was driven in substantial part by a specific major industrial/data-center customer. EFSC should require those descriptions to be reconciled before relying on them especially since the easement is still in court the issue is not simply whether the line exists. The issue is whether EFSC should treat it as a settled baseline when part of its route depended on contested condemnation rights, advance occupancy, and an easement scope that was itself disputed.

Court of Appeals No. A184850, Morrow County Circuit Court No. 21CV283

I also ask EFSC to note that related records include arguments concerning Boardman’s underground wiring policy. In the LUBA decision concerning the same transmission line, the opinion notes the argument that Boardman Municipal Code chapter 13.12 designates the entire city as an underground wiring district and states that underground wiring is “highly desirable to beautify the city and to promote its orderly development.” The same opinion also notes the responding argument that those provisions regulate uses in public rights-of-way rather than on private property.

I raise that point here not to relitigate the LUBA case, but to show why a reconciled and document-supported explanation matters. Where one set of records emphasizes broad public growth and reliability, another ties the need to a particular high-load private customer, and still other records raise compatibility questions about line type and placement, the public record should not remain vague or internally inconsistent.

I am also concerned that related infrastructure serves or feeds power associated with property impacts affecting me, and I want that concern clearly documented in this record. Earlier UEC valuation materials concerning other regional electrical infrastructure reflect UEC’s long-term concern with securing service territory and future load development. Those materials recommended acquisition of the Depot distribution system in part because UEC would control the Depot distribution territory and the ability to serve existing and future load development.

For that reason, I ask EFSC not to rely on generalized descriptions alone. Before approving any deadline extension or certificate split, EFSC should require a

reconciled, document-supported explanation of:

how the relevant infrastructure is being characterized in each forum;

whether the stated infrastructure need is being described as generalized community growth, major industrial/data-center demand, or both;

whether the load assumptions being relied on are accurate, complete, and consistently described across related proceedings; and

whether any approval, amendment, split, or extension is being evaluated on assumptions that are incomplete, shifting, or not fully reconciled with sworn testimony and related project records.

I also respectfully request that the administrative record preserve the substance of my comments and questions, not merely note that I appeared and spoke. In matters affecting my property, I have seen the substance of detailed concerns reduced to a generic statement that I spoke, without preserving the actual issues raised. I ask that this comment, including the examples and concerns stated above, be preserved in the record with enough detail to reflect its substance.

EFSC's record should reflect what the related documents and sworn testimony actually show, not shifting descriptions that change depending on the forum or objective. Before approving any requested deadline extension or certificate split, EFSC should require a reconciled, document-supported explanation of the infrastructure and load assumptions being relied on.

I object to the Proposed Order for Request for Amendment 1 to the extent it evaluates WREFIII using the existing transmission and substation system in this area as part of the factual baseline without accurately describing that infrastructure.
Specifically, the record should not treat the Olson Road / PDX90 transmission line and related substation infrastructure as a neutral background condition without clearly stating what load that system was built to serve, including Amazon/ VADATA load reflected in related records, and without acknowledging that part of the route depended on contested condemnation rights and advance occupancy rather than a clean, voluntary easement. I raise this objection under the proposed order's transmission-line and land-use findings because EFSC should not apply those standards using an incomplete or misleading infrastructure baseline.

Sincerely,

Jonathan Tallman

UMATILLA ELECTRIC COOPERATIVE
A Touchstone Energy® Cooperative

March 15, 2019

David Wright
VADATA, Inc.
2001 8th Avenue
Seattle, WA 98101

UEC Project Proposal – PDX90, Boardman Site, Permanent Power

Dear David,

Please find below Umatilla Electric Cooperative's proposal to provide design and construction services for the tasks related to provision of the permanent power solution at VAData's PDX90 site. The project will provide permanent electric service to meet the requested PDX 90 requirements beyond the previous scopes of work detailed in the Commissioning Power proposal and Mobile Solution proposals. This project does not, however, include any necessary improvements that Bonneville Power Administration (BPA) may require to interconnect this load at BPA's Morrow Flat Substation. This project is to be substantially complete and energized by April 1, 2021, or 670 calendar days after occurrence of the Start Date of Services pursuant to the Work Order, whichever is later.

PDX90, Boardman Site, Permanent Power

Services	Estimate
LLE & Engineering: Design/Engineering, Transformers, Conductor/Cable, Insulators, Poles, & Project Management	$17,919,000.00
Substation Construction: Materials, Construction, & Commissioning	$8,416,100.00
Feeder Construction: Materials, Construction, & Commissioning	$1,757,000.00
Upstream Construction; Transmission and Switchyard. Materials, Construction & Commissioning	$13,443,900.00
TOTAL	**$41,536,000.00**

This proposal includes a rough order of magnitude estimate for construction and integration of UEC transmission facilities to serve the full build out of 120-MW at the PDX90 Boardman site and then permanent distribution service to Building #1. Please note that this proposal does not include facilities necessary for Large Load Interconnection and Transmission Operation by BPA. These costs will require a separate proposal/work-order after they are identified in the results of BPA's L0454 study currently in progress; expected to be complete by June 2019. The load demand of PDX-62 and PDX-90 campuses together is limited to 245 MW total until additional infrastructure is in place to serve beyond this limit. VAData total load in the Boardman area (PDX-1, 4, 62, & 90 AZ's) is required to stay under 384 MW or

750 W. Elm Street • PO Box 1148 • Hermiston OR 97838

Phone: (541) 567-6414 Fax: (541) 567-8142 Toll Free: 800-452-2273

UMATILLA ELECTRIC COOPERATIVE
A Touchstone Energy® Cooperative

any additional load will require BPA to construct the Longhorn Substation as described in the BPA L0389 study results.

This proposal includes the necessary UEC transmission line extensions up to 5 miles long and interconnection to an existing UEC owned 230kV transmission line by constructing a 230kV switchyard. This proposal also includes a four-position UEC distribution substation to include two power transformers initially, three distribution feeder positions, and two underground distribution feeders of capacity up to 48MW each.

This project proposal is for the provision of services only. UEC shall at all times have and retain ownership of all goods, equipment and materials procured by or resulting from the services. Costs include necessary design, construction, installation, materials, labor, testing and commissioning for operation by the date above provided acceptable terms are mutually agreed upon, executed and a Purchase Order (PO) for the estimated amount is issued by June 1, 2019. Also attached and made part of this estimate is a payment schedule from which UEC will issue one or more invoices for services provided to be incorporated in [redacted] includes a one-year warranty.

Community Development
NOTICE OF DECISION

DATE: July 26, 2021

TO: Boardman Planning Commission and Interested Parties

FROM: Barry C. Beyeler, Community Development Director

SUBJECT: ZP21-031 Umatilla Electric Cooperative Olson Rd. Transmission Project

On May 19, 2021, Umatilla Electric Cooperative (UEC) submitted an application fo zoning approval for the Olson Rd Transmission Project, a 230kv electrical transmission line i the Service Center Subdistrict. This project affects Tax lots #402, #403, #405 of Tax Lot Ma 4N 25E 11, and tax lot #3201. Tax lots #3202 and #3205, of Morrow County Tax Map 4N 25 10 were withdrawn by UEC for this project.

Approval of an outright allowable use is processed using a Type II - Administrativ decision in accordance with Boardman Development Code (BDC) Chapter 4.1- Types o Applications and Review. The Type II decision process requires public notice to be sent to a properties within 250' of the parent property and posting notice on local reader boards and o the property. Public notice was mailed and the proper posting was accomplished on October 1 2020, meeting the 20-day notification requirements.

File: ZP21 – 031
Applicant: Umatilla Electric Cooperation
Project: Olson Rd. 230kv Transmission Line

FINDINGS OF FACT

1) In 2018, Umatilla Electric Co-op approached the city about construction of a 230kv transmission line from a substation which was to be built at the I-84/US 730 junction to south Boardman. This transmission line is to provide increasing service pressure with existing and projected residential growth.

2) The city informed UEC where the line would go through many lots in the Service Center Sub-district, some evidence of property owner support would be needed.

3) UEC held numerous meeting with city and county staff members, and potentially affected property owners about the project.

4) UEC had obtained tentative agreements from most of the property owners for easements for the line. The Tallman family had not reached an agreement with UEC.

5) At this point UEC petitioned the Oregon Public Utilities Commission (PUC) for a Certificate of Public Convenience and Necessity (CPCN).

6) The PUC began their review of the petition as PCN4.

7) On March 5, 2021, The PUC, by Order 21-074, rendered their decision to Grant UEC a CPCN for this 230kv transmission line.

8) On April 15, 2021, Umatilla Electric Co-op submitted a Conditional Use Permit applicatio

IN THE CIRCUIT COURT OF THE STATE OF OREGON

FOR THE COUNTY OF MORROW

UMATILLA ELECTRIC COOPERATIVE, an Oregon cooperative corporation, Plaintiff, v. 1ST JOHN 2:17, LLC, an Oregon limited liability company, successor-in-interest to Terry Tallman and Cheryl Tallman, as tenants by the entirety, Defendant.	No. 21CV28343 **DECLARATION OF BRIAN S. EPLEY IN SUPPORT OF PLAINTIFF'S MOTION FOR PARTIAL SUMMARY JUDGMENT**

I, Brian S. Epley, do hereby declare:

1. I am one of the attorneys for Plaintiff Umatilla Electric Cooperative ("UEC" or "Plaintiff"). I make this Declaration from personal knowledge and information and could testify thereto if called upon to do so. I also make this Declaration in support of Plaintiff's Motion for Partial Summary Judgment.

2. Attached thereto as **Exhibit A** is a true and correct copy of UEC Amended Resolution No. 2019 11 006.

3. Attached thereto as **Exhibit B** is a true and correct copy of a certified copy of Oregon Public Utilities Commission ("PUC") Order No. 21-074.

4. Attached thereto as **Exhibit C** is a true and correct copy of Defendant's Response to Plaintiff Umatilla Electric Cooperative's First Request for Admissions.

CABLE HUSTON LLP
1455 SW BROADWAY, SUITE 1500
PORTLAND, OREGON 97201-3412
TELEPHONE (503) 224-3092, FACSIMILE (503) 224-3176

5. Attached thereto as **Exhibit D** is a true and correct copy of an excerpt from PUC Order No. 23-225, dated June 29, 2023, which granted a certificate of public convenience and necessity for a different utility. This document is publicly available on the PUC's website and can be accessed at the following link: https://apps.puc.state.or.us/edockets/orders.asp?OrderNumber=23-225.

6. For the Court's convenience, attached thereto as **Exhibit E** is a true and correct copy of relevant excerpts from the July 16, 2021 Declaration of Joshua Lankford, P.E., in Support of Plaintiff's Motion for Advance Occupancy ("7/16/21 Lankford Decl.").

7. For the Court's convenience, attached thereto as **Exhibit F** is a true and correct copy of relevant excerpts from the August 9, 2021 Supplemental Declaration of Joshua Lankford, P.E., in Support of Plaintiff's Motion for Advance Occupancy and Response in Opposition to Defendant's Motion to Dismiss ("8/9/21 Lankford Decl.").

8. For the Court's convenience, attached thereto as **Exhibit G** is a true and correct copy of relevant excerpts from the August 9, 2021 Declaration of Robert Echenrode in Support of Plaintiff's Motion for Advance Occupancy and Response in Opposition to Defendant's Motion to Dismiss ("8/9/21 Echenrode Decl.").

I HEREBY DECLARE THAT THE ABOVE STATEMENTS ARE TRUE TO THE BEST OF MY KNOWLEDGE AND BELIEF, AND THAT I UNDERSTAND THEY ARE MADE FOR USE AS EVIDENCE IN COURT AND ARE SUBJECT TO PENALTY FOR PERJURY.

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/ / /

/ / /

CABLE HUSTON LLP
1455 SW BROADWAY, SUITE 1500
PORTLAND, OREGON 97201-3412
TELEPHONE (503) 224-3092, FACSIMILE (503) 224-3176

DATED: January 11, 2024.

CABLE HUSTON LLP

s/ Brian S. Epley

Brian S. Epley, OSB No. 204790
bepley@cablehuston.com
1455 SW Broadway, Suite 1500
Portland, OR 97201-3412
Telephone: (503) 224-3092

Attorneys for Plaintiff Umatilla Electric Cooperative

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AMENDED RESOLUTION 2019 11 006
UMATILLA ELECTRIC COOPERATIVE

AMENDING RESOLUTION DECLARING PUBLIC NEED TO ACQUIRE EASEMENTS FOR TRANSMISSION AND DISTRIBUTION SYSTEM IMPROVEMENTS AND AUTHORIZING THE ACQUISITION OF EASEMENTS

WHEREAS, Umatilla Electric Cooperative ("UEC") has authority under Oregon law, including ORS Chapter 62, UEC's Articles of Incorporation, ORS 772.210, and ORS Chapter 35, to acquire real property by purchase or through eminent domain; and

WHEREAS, the UEC Board of Directors ("Board") previously directed UEC staff, along with its consultants, to proceed with the project generally referred to as the Boardman Transmission Project, which includes the design, construction, location, and operation of an approximate 4.3 mile overhead 230kV electric transmission line from a planned Highway 730 Switchyard to a planned substation near Olson Road in Boardman (hereinafter "Project"); and

WHEREAS, at its regular meeting on November 21, 2019, the Board adopted Resolution 2019 11 006 wherein the Board determined, after investigation of alternatives regarding the provision of the most economic and efficient method of service delivery, that it is necessary for the continued public health, safety and economic welfare of UEC and the public to acquire certain real property interests for the Project ("Designated Easements"); and

WHEREAS, the Board further determined in Resolution 2019 11 006 that the Designated Easements are necessary for the construction, location and operation of the Project, and that such use is planned and located in a manner that is most compatible with the greatest public benefit and the least private injury; and

WHEREAS, after the adoption of Resolution 2019 11 006, the Oregon Public Utility Commission ("PUC"), through PUC Order 21-074, dated March 5, 2021, granted UEC a Certificate of Public Convenience and Necessity and concluded that the Project for which the Designated Easements is required is a public use and necessary for public convenience; and

WHEREAS, the Designated Easements will be located on the properties identified on Exhibit A hereto, with final easement documents as determined by UEC staff and its consultants to be reasonably necessary to accommodate the design and operation of the Project, consistent with PUC Order 21-074; and

WHEREAS, UEC has reached negotiated agreements to acquire all Designated Easements, except on those properties identified on Exhibit A, line 10 and described and depicted on Exhibit B hereto ("File 10 Easement"); and

WHEREAS, the Board finds that declaration by resolution to acquire the Designated Easements, including the File 10 Easement, remains necessary for the construction, location, and operation of the Project and use thereof, which remain planned and located in a manner which

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will be most compatible with the greatest public good and the least private injury, and being fully advised.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE UMATILLA ELECTRIC COOPERATIVE THAT:

1. The above recitals shall form an integral part of this resolution and shall have the same force and effect as if they were adopted as resolutions; and

2. UEC hereby amends Resolution 2019 11 006 to update the list of properties from which the Designated Easements will be located, as identified on the attached Exhibit A.

3. UEC staff and its attorneys remain authorized to retain appraisers, negotiators, and other consultants for acquisition of the Designated Easements, including the File 10 Easement; and

4. UEC staff and its attorneys shall in good faith continue to attempt to negotiate agreements to acquire the Designated Easements, including the File 10 Easement, and provide just compensation and any compensable damages to the affected property owners and other persons of interest. UEC staff and its attorneys remain authorized to complete negotiations with the property owners and other persons of interest. In the event no satisfactory agreement as to just compensation and compensable damages can be reached, or the Designated Easements, including the File 10 Easement, cannot otherwise be acquired through negotiated agreement, then the attorneys for UEC are directed and authorized to commence and prosecute to final determination such proceedings, including eminent domain proceedings, as may be necessary for UEC to acquire the Designated Easements, including the File 10 Easement; and

5. That upon the trial of any suit or action instituted to acquire the Designated Easements, including the File 10 Easement, the attorneys acting for and on behalf of UEC are authorized to make such stipulation, agreement or admission as in their judgment may be for the best interest of UEC and to take possession of such easements at such time as appropriate in their judgment without necessity of further Board approval.

APPROVED AND ADOPTED by the
Board of Directors by Consent Minutes
Effective April 1, 2021

DocuSigned by:
Bryan Wolfe
9447947515244B...

Bryan Wolfe, President

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	Map Taxlot Number(s)	Zoning	Easement Status
1	Southern Rt (see Root Ln area below) 04N25E11 500 04N25E11 600 04N25E11 900	FR2	Acquired
2	04N25E09 411	General Industrial (City of Boardman)	Acquired
3	04N25E11 1200	FR2	Acquired
4	04N25E11 1100	FR2	Acquired
5	04N26E07 201	EFU	Acquired
6	04N25E10 3000 04N25E10 3300	Service Center (City of Boardman)	Acquired
7	04N2512 300 04N25E12 1201 04N25E12 200 4N26E07 200	PI	Acquired
8	04N25E12 400	EFU	Acquired
9	04N25E10 3201	Industrial Zoning (City of Boardman)	Acquired
10	04N25E10 3205, 04N25E10 3302	Service Center (City of Boardman)	Needs Acquisition
11	04N25E11 403	Service Center (City of Boardman)	Acquired
12	04N25E10 3206	Service Center (City of Boardman)	Acquired
13	04N25E11 402	Industrial Zoning (City of Boardman)	Acquired
14	4N25E 10 3400	EFU	Acquired

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JANUARY 30, 2020

LEGAL DESCRIPTION
TAX LOT 3302 TRANSMISSION EASEMENT

A TRACT OF LAND BEING PART OF PROPERTY DESCRIBED IN DEED DOCUMENT 2002-3196 OF THE MORROW COUNTY DEED RECORDS AND LOCATED IN THE SOUTHWEST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 10, TOWNSHIP 4 NORTH, RANGE 25 EAST OF THE WILLAMETTE MERIDIAN, MORROW COUNTY, OREGON, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF PARCEL 1 OF PARTITION PLAT 2018-1 OF THE MORROW COUNTY SURVEY RECORDS, THENCE NORTH 01°43'30" WEST ALONG THE NORTHERLY EXTENSION OF THE WEST LINE OF SAID PARCEL 1, SAID LINE ALSO BEING THE WEST LINE OF PROPERTY DESCRIBED IN SAID DEED DOCUMENT 2002-3196, 70.02 FEET; THENCE LEAVING SAID WEST LINE, NORTH 89°30'52" EAST, 649.66 FEET; THENCE SOUTH 01°43'55" EAST, 70.02 FEET TO THE INTERSECTION WITH THE EASTERLY EXTENSION OF THE NORTH LINE OF SAID PARCEL 1; THENCE SOUTH 89°30'52" WEST ALONG SAID NORTH LINE AND ITS EASTERLY EXTENSION, 649.67 FEET TO SAID NORTHWEST CORNER AND THE POINT OF BEGINNING.

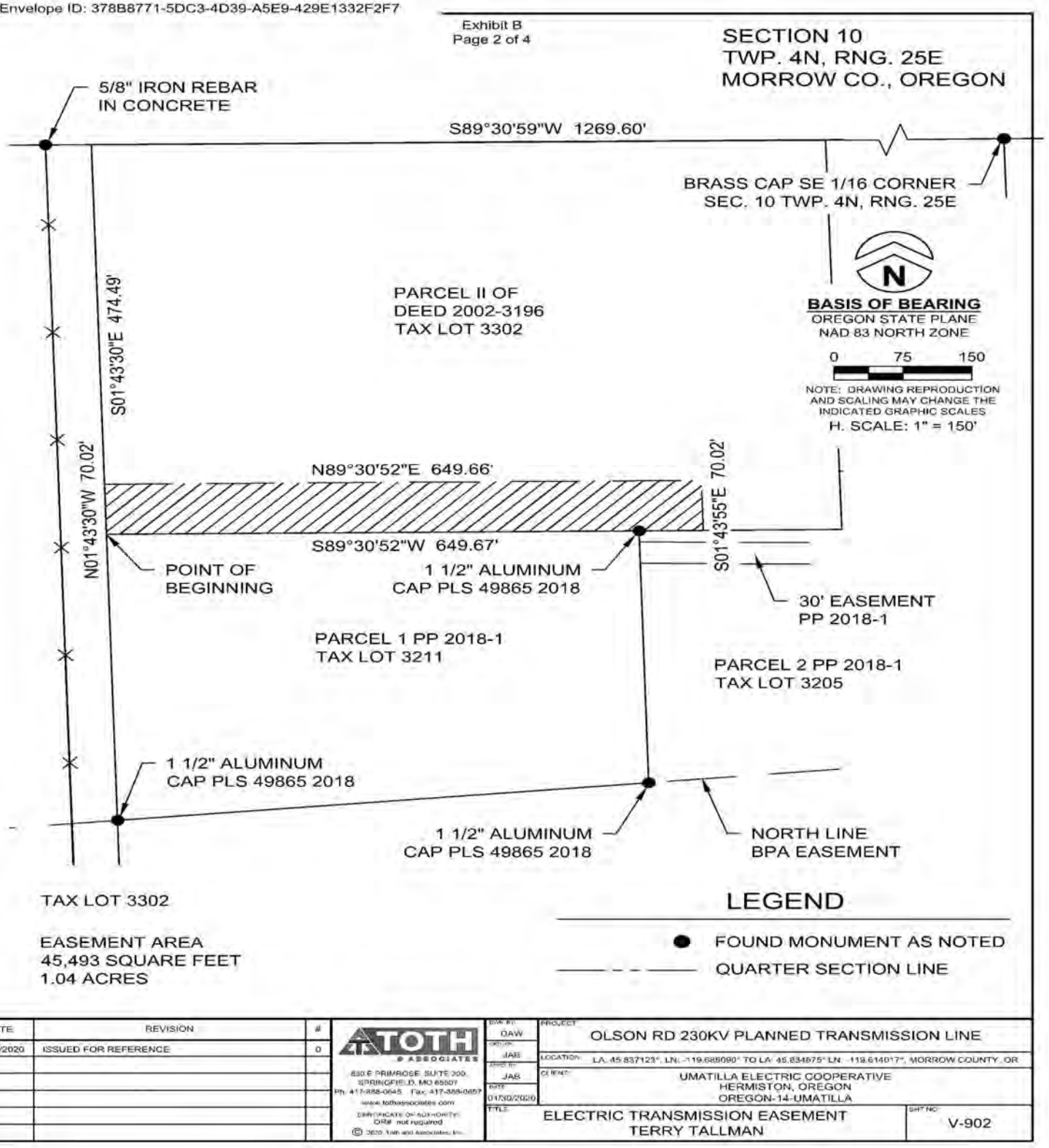
CONTAINING APPROXIMATELY 45,493 SQUARE FEET OR 1.04 ACRES, MORE OR LESS.

THE BASIS OF BEARINGS FOR THIS DESCRIPTION IS PER GPS OBESRVATIONS, OREGON STATE PLANE COORDINATES.



UEC000614

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DATE	REVISION	#
07/30/2020	ISSUED FOR REFERENCE	0

TOTH & ASSOCIATES
830 E PRIMROSE, SUITE 200
SPRINGFIELD, MO 65807
Ph: 417-888-0645 Fax: 417-888-0657
www.tothassociates.com
CERTIFICATE OF AUTHORITY: COA# not required
© 2020 Toth and Associates, Inc.

DWN BY:	DAW
CHK'D BY:	JAB
APVD BY:	JAB
DATE:	07/30/2020
PROJECT:	OLSON RD 230KV PLANNED TRANSMISSION LINE
LOCATION:	LA: 45.837123°, LN: -119.685090° TO LA: 45.834675° LN: -119.614017°, MORROW COUNTY, OR
CLIENT:	UMATILLA ELECTRIC COOPERATIVE HERMISTON, OREGON OREGON-14-UMATILLA
TITLE:	ELECTRIC TRANSMISSION EASEMENT TERRY TALLMAN
SHT NO:	V-902

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UEC000615

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JANUARY 30, 2020

LEGAL DESCRIPTION
TAX LOT 3205 TRANSMISSION EASEMENT

A TRACT OF LAND BEING PART OF PARCEL 2 OF PARTITION PLAT 2018-1 OF THE MORROW COUNTY SURVEY RECORDS, AND LOCATED IN THE SOUTHWEST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 10, TOWNSHIP 4 NORTH, RANGE 25 EAST OF THE WILLAMETTE MERIDIAN, MORROW COUNTY, OREGON, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEAST CORNER OF PARCEL 1 OF SAID PARTITION PLAT 2018-1, THENCE NORTH 89°32'26" EAST ALONG THE NORTH LINE OF SAID PARCEL 2, 70.02 FEET; THENCE LEAVING SAID NORTH LINE AND PARALLEL WITH THE WEST LINE OF SAID PARCEL 2, SOUTH 01°43'55" EAST, 267.88 FEET; THENCE NORTH 84°48'03" EAST, PARALLEL WITH THE NORTHERLY LINE OF THE EXISTING 395.00 FEET WIDE BPA EASEMENT AS DESCRIBED IN DEED RECORDED NOVEMBER 17, 1972, AS M5213 OF THE MORROW COUNTY DEED RECORDS, 562.50 FEET TO THE WESTERLY RIGHT-OF-WAY LINE OF LAUREL ROAD, 30.00 FEET FROM CENTERLINE WHEN MEASURED PERPENDICULAR TO SAID CENTERLINE; THENCE SOUTH 01°51'23" EAST ALONG SAID RIGHT-OF-WAY LINE, 78.13 FEET TO THE INTERSECTION WITH THE NORTHEASTERLY EXTENSION OF THE SOUTH LINE OF SAID PARCEL 1 AND THE NORTHERLY LINE OF SAID BPA EASEMENT; THENCE LEAVING SAID RIGHT-OF-WAY LINE AND ALONG SAID NORTHEASTERLY EXTENSION OF THE SOUTH LINE OF SAID PARCEL 1 AND THE NORTHERLY LINE OF SAID BPA EASEMENT, SOUTH 84°48'03" WEST, 632.80 FEET TO THE SOUTHEAST CORNER OF SAID PARCEL 1; THENCE NORTH 01°43'55" WEST ALONG THE EAST LINE OF SAID PARCEL 1, 351.82 FEET TO SAID NORTHEAST CORNER AND THE POINT OF BEGINNING.

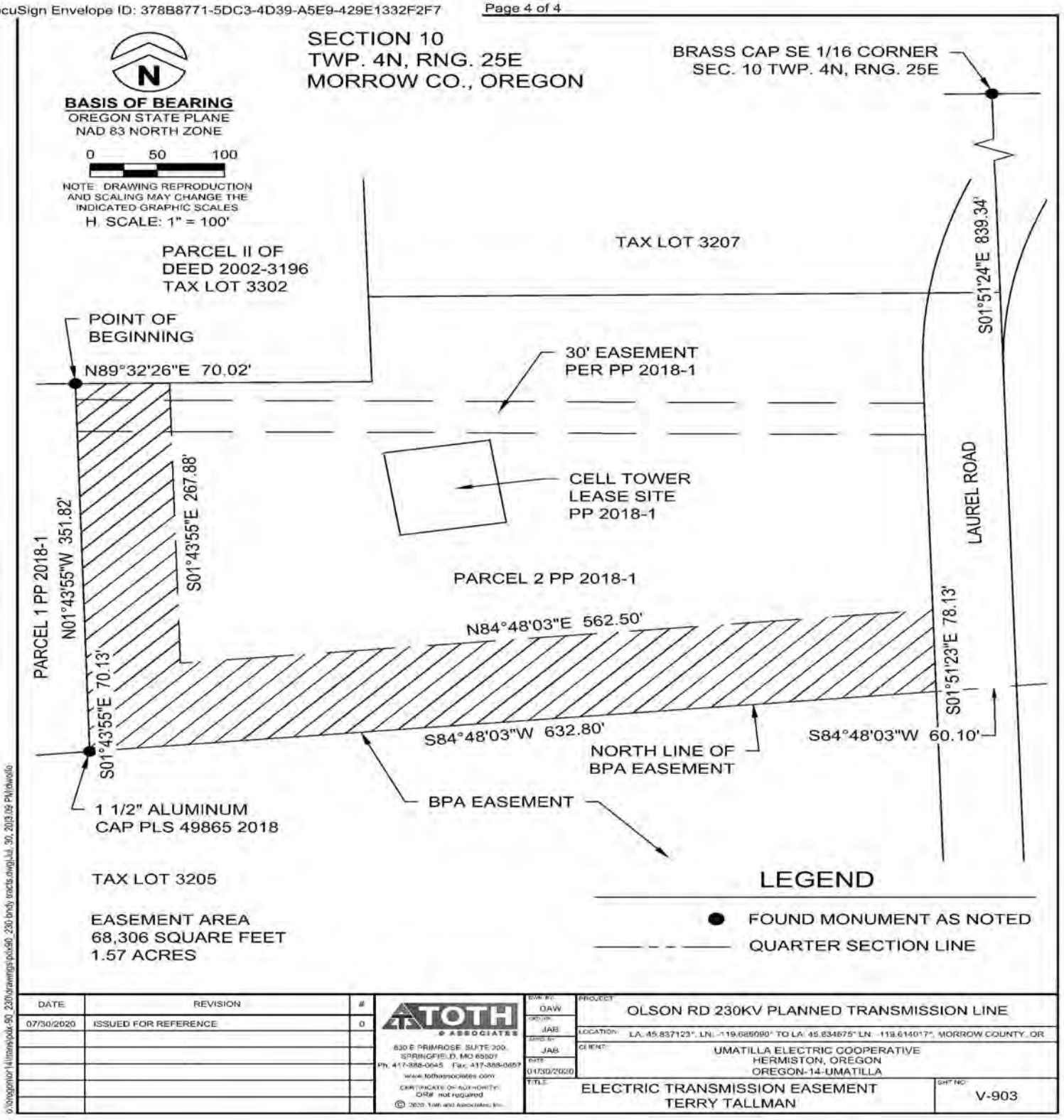
CONTAINING APPROXIMATELY 68,306 SQUARE FEET OR 1.57 ACRES, MORE OR LESS.

THE BASIS OF BEARINGS FOR THIS DESCRIPTION IS PER GPS OBESRVATIONS, OREGON STATE PLANE COORDINATES.

REGISTERED
PROFESSIONAL
LAND SURVEYOR

OREGON
Original Date of July 21,1992
JACK ABBOTT BUTLER
2550

UEC000616



DATE	REVISION	#
07/30/2020	ISSUED FOR REFERENCE	0

TOTH & ASSOCIATES
830 E PRIMROSE, SUITE 300
SPRINGFIELD, MO 65807
Ph. 417-888-0645 Fax: 417-888-0657
www.tothassociates.com
CERTIFICATE OF AUTHORITY: COA# not required
© 2020 Toth and Associates, Inc.

DWN. BY:	DAW
CHK'D BY:	JAB
APVD. BY:	JAB
DATE:	07/30/2020
PROJECT:	OLSON RD 230KV PLANNED TRANSMISSION LINE
LOCATION:	LA: 45.837123°, LN: -119.686090° TO LA: 45.834675° LN: -119.614017°, MORROW COUNTY, OR
CLIENT:	UMATILLA ELECTRIC COOPERATIVE HERMISTON, OREGON OREGON-14-UMATILLA
TITLE:	ELECTRIC TRANSMISSION EASEMENT TERRY TALLMAN
SHT NO:	V-903

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UEC000617

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CONSENT MINUTES

ADOPTION OF AMENDED RESOLUTION 2019 11 006

BY THE BOARD OF DIRECTORS

OF

UMATILLA ELECTRIC COOPERATIVE

WHEREAS, the Board of Directors of Umatilla Electric Cooperative desires to take the action hereinafter set forth without a duly called and noticed meeting pursuant to ORS 62.305; and

WHEREAS, the Board of Directors previously adopted Resolution 2019 11 006 declaring a public need to acquire easements for transmission and distribution system improvements and authorizing the acquisition of easements; and

WHEREAS, the Board now desires to amend Resolution 2019 11 006.

NOW, THEREFORE, the members of the Board of Directors of Umatilla Electric Cooperative do unanimously consent to the adoption of Amended Resolution 2019 11 006 in the form attached to these Consent Minutes and do hereby declare that such Resolution shall have the same force and effect as if it had been unanimously adopted at a meeting duly and legally noticed and held.

Dated effective April 1, 2021.

DocuSigned by:
Bryan Wolfe
944F7942515244B...
Bryan Wolfe

DocuSigned by:
Jeff Wenholz
91BCC74AC712458...
Jeff Wenholz

DocuSigned by:
Steve Platt
D60C9554B09E424...
Steve Platt

DocuSigned by:
2FAB41D80ACC424...
Lee Docken

DocuSigned by:
Philip B. Hamm
D13788EE7CBC423...
Phil Hamm

DocuSigned by:
johnny Otis
869417763040 4E9...
John Otis

DocuSigned by:
CCFCCD341B7E485...
Tom Pitzer

PUBLIC UTILITY COMMISSION

OF OREGON

PCN 4

State of Oregon)
)
County of Marion)

I, Diane Davis, of the Administrative Hearings Division for the Public Utility Commission of the State of Oregon, certify that the attached copy of

Oregon Public Utility Commission Order No. 21-074 in docket PCN 4

has been compared by me to the official document on file and of record, and that this copy is a true and correct copy of said official document on file.

PUBLIC UTILITY COMMISSION

Diane Davis
Administrative Hearings Division

January 5, 2024

UEC000619

ORDER NO. 21-074

ENTERED Mar 05 2021

BEFORE THE PUBLIC UTILITY COMMISSION

TRUE COPY OF ORIGINAL

ADMINISTRATIVE HEARINGS

OF OREGON

PCN 4

In the Matter of

UMATILLA ELECTRIC COOPERATIVE,

Petition for Certification of Public Convenience and Necessity.

ORDER

DISPOSITION: PETITION FOR CERTIFICATE OF PUBLIC AND NECESSITY GRANTED

I. INTRODUCTION

In this order, we grant the petition filed by Umatilla Electric Cooperative (UEC) for a certificate of public convenience and necessity (CPCN) to construct a 4.3 mile overhead 230 kilovolt (kV) transmission line from a planned Highway 730 Switchyard to a planned substation near Olson Road in Boardman.

II. BACKGROUND

A. Factual Background

UEC provides electric service to its Oregon members in Morrow, Umatilla, Union, and Wallowa counties. The UEC service territory is located west of Boardman in Morrow County and covers much of Umatilla County, surrounding the cities of Hermiston and Pendleton and into the Blue Mountains. As a consumer-owned utility, UEC is not subject to our jurisdiction with regard to its rates, service, and financial matters. However, UEC must petition for a CPCN if the construction of a transmission project will likely involve the condemnation of land or the taking of an interest therein.[1]

When a petition is received, the Commission must review and investigate the request. We are required to hold a public hearing and determine the necessity, safety, practicability, and public interest of the corresponding proposal. Our issuance of a CPCN is considered conclusive evidence that the project is necessary for public convenience. The CPCN is then employed as such in any subsequent eminent domain proceedings.[2] In this order, we grant UEC's petition based on the results of our investigation.

[1] *See* ORS 758.015(1)
[2] ORS 758. 015(2).

B. Procedural Background

1. 2020 Public Meeting and Interventions

On March 19, 2020, UEC submitted its petition, along with testimony and exhibits supporting the construction of the proposed transmission line. We held a prehearing conference on April 8, 2020, to establish a procedural schedule. On June 4, 2020, we held a public comment hearing. To allow additional parties to participate in the proceedings, a second prehearing conference was held on June 25, 2020. Representatives appeared on behalf of Gary and Casey Frederickson, Terry and Cheryl Tallman, Randy and Kate Yates, Walo LLC, Umatilla Electric Cooperative, and Staff. During the prehearing conference, parties agreed to a procedural schedule which we subsequently adopted.

2. Testimony and Exhibits

On July 30, 2020, Staff filed its opening testimony and exhibits, followed by UEC reply testimony on August 19, 2020. Staff submitted rebuttal and cross answering testimony on September 9, 2020. UEC submitted rebuttal and cross answering testimony on September 22 2020. Staff filed an errata to its rebuttal and cross answering testimony on October 2, 2020.

3. Hearing

The administrative law judge conducted an evidentiary hearing remotely on October 29, 2020. Robert Echenrode, Louis Toth, and Jeffrey Mueller were witnesses for UEC. Staff proffered witnesses Nadine Hanhan and Yassir Rashid. The witnesses were primarily cross-examined by Mr. Terry Tallman and counsel for the Fredericksons. Post-hearing, UEC, Staff, the Tallmans, and the Fredericksons submitted initial and reply briefs.

4. Confidential Information

On September 22, 2020, Morrow County filed a request to issue a second modified protective order. Counsel for Morrow County obtained confidential information through the Huddle file-sharing program and downloaded it onto their servers. In our October 29, 2020 ruling, we denied the motion for a second protective order. Morrow County did not follow our process for challenging the confidential designation of the material, and did not inform UEC that it obtained the information until several weeks later. We determined the disclosure was inadvertent and that the material remained confidential.

On December 28, 2020, UEC requested that the Huddle file-sharing program be re-organized to more clearly designate and protect confidential material. As noted in the January 21, 2021 ruling by the Chief Administrative Law Judge, Huddle will maintain its

current organization. After the inadvertent disclosure, Huddle file folders and processes were reviewed, and found to be sufficient. Due to the COVID-19 pandemic, we developed a separate process in 2020 to receive confidential material electronically (as opposed to paper versions) outside of the Huddle program.[3] We continue to employ this process and therefore find a reorganization of Huddle unnecessary at this time.

III. LEGAL STANDARD

A. Oregon Law

ORS 758.015 requires specific information accompany a petition for a CPCN, which includes "setting forth a detailed description and the purpose of the proposed transmission line, the estimated cost, the route to be followed, the availability of alternate routes, a description of other transmission lines connecting the same areas, and such other information in such form as the commission may reasonably require in determining the public convenience and necessity."[4]

The law contains additional requirements we must complete in our consideration, including conducting an investigation of each item as noted above and entering an order based on the findings of the hearing and investigation.[5]

Further, unless the petitioner is also seeking approval from the Energy Facility Siting Council for the same transmission line, the order shall be subject to review as in other cases. Here, the line does not meet the threshold requiring approval from the Energy Facility Siting Council as it is less than 10 miles long.[6]

B. Oregon Administrative Rules

OAR 860-025-0030 provides additional detail regarding specific items that must be submitted in a petition for a CPCN. These additional items include that the description of the proposed line must contain information that "should be in sufficient detail to enable a full understanding of the public convenience, necessity and justification in the public interest for the proposed transmission line and the benefits to be derived therefrom, and to enable a determination of its safety and practicability."[7] The petitioner must include maps of the service area, the proposed route and alternative routes, descriptions of land to be condemned, costs and financial feasibility, explanations of alternative routes, and statements and supporting data regarding alternative routes.[8] Finally, the rule describes

[3] *In the Matter of Public Utility Commission of Oregon, Waiver of Rules to Accommodate Temporary Changes in Business Practices*, Docket No.UM 2061, Order No. 20-888 (Mar 18, 2020).
[4] ORS 758.015(1).
[5] *See* ORS 758.015(2).
[6] ORS 469.300(11)(a)(C).
[7] *See* OAR 860-025-0300(1)(b)
[8] *See* OAR 860-025-0030(1)(b)(c)(A) to (G)(e)(g).

the findings we must make when approving a petition. This includes adopting findings that "the proposed transmission project complies with Statewide Planning Goals and is compatible with the acknowledged comprehensive plan(s) and land use regulations of each local government where the project is to be located."[9]

C. Previous Decisions

In previous cases, this Commission defined the terms necessity, safety, practicability, and justification as follows:

> "Necessity" means "great or absolute need." In turn, "need" means "a lack of something requisite, desirable, or useful." Thus, to establish the necessity of a project, the petitioner must demonstrate that Oregonians will forego something desirable and useful without it.
>
> "Safety" means "the condition of being safe, freedom from being exposed to danger; exemption from hurt, injury, or loss. To establish the safety of a project, petitioner must show that the project will be constructed, operated, and maintained in a manner that protects the public from danger."
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> "Practicability" means "the quality or state of being practicable * * *." "Practicable," in turn, means "possible to practice or perform; capable of being put into practice, done, or accomplished * * *. To establish the practicability of the project, the petitioner must show the project is feasible and will be effectively and efficiently constructed."
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> "Justification" means "the act of or instance of justifying * * *." "Justify," in turn, means "to prove or show to be valid, sound, or continuing to fact or reason * * *. Thus, to show that a project is justified, the petitioner must show sufficient reason for the project to be built. To make this determination, we consider the public benefits and costs of the project. Where possible, we rely on benefits and costs that can be quantified in economic terms."[10]

In these previous cases, we relied on the plain, ordinary meanings of these terms.[11] We review and apply these same standards of necessity, safety, practicability, and

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[9] *See* OAR 860-025-0030(2).
[10] *See*, *In the Matter of Umatilla Electric Cooperative Petition for Certification of Public Convenience and Necessity*, Docket No. PCN 1, Order No. 17-111 (Mar 21, 2017); and *In the Matter of PacifiCorp dba Pacific Power*, Docket No. UM 1495, Order No. 11-366 (Sep 22, 2011).
[11] Order No. 17-111 at 4-6.

justification below. This discussion is organized by presenting necessity and justification together because they encompass intertwined issues relating to the purpose and rationale of the project. Safety and practicability are discussed individually. Finally, we review the land use compatibility.

IV. DISCUSSION

A. Necessity and Justification

1. UEC's Petition

UEC states that the transmission line is necessary for several reasons. First, UEC notes that its load growth rate since 2014 is 13.3 percent based on system capacity. Second, the current 115 kV line will exceed safe limits as UEC's load continues to grow. Forecast line loading shows that the existing lines would be subject to physical damage in the future without the addition of the new line. Along with increased capacity and reliability, UEC notes that the line will benefit development in the area.

More specifically, UEC witness Echenrode states that, as of the end of 2019, energy sales were up approximately 20 percent over the prior year, and approximately 125 percent over the last five years. UEC is now the largest electric cooperative in the ten western states in terms of power sales. As a result, UEC is expanding, replacing, and adding infrastructure to economically accommodate this growth in system capacity while at the same time taking advantage of opportunities to improve reliability economically. The transmission line will address local area capacity growth challenges and provide added system reliability through the addition of a new source to the Boardman/Morrow Flat area.[12]

UEC also states that the route chosen is justified. UEC examined three alternative routes and found that, in terms of cost, benefit and impact, the preferred route is justified by the comparative cost, benefit to its system and is the least impactful in terms of property, environmental and agriculture considerations. These items are discussed in more detail below. UEC notes that annual expenses associated with this capital investment are expected to be entirely offset by increases in retail electric sales in the Boardman/Morrow Flat area.[13]

[12] UEC/200, Echenrode/2-3.
[13] UEC/200, Echenrode/4.

2. Positions of the Parties

a. Staff

Staff agrees with UEC that the cooperative experienced consistent and significant growth from 2014 to 2019. Staff performed its investigation of this increase in load by reviewing UEC's growth rate over the past 20 years.

Staff finds the term "necessity" to mean that, absent the construction of the project, the reliability of UEC's transmission system will be compromised and UEC will likely fail to provide reliable and safe electric service to its members, and will likely fail to meet growing demand in its service territory.[14]

Staff notes that UEC conducted a contingency analysis that considered nine scenarios for the current transmission system under N-1 contingency (meaning the loss of one transmission element) after factoring load growth in the years 2026 and 2036. The analysis demonstrated that UEC should implement 230 kV line upgrades in addition to its existing 115 kV system to meet the growing demand in its service territory.[15] Based on its investigation and analysis, Staff concludes that the line is necessary and recommends approval of the line as proposed by UEC.[16]

Regarding justification, Staff did not perform a cost-benefit study, stating that the majority of the line's benefits are unquantifiable. Improvements to reliability and the ability to serve current and expected load growth are benefits to which it is difficult to assign a monetary value. Staff expresses its expectation that, as a consumer-owned cooperative, UEC is acting on the behalf of all of its customers, and any costs incurred are the result of actions taken by the representatives of the customers themselves. In a cooperative, according to Staff, the customers are also the stakeholders, and any profits the utility makes are either returned to them or are re-invested in the cooperative. So, while Staff did consider the total costs in its assessment of the filing, Staff did not consider cost to bear the same importance as it would if UEC were an IOU.[17]

Staff concludes that the line as proposed is justified based on a comparison of the proposal with the three alternatives analyzed by UEC (two alternate 230 kV line routes and a third alternative that would upgrade an existing 115 kV line) and consideration of each route's impacts. First, the cost of the proposed line ($12.4 million) was comparable

[14] Staff/200, Rashid/7.
[15] Staff/200, Rashid/9.
[16] Staff/200, Rashid/2.
[17] Staff/100, Hanhan/7-8.

to two 230 kV alternatives.[18] Each of the two alternative 230 kV routes required condemnation of land, as each crossed 17 parcels (as does the proposed route). In contrast, the proposed line requires the least amount of new easements (29.6 acres). Alternative Route 1 would have required 32.1 acres of new easements and Alternative Route 2 required 40.6 acres in new easements.

In addition to the cost and acreage for the different routes stated above, Staff notes that UEC further justifies the preferred route by explaining that the third alternative, utilizing the existing 115 kV line (and thus avoiding the need for condemnation), would require significant upgrades to other infrastructure, increasing the cost of this alternative to more than $30 million. According to UEC, this more expensive option would not provide the improved reliability of the preferred route.[19]

Energy efficiency was also deemed an inadequate alternative. Staff provided UEC's response to questions about non-wires alternatives. Staff states that, although UEC's energy efficiency programs are robust, the savings produced by these programs have been outpaced by load growth experienced within UEC's service territory.[20]

Finally, Staff points out UEC's statements that Alternative Route 1 goes through a zone called the Service Center, which would have impacted additional properties, does not parallel BPA's lines, and potentially would have impacted safety planning with the Port of Morrow/Columbia River Highway Interchange. In contrast, Alternative Route 2 was rejected because of environmental impacts and challenges, including that it crosses an irrigation circle, wetlands, and properties that are zoned residential.[21]

Staff states that UEC "did its due diligence to explore alternative options, control costs, and worked with landowners to minimize impacts."[22] Staff believes that UEC "has demonstrated that it has exhausted its other options, and that the line is justified."[23]

b. The Fredericksons

The Fredericksons own property adjacent to a portion of the proposed route. In their initial brief and reply brief, the Fredericksons assert that the record fails to demonstrate the necessity of the line and question the justification for the route chosen. Specifically, the Fredericksons assert that the proposed route is the "best available for UEC's

[18] Alternative Route 1 was estimated to cost ~$12.1 million, and Alternative Route 2 was estimated to cost approximately ~$12.8 million. A third alternative, which required no condemnation, was a 115 kV upgrade and cost-prohibitive with an estimate of ~$30.1 million.
[19] Staff/102, Hanhan/43 (PUC Staff Data Request 65).
[20] Staff/100, Hanhan/14 (citing PUC Staff Data Request 41 (Staff/102)).
[21] UEC/108, Toth/3.
[22] Staff/100, Hanhan18.
[23] *Id.*

purposes, but not the only viable one."[24] In addition to the four routes examined by UEC, the Fredericksons note four other potential routes identified in a letter received as part of the public comments.

The letter, dated June 4, 2020, submitted by Gary W. Coburn, describes four additional possibilities that utilize an industrial corridor north of Interstate 84. Mr. Coburn summarized the contents of the letter during the June public comment hearing. The Fredericksons note that Staff and UEC examined these routes and stated that, while they were possible, they were not the preferred route. The Fredericksons also state that placing the line underground was not considered.

Further, the Fredericksons note that UEC did not demonstrate how the transmission line was necessary to benefit farmers. The Fredericksons state that without such a demonstration, the transmission line cannot be sited on land zoned Exclusive Farm Use (EFU).

The Fredericksons cite a Land Use Board of Appeals (LUBA) case which they assert describes a similar situation (EFU-zoned land being appropriated for a utility facility). In that case, they say, the construction of a utility facility was denied by LUBA because, *inter alia*, "a finding that the proposed site is the best of available sites is inadequate."[25]

Finally, the Fredericksons state that the land is not being taken for public use. Rather, the Fredericksons rely on assertions from "community members" that the land is being taken for the increased energy needs of one UEC customer.[26]

3. UEC and Staff Response

UEC addresses the Fredericksons' brief by noting that it does not state the correct statutory standard for *necessity* in this proceeding. UEC points out that the Fredericksons instead use the definition of *necessity* as it is presented in ORS 215.275:

> As used in ORS 215.283 and refined by ORS 215.275, the "necessity" of a utility facility refers to the necessity to be in the EFU zone. LUBA has explained that, to comply with ORS 215.275, an applicant must first make a reasonable effort to identify reasonable non-EFU zoned sites. If non-EFU sites are identified, the applicant must demonstrate that those alternative sites are not feasible based on one or more of the factors set out in ORS 215.275(2).[27]

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[24] Frederickson Opening Brief at 7.
[25] Frederickson Opening Brief at 7, citing *Harshman v. Jackson County*, 41 LUBA 330 (2002).
[26] Frederickson Opening Brief at 9.
[27] UEC Reply Brief at 5, citing *Getz v. Deschutes County*, 58 OR LUBA 559 (2009).

UEC notes that, even using the Frederickson's EFU standard, the transmission line siting on EFU-zoned land was necessary because the Highway 730 switchyard is surrounded by EFU-zoned land.[28] UEC states that the Fredericksons did not identify any route that would avoid the use of EFU zoned property. Thus, it is necessary to site the transmission line on EFU-zoned land for any possible route.

Regarding the "single customer" assertion, UEC first notes that the line is necessary to address reliability concerns. UEC cites Oregon case precedent to demonstrate that Oregon courts have long held that a use directly benefiting a limited number of persons—even one person – can nevertheless constitute a "public use."[29]

In its reply brief, Staff explains that neither the Tallmans nor the Fredericksons dispute the demonstrated and expected load growth as demonstrated by UEC and examined by Staff. Therefore, Staff concludes "a finding of necessity for the proposed transmission line does not appear in dispute."[30]

In addition, Staff notes that alternative routes may be considered in evaluating the practicability or justification in the public interest. UEC explained that it did not select a route north of Interstate 84 for evaluation as the proposed or an alternative route because routes north of Interstate 84 were not "less impactful" than the proposed route and alternative routes evaluated in the Petition. Segments for such a route would be "much more difficult, if not impossible, to site when compared to the preferred route and to the other alternatives UEC analyzed."[31] Staff reiterates UEC's analysis on these routes, and further notes that the Fredericksons do not identify evidence that rebuts these findings.

4. Commission Resolution on Necessity and Justification

Based on UEC's petition and Staff's review, we find the line to be necessary and justified. Staff examined and confirmed UEC's load growth. Staff reviewed UEC's load growth documentation from 2014 provided in UEC's initial application and requested and analyzed UEC's growth over the previous 20 years. By doing so, Staff corroborated a similar level of load growth.[32]

We agree with UEC that the Fredericksons appear to substitute the definition of "necessary" employed for land use questions surrounding EFU-zoned land for the definition in our precedent. The LUBA precedent cited is not applicable here. As

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[28] UEC Reply Brief at 5.
[29] UEC Reply Brief at 6, citing *Bridal Veil Lumbering Co. v. Johnson*, 30 Or 205, 210 (1896). The Court allowed condemnation of private property to build a railway serving a single lumber company, declaring it a "public use" where any person could have used the railway for transportation or shipping – even though no one did.
[30] Staff Reply Brief at 1.
[31] *Id.* at 2, citing Staff/102, Hanhan/37.
[32] Staff/100, Hanhan/8-9, and Figure 1.

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demonstrated by UEC and Staff, the addition of the transmission line is necessary to accommodate load growth and maintain reliable service. Therefore, we determine that the proposed line is necessary and in the public interest, based on evidence of load growth, UEC's current and future capacity needs, and reliability considerations.

The justification for the line is based not only on the need for the project, but also a consideration the public benefits and costs of the project. As noted above, we rely on the benefits and costs that can be quantified in economic terms when available. From the record, it is apparent that UEC considered (and Staff reviewed) the cost of several alternatives, including those contained in the public record. As presented by UEC and reviewed by Staff, the cost of the line is comparable to the two 230 kV alternatives and significantly less expensive than the 115 kV upgrade. The preferred 230 kV route addresses UEC's demonstrated growth and future capacity concerns. The cost of the line will be offset by increased electricity sales in the Boardman/Morrow Flat area. Therefore, we conclude, based on the costs and benefits presented by the parties, that the preferred route is justified and in the public interest.

We note that Staff has stated an expectation that consumer-owned utilities, such as UEC, act in the interest of their customers because the customers have more direct control over the utility. We clarify that we are implementing our review of proposed transmission lines under ORS 758.015 in the same way, and subject to the same standards, regardless of the ownership nature of the utility. Although we share Staff's recognition that consumer-owned utilities have a different relationship with their customers, we are not inclined to assume that justification or need is demonstrated by the ownership structure of the utility in and of itself.

B. Practicability

1. UEC's Petition

UEC describes the starting and ending points for the preferred route as the planned Highway 730 Switchyard and the planned Olson Road Substation (which will provide distribution service). Between those points, the transmission line will utilize existing transmission corridors to the extent possible in order to minimize miles of new corridor, which, according to UEC, minimizes the impact to the community and the environment. The proposed route also makes use of publicly-owned property, areas where UEC already has existing easements, and properties where UEC was able to find willing landowners.[33]

UEC states that siting the crossing under Bonneville Power Administration's (BPA) existing transmission lines in this area was a major constraint guiding the overall route selection, and UEC located a crossing that is consistent with BPA's permitting

[33] UEC/200, Echenrode/4.

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requirements. Siting the crossing over the West Extension Irrigation District canal is consistent with the Bureau of Reclamation's permitting requirements, which permit such crossings.

UEC also notes that it met with Oregon Department of Transportation representatives at the site where the transmission line would be located on highway right-of-way and received positive assessment of the proposed route. Morrow County's Planning Department has reviewed the proposed route and is aware of the county road crossings for which UEC will need to file crossing permits. The City of Boardman has reviewed the proposed route and has advised UEC's land use team about a planned loop road to enhance traffic safety in the Laurel Lane Road, Interstate-84 interchange area (Port of Morrow Interchange). The design of the proposed route will accommodate the City's road development plan.[34]

2. Positions of the Parties

a. Staff

Staff's opinion, based on information provided by UEC and additional information requested and received, is that the line is practicable. Staff states that UEC has selected the best available route, that the transmission line is financially feasible, and that the line will be constructed efficiently and effectively.[35]

Staff requested additional information about required crossing permits. UEC responded that the proposed route has two ODOT highway crossings, two county road crossings, a canal crossing, and a BPA line crossing. Though UEC has yet to apply for the necessary crossing permits, it represented to Staff that the crossing permits are typically sought after easements are secured.[36]

b. Tallmans

During the hearing, Mr. Tallman stated that the Tallmans were still uncertain about how the line would impact a planned loop road. In addition to owning two parcels that would be subject to condemnation under the proposed route, the Tallmans run a small business that could be adversely affected by road modifications. Mr. Tallman inquired about the status of the road and why no specific plans were publicly accessible.[37]

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[34] *Id.* at 5.
[35] Staff/200, Rashid/13-14.
[36] Staff/102, Hanhan/15 (PUC Staff Data Request 18).
[37] Tr. at 19, line 14 through at 20, line 5.

3. UEC and Staff Response

On the stand, in response to Mr. Tallman's inquiry, UEC witness Echenrode stated that UEC "has received no information that our proposed design would impact or restrict the development of loop road" and that "the plans for the road will continue to be developed."[38]

In its reply brief, Staff continues to find the proposed line is feasible, can be efficiently and effectively constructed, and is justified in the public interest.

4. Commission Resolution on Practicability

We agree with Staff that the line is practicable. In addition to the information contained in the initial petition, UEC responded to several Staff data requests regarding the feasibility of the route and cost impacts. Based on the cost, crossing permits and other factors required to be addressed prior to and during construction, UEC's preferred route is feasible. Therefore, we find that the line meets our practicability standard.

C. Safety

1. UEC's Petition

UEC contends that it has substantial experience in constructing, operating, and maintaining transmission lines in a safe, efficient manner. UEC witness Toth explained that "[t]he Transmission Line will be constructed, operated, and maintained to meet or exceed all applicable National Electrical Safety Code standards, as well as all applicable federal, state and local laws, regulations, and ordinances."[39]

2. Positions of the Parties

a. Staff

Staff relies on the statements made in UEC's petition, including that the PUD has been operating for more than 83 years. Staff notes that UEC will meet the standard required in a CPCN evaluation. Staff witness Rashid notes that he has found no evidence that high voltage transmission lines pose health risks "to humans who live in proximity to those lines outside of the horizontal clearance zone."[40]

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[38] *Id.* at 19, lines 21-23.
[39] UEC/100, Toth/17.
[40] Staff/200, Rashid/11.

b. Tallmans

In their opening brief, the Tallmans note several health hazards from overhead power lines, including potentially detrimental effects on pacemakers and implanted cardiac pacemakers in a study from 1983. The Tallmans also refer to a report from California which presents potentially harmful effects of electro-magnetic fields (EMF) from power lines on humans and animals.[41] However, a citation for the specific report is not included.

3. UEC and Staff Response

UEC does not respond to the Tallman's health assertions. Staff replies to this concern by noting that there is "no conclusive medical evidence that high voltage transmission lines, constructed under modern construction standards, pose health risks to humans who live in proximity to those lines outside of the horizontal clearance zone."[42] Thus, Staff does not concur with the Tallmans the project presents a health and safety risk. Staff further notes in its reply that, because UEC will comply with all National Electric Safety Code standards for construction and operation of the line, that the safety criteria for the CPCN is satisfied.[43]

4. Commission Resolution on Safety

As we have stated previously safe construction and operation an electric transmission system is paramount to the public interest.[44] We agree with Staff that UEC has a record of safe system operation, is committed to use the relevant and most recent safety standards to build, operate, and maintain the proposed line. Therefore, we find that the safety considerations have been adequately addressed by UEC, Staff, and by the record in this case. We encourage UEC to employ emerging best practices for wildfire prevention in construction and operation of the line.

D. Land Use Findings

1. UEC's Petition

The proposed line will cross through two jurisdictions with planning authority—the City of Boardman and Morrow County. UEC notes that both jurisdictions have comprehensive plans acknowledged by the Department of Land Conservation and Development (DLCD).

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[41] Tallman Initial Brief at 3-4.
[42] Staff/200, Rashid/11.
[43] Staff Reply Brief at 4, citing OAR 860-024-0010.
[44] *In the Matter of Tillamook People's Utility District, Petition for Certificate of Public Convenience and Necessity*, Docket No. PCN 2, Order No. 19-293 at 16 (Sep 10, 2019).

The City of Boardman planning department has advised UEC's land use team that the proposed project will intersect the Service Center (SC) zone and General Industrial (GI) zone. The proposed project is permitted outright in both SC and GI zones consequently it would require only a standard non-discretionary zoning permit. UEC's land use team will continue to work with local planning and regulatory staff as the project progresses.

Regarding Morrow County, the transmission line is an outright permitted use and does not require land use approval except for the portion of the line that passes through the County's EFU zone. UEC applied for a Land Use Decision from the County after obtaining permission from all property owners within that zone.

2. Positions of the Parties

a. Staff

Staff notes the city and county comprehensive plans and zoning regulations, and states that, to its knowledge, neither jurisdiction has a plan amendment or regulation relevant to this petition that is pending approval at DLCD. UEC submitted a letter with its petition from the City of Boardman, which states that transmission lines are permitted outright in the two planning zones affected by the proposed route within the City. This letter supports a finding of compatibility under OAR 860-025-0030(2)(b). UEC's land use approval was issued by Morrow County on July 21, 2020, satisfying OAR 860-025-0030(2)(16)(a). According to Staff, UEC has demonstrated that the transmission project is compatible with land use regulations and statewide planning goals.

b. Fredericksons

The Fredericksons do not believe the line benefits farmers, which they assert is a requirement because the proposed line extends through farm territory. The Fredericksons cite to agricultural policy which is meant to preserve agricultural land.[45] The Fredericksons opine that the route extends "almost entirely" through land zoned as EFU, instead of utilizing corridors north of Interstate-84. Further, the Fredericksons assert that because UEC fails to demonstrate that the transmission line benefits area farms, and because the line degrades the beauty of the area and would allow for the expansion of non-farming activities such as the construction and operation of data centers in the area, that the preferred route of the transmission line is not compatible with Oregon's statewide planning goals regarding agricultural lands.[46]

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[45] OAR 660-015-0000(3) states that "agricultural lands shall be preserved and maintained for farm use, consistent with existing and future needs to agricultural products, forest and open space and the state's agricultural land policy expressed in ORS 215.243 and 215.700."

[46] Frederickson Initial Brief at 5-6; Reply Brief at 4.

c. Tallmans

The Tallmans argue that the transmission line does not comport with the City of Boardman's prohibition on overhead lines.

3. UEC and Staff responses

UEC notes that the transmission line passes through six different land use zones in two different jurisdictions. Only four of the seventeen parcels the Transmission Line crosses are in the Exclusive Farm Use (EFU) zone.

UEC further notes that the Fredericksons' brief cites to a legislative policy—ORS 215.243 – rather than to any specific statewide land use planning goal. Although that statute is relevant to Statewide Planning Goal 3 (Goal 3), it does not actually establish the contours of Goal 3 nor impose any specific mandate. Instead, Goal 3 is implemented through a combination of statutes and rules, which includes ORS 215.283. That statute expressly allows non-farm utility facilities like transmission lines to be sited in an EFU zone by right. Thus, UEC asserts that, contrary to the Fredericksons' arguments, the transmission line complies with Goal 3 even without evidence of specific benefits to farm uses.[47]

Staff notes that the Commission may rely on decisions from affected cities or counties without making our own findings as to compliance with state land use requirements. Staff points out that the City of Boardman confirmed that the line is an outright permitted use, not requiring a discretionary permit. The Morrow County Planning Commission approved the Morrow County Planning Director's decision approving the line. Thus, Staff concludes that the Commission is not bound to make an independent finding, and may rely on the documentation on the record to find the transmission line is compatible with relevant land use goals and regulations.

4. Commission Resolution on Land Use Findings

We agree with Staff that, as stated in OAR 860-025-0030(3)(a), we may rely on decisions from the affected local jurisdictions. On the record there are express approvals from both the City of Boardman and Morrow County that the transmission line is compatible with each jurisdiction's land use plan and regulations. Therefore, we conclude that UEC's proposed facility and route complies with Oregon's statewide land use planning goals.

[47] UEC Reply Brief at 4; citing UEC/104, Toth/1.

V. CONCLUSION

We find that UEC has met the legal requirements under ORS 758.015 and OAR 860-025-0030(2) for a certificate of public convenience and necessity for the proposed line. We approve UEC's petition.

VI. ORDER

IT IS ORDERED that that the Umatilla Electric Cooperative is granted a Certificate of Public Convenience and Necessity to construct a 4.3 mile overhead transmission line from the planned Highway 730 Switchyard to a planned substation near Olson Road in Boardman, both to be constructed by Umatilla Electric Cooperative.

Made, entered, and effective Mar 05 2021.

Megan W. Decker
Chair

Letha Tawney
Commissioner

Mark R. Thompson
Commissioner

A party may request rehearing or reconsideration of this order under ORS 756.561. A request for rehearing or reconsideration must be filed with the Commission within 60 days of the date of service of this order. The request must comply with the requirements in OAR 860-001-0720. A copy of the request must also be served on each party to the proceedings as provided in OAR 860-001-0180(2). A party may appeal this order by filing a petition for review with the Court of Appeals in compliance with ORS 183.480 through 183.484.

IN THE CIRCUIT COURT OF THE STATE OF OREGON

FOR THE COUNTY OF MORROW

UMATILLA ELECTRIC COOPERATIVE, an Oregon cooperative corporation, Plaintiff, v. 1ST JOHN 2:17, LLC, an Oregon limited liability company, successor-in-interest to Terry Tallman and Cheryl Tallman, as tenants by entirety, Defendant.	Case No. 21CV28343 Related Case: 22CN01356 **DEFENDANT'S RESPONSE TO PLAINTIFF UMATILLA ELECTRIC COOPERATIVE'S FIRST REQUEST FOR ADMISSIONS**

Pursuant to Oregon Rule of Civil Procedure 45, defendant 1st John 2:17, LLC ("1st John") responds to plaintiff Umatilla Electric Cooperative's First Request for Admissions ("Request" or "Requests"), as follows:

PRELIMINARY STATEMENT

The following responses are made solely for the purposes of this action. Each response is subject to all appropriate objections which would require the exclusion of any statement contained herein, if the request were made of, or if the response were made by, a witness present and testifying in court. Any and all such objections and grounds are reserved and may be interposed at the time of trial. This responding party has not yet completed its investigation of the facts relating to this action, has not yet completed its discovery in this action, and has not yet completed its preparations for trial. Consequently, the following responses contained herein are based solely upon such information and documents which are presently available to and specifically known to this responding party, and may disclose only that information which is presently available to such responding party. As discovery proceeds, witnesses, facts and evidence may be discovered which are not set forth herein, but which may have been responsive

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to a request for admission. Accordingly, the following responses are given with the reservation of the right to produce at trial any and all subsequently discovered evidence relating to the proof of any presently known material facts, and this responding party will produce all such evidence, whenever discovered, relating to the proof of subsequently discovered material facts, if and to the extent required by applicable rules.

Facts and evidence now known may be imperfectly understood, or the relevance or consequence of such facts and evidence may be imperfectly understood, and, accordingly, such facts and evidence may, in good faith, not be included in the following responses.

It is anticipated that further discovery, independent investigation, legal research and/or analysis will supply additional facts, and/or add meaning to the known facts, as well as establish entire new factual conclusions and legal contentions, all of which may lead to substantial additions to, changes in and variations from the contentions set forth herein. The following discovery responses are given without prejudice to this responding party's right to produce evidence of any subsequently discovered facts, documents or witnesses which this responding party may later recall or discover. Additionally, this responding party reserves the right to change any and all responses herein as additional facts are ascertained, analyses are made, and/or legal research is completed. The responses contained herein are made in a good-faith effort to supply as much factual information and as much specification of legal contentions as is presently known, but should in no way be to the prejudice of this responding party in relation to further discovery, research, and/or analysis.

These responses are based on the collective personal knowledge of this responding party and/or the review of the relevant documents and/or other materials by this responding party. This responding party assumes no obligation to voluntarily supplement or amend the responses to reflect additional witnesses, facts, documents or other evidence following the filing of these responses.

Except for the explicit facts submitted herein, no admissions of any nature whatsoever are implied or should be inferred from these responses. This preliminary statement is, by this reference, incorporated into each and every one of the following responses to requests for

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admissions as if set forth fully therein.

GENERAL OBJECTIONS

1. The following general objections apply to each individual Request, and shall have the same force and effect as if set forth in full in response to each individually numbered Request contained therein.

2. 1st John objects on the grounds that it has not completed its investigation in this case and has not completed its discovery. The responses contained herein are based only upon such information and documents as are presently available to and specifically known to 1st John. Further discovery, investigation, and research may reveal additional information which may lead to additions to, or variations from, the responses set forth herein, and 1st John reserves its right to modify or supplement responses accordingly. 1st John reserves its right to produce or rely upon additional non-privileged information and documents, if any, as may hereafter be discovered that are responsive to plaintiff's Requests.

3. To the extent any fact in any Request is not expressly admitted, it is denied.

4. 1st John reserves the right to amend or supplement these responses as additional information becomes available.

5. These responses are not admissions that the facts sought to be admitted are relevant to this action.

These general objections are part of 1st John's responses to each Request contained in plaintiff's requests for admissions, and are hereby incorporated into each of the responses.

REQUESTS FOR ADMISSIONS

REQUEST FOR ADMISSION NO. 1: Admit that the Certificate of Public Convenience and Necessity is a certified copy of the Public Utility Commission Order No. 21-074.

RESPONSE: 1st John incorporates the general objections set forth above, and further objects to this Request to the extent that the term "certified copy" is vague, ambiguous, and subject to multiple interpretations. Further, 1st John objects to this request to the extent it calls for legal conclusion to which no response is required. To the extent that a response is required, and without

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waiving such objections, 1st John is without sufficient information to admit or deny this Request, and therefore denies the same.

REQUEST FOR ADMISSION NO. 2: Admit that under ORS 758.015(2), the Certificate of Public Convenience and Necessity is conclusive evidence that the Transmission Line for which the Easement is required is a public use and necessary for public convenience.

RESPONSE: 1st John incorporates the general objections set forth above, and further objects to this Request to the extent that it calls for legal conclusion to which no response is required.

REQUEST FOR ADMISSION NO. 3: Admit that the Transmission Line is necessary for public use.

RESPONSE: 1st John incorporates the general objections set forth above, and further objects to this Request to the extent that the term "necessary" is vague, ambiguous, and subject to multiple interpretations. Further, 1st John objects to this request to the extent it calls for legal conclusion to which no response is required. To the extent that a response is required, and without waiving such objections, 1st John denies this request.

REQUEST FOR ADMISSION NO. 4: Admit that the Easement is necessary for the Transmission Line.

RESPONSE: 1st John incorporates the general objections set forth above, and further objects to this Request to the extent that the term "necessary" is vague, ambiguous, and subject to multiple interpretations. Further, 1st John objects to this request to the extent it calls for legal conclusion to which no response is required. To the extent that a response is required, and without waiving such objections, 1st John denies this request.

REQUEST FOR ADMISSION NO. 5: Admit that the Transmission Line is planned and located in a manner most compatible with the greatest public good and the least private injury.

RESPONSE: 1st John incorporates the general objections set forth above, and further objects to this Request to the extent that it is vague, ambiguous, and subject to multiple interpretations. Further, 1st John objects to this request to the extent it calls for legal conclusion

to which no response is required. To the extent that a response is required, and without waiving such objections, 1st John denies this request.

REQUEST FOR ADMISSION NO. 6: Admit that You are not disputing plaintiff's authority to acquire the Easement.

RESPONSE: 1st John incorporates the general objections set forth above, and further objects to this Request to the extent that it is vague, ambiguous, and subject to multiple interpretations. Further, 1st John objects to this request to the extent it calls for legal conclusion to which no response is required. To the extent that a response is required, and without waiving such objections, 1st John denies this request.

REQUEST FOR ADMISSION NO. 7: Admit that the only triable issue before a jury in this Lawsuit is just compensation for the Easement (including to the extent applicable, any compensable damages to the remaining property).

RESPONSE: 1st John incorporates the general objections set forth above, and further objects to this Request to the extent that it is vague, ambiguous, and subject to multiple interpretations. Further, 1st John objects to this request to the extent it calls for legal conclusion to which no response is required. To the extent that a response is required, and without waiving such objections, 1st John denies this request.

REQUEST FOR ADMISSION NO. 8: Admit that You are not seeking a summary proceeding prior to trial under ORS 35.235(4).

RESPONSE: 1st John incorporates the general objections set forth above, and further objects to this Request to the extent that it seeks information protected by the attorney work product doctrine. Accordingly, 1st John cannot respond this request and if a response is required denies this request so as to not disclose protected information.

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DATED: January 3, 2024

LANE POWELL PC

By: s/ Bruce H. Cahn

Charles F. Hudson, OSB No. 830494
Bruce H. Cahn, OSB No. 935450
Telephone: 503.778.2100
docketing@lanepowell.com
Attorneys for Defendant

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CERTIFICATE OF SERVICE

I, Bruce H. Cahn, hereby certify that on this 3rd day of January 2024, I caused a copy of the foregoing **DEFENDANT'S RESPONSE TO PLAINTIFF UMATILLA ELECTRIC COOPERATIVE'S FIRST REQUEST FOR ADMISSIONS** to be served via U.S. Mail, on the following:

Tommy A. Brooks, Esq.
Casey M. Nokes
Brian S. Epley
Cable Huston LLP
1455 SW Broadway, Suite 1500
Portland, OR 97201
E-mail: tbrooks@cablehuston.com
cnokes@cablehuston.com
bepley@cablehuston.com

s/ Bruce H. Cahn
Bruce H. Cahn

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ORDER NO. 23-225

ENTERED Jun 29, 2023

BEFORE THE PUBLIC UTILITY COMMISSION

OF OREGON

PCN 5

In the Matter of IDAHO POWER COMPANY, Petition for Certificate of Public Convenience and Necessity.	ORDER

DISPOSITION: CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY GRANTED

I. INTRODUCTION

This order addresses Idaho Power Company's petition for a certificate of public convenience and necessity (CPCN) for its proposed Boardman to Hemingway Transmission Line Project (B2H or B2H Project). We appreciate the robust participation in this docket from intervening organizations and individuals. We recognize that a proceeding that could lead to the taking of private property represents an extremely concerning event for the individuals involved. In light of the potentially significant impacts of the B2H project on individuals' property and their economic and personal well-being, we deeply appreciate that engagement with Staff, Commissioners, and other parties was so constructive, considerate, and well-informed. We are thankful for the time and effort to voice concerns and help us conduct the comprehensive review of Idaho Power's proposal that it deserves.

The legislature has delegated us the duty of determining whether transmission lines requiring condemnation, like the B2H project, are necessary, safe, practicable, and justified in the public interest. Where we find that a transmission line meets those criteria, we are to grant a CPCN for the benefit of the greater public interest, despite the private properties that are implicated in its construction and operation. We take this obligation seriously and recognize the importance of scrutinizing such proposals. We make our decision only after carefully weighing the interests involved.

We conclude that the B2H project meets the necessity, safety, and practicability standards set forth in ORS 758.015 and our rules, that it is justified in the public interest, and that it complies with Statewide Planning Goals and local land use regulations. Idaho Power and its partners have demonstrated through robust analysis of increasing customer electricity loads a need for additional transmission capacity that will be served by B2H, which we find will be constructed, operated, and maintained safely according to best practices and subject to ongoing scrutiny in wildfire mitigation plans. We recognize that Idaho Power considered and received feedback on

final order also reviewed federal land management plans and Oregon statewide planning goals and adopted a land use condition and a goal related to them. EFSC concluded that, subject to the final order's conditions, the proposed route and alternate proposed routes as described in Idaho Power's EFSC application were compatible with land use requirements and statewide planning goals. As outlined by our rules, we adopt EFSC's land use findings related to the B2H transmission line and find the proposed project complies with Statewide Planning Goals and is compatible with the acknowledged comprehensive plans and land use regulations of each local government where the project is located.

I. ORDER

IT IS ORDERED that:

1. Idaho Power is granted a Certificate of Public Convenience and Necessity to construct the Boardman to Hemingway 500-kV transmission line as described in its petition;
2. Idaho Power's Certificate of Public Convenience and Necessity will expire in accordance with OAR 860-025-0035(3);
3. The Commission takes official notice of PacifiCorp's June 15, 2023 filing in UM 2292 titled "Application for Authorization to Defer Costs Related to Wildfire Liability;" and
4. The Commission adopts EFSC's land use findings related to the B2H transmission line and find the proposed project complies with Statewide Planning Goals and is compatible with the acknowledged comprehensive plans and land use regulations of each local government where the project is located.

Made, entered, and effective Jun 29, 2023.

Megan W. Decker
Chair

Letha Tawney
Commissioner

Mark R. Thompson
Commissioner

Jurisdiction for judicial review of the Commission's approval or rejection of an application for a certificate of public convenience and necessity under subsection (1) of ORS 758.017 is conferred upon the Supreme Court. Proceedings for review shall be instituted by filing a petition in the Supreme Court. The petition shall be filed within 60 days after the date of service of the commission's final order. Date of service shall be the date on which the commission delivered or mailed the final order in accordance with ORS 183.470. For more information on the appeal process associated with a grant or denial of certificate of public convenience and necessity for transmission lines please see ORS 758.017.

IN THE CIRCUIT COURT OF THE STATE OF OREGON

FOR THE COUNTY OF MORROW

UMATILLA ELECTRIC COOPERATIVE, an Oregon cooperative corporation, Plaintiff, v. 1ST JOHN 2:17, LLC, an Oregon limited liability company, successor-in-interest to Terry Tallman and Cheryl Tallman, as tenants by the entirety, Defendant.	Case No. 21CV28343 **DECLARATION OF JOSHUA LANKFORD, P.E., IN SUPPORT OF PLAINTIFF'S MOTION FOR ADVANCE OCCUPANCY**

I, Joshua Lankford, P.E., do hereby declare:

1. I am the Vice President, Engineering & Operations, at Umatilla Electric Cooperative ("UEC" or "Plaintiff"). I hold a bachelor's degree in electrical engineering from Portland State University and a master's degree in transmission and distribution engineering from Gonzaga University. I have over 12 years' experience in engineering and management positions at UEC. I also am registered as a professional engineer ("P.E.") in the State of Oregon (83534PE). I make this Declaration in support of Plaintiff's Motion for Advance Occupancy based on my personal knowledge and belief.

2. UEC's Boardman 115kV system serves members in the Boardman, Oregon area. The electric load on UEC's Olson Road 115kV line segment ("Olson Road 115kV Line Segment"), which is part of UEC's Boardman 115kV system, is reaching critical load capacity. UEC's Olson Road 115kV Line Segment is limited to a load of no more than 75MW. Once the 75MW load

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limit is exceeded, it will greatly reduce the reliability of service to all members served by UEC's Boardman 115kV system, which could result in outages or disruptions in service.

3. Based on the UEC load growth in recent years, UEC anticipates that the Olson Road 115kV Line Segment will reach its 75MW limit approximately nine months from now, by April 2022.

4. In anticipation of this event, UEC is in the process of constructing an approximate 4.3-mile overhead 230kV electric transmission line from its Highway 730 Switchyard to a substation near Olson Road in Boardman ("230kV Transmission Line") to redistribute and significantly reduce the load on UEC's Boardman 115kV system.

5. Attached as Exhibit 1 is a true and correct copy of the Oregon Public Utility Commission's ("PUC") Order 21-074, dated March 5, 2021, granting UEC a Certificate of Public Convenience and Necessity for the 230kV Transmission Line.

6. UEC has acquired all easements needed for the 230kV Transmission Line, with the exception of the approximately 70-foot-wide Easement needed on Defendant's Property, which is the subject of this action.

7. The Easement needed on Defendant's Property is adjacent to and parallel with the boundary lines of Defendant's Property and located on the unimproved portions of Defendant's largely unimproved Property, as further demonstrated on the map attached as Exhibit 2 hereto.

8. Although the construction of the 230kV Transmission Line will only minimally impact Defendant's use of the Property, UEC is committed to working with Defendant to further reduce any such impacts. In particular, UEC will ensure that Defendant retains access to the Property at all times during construction.

9. Construction of the 230kV Transmission Line will take approximately nine (9) months to complete and is planned to start at the beginning of August 2021 in order to be completed by the critical April 2022 deadline.

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10. Accordingly, UEC needs immediate occupancy and use of the Easement on Defendant's Property, by no later than August 1, 2021.

11. Any delays in obtaining immediate occupancy and use of the Easement on Defendant's Property will not only increase costs for the construction of the 230kV Transmission Line, but also will jeopardize UEC's ability to continue providing safe and reliable electric service to its members served by the Boardman 115kV system.

I declare under penalty of perjury under the laws of the state of Oregon and the United States that the foregoing is true and correct to the best of my knowledge and belief.

DATED this 16th day of July, 2021

JOSHUA LANKFORD, P.E.
VP, ENGINEERING & OPERATIONS
UMATILLA ELECTRIC COOPERATIVE

CABLE HUSTON LLP
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CERTIFICATE OF SERVICE

I hereby certify that I caused the foregoing **DECLARATION OF JOSHUA LANKFORD, P.E., IN SUPPORT OF PLAINTIFF'S MOTION FOR ADVANCE OCCUPANCY** to be served on:

1st John 2:17, LLC
c/o Registered Agent Unisearch, Inc.
698 12th Street SE, Suite 200
Salem, OR 97301

by the following indicated method(s):

[ ] by **MAILING** a full, true and correct copy thereof in a sealed, postage-paid envelope, addressed as shown above, and deposited with the U.S. Postal Service at Portland, Oregon, on the date set forth below.

[ ] by notice of **ELECTRONIC FILING** by using the Odyssey File & Serve at the party's email address as recorded on the date of service in the eFiling system (UTCR 21.100(4)), if applicable.

[ ] by causing a full, true and correct copy thereof to be **HAND-DELIVERED** to the party, at the address listed above on the date set forth below.

[✓] by causing a full, true and correct copy thereof to be delivered to Plaintiff's process server on the date set forth below for service on Defendants under ORCP 7.

DATED: July 16, 2021

CABLE HUSTON LLP

s/ Nicole M. Swift
Nicole M. Swift, OSB No. 141419
nswift@cablehuston.com
1455 SW Broadway, Suite 1500
Portland, OR 97201
(503) 224-3092 Telephone

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IN THE CIRCUIT COURT OF THE STATE OF OREGON

FOR THE COUNTY OF MORROW

UMATILLA ELECTRIC COOPERATIVE, an Oregon cooperative corporation, Plaintiff, v. 1ST JOHN 2:17, LLC, an Oregon limited liability company, successor-in-interest to Terry Tallman and Cheryl Tallman, as tenants by the entirety, Defendant.	Case No. 21CV28343 **SUPPLEMENTAL DECLARATION OF JOSHUA LANKFORD, P.E., IN SUPPORT OF PLAINTIFF'S MOTION FOR ADVANCE OCCUPANCY AND RESPONSE IN OPPOSITION TO DEFENDANT'S MOTION TO DISMISS**

I, Joshua Lankford, P.E., do hereby declare:

1. I am the Vice President, Engineering & Operations, at Umatilla Electric Cooperative ("UEC" or "Plaintiff"). I hold a bachelor's degree in electrical engineering from Portland State University and a master's degree in transmission and distribution engineering from Gonzaga University. I have over 12 years' experience in engineering and management positions at UEC. I also am registered as a professional engineer ("P.E.") in the State of Oregon (83534PE). I make this Supplemental Declaration in support of Plaintiff's Motion for Advance Occupancy and Response in Opposition to Defendant's Motion to Dismiss based on my personal knowledge and belief.

2. UEC now has awarded the contract for construction of UEC's 230kV Transmission Line. Construction is scheduled to begin August 12, 2021. Due to the nature of the 230kV Transmission Line construction, it is not feasible for UEC to postpone the work on Defendant's

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Ex. F
Page 1 of 32

Property until after construction is completed on other properties, as the contractor must install the concrete foundations for the poles on all properties to allow for proper curing of the concrete prior to starting any of the above-grade work.

3. The Tallman family—including Jonathan Tallman—have been involved in the discussion regarding the routing of UEC's 230kV Transmission Line for years. Through the years, UEC has tried negotiating in good faith on multiple occasions. The Tallmans have ignored offers, declined offers, or proposed unreasonable counteroffers of which UEC could not accept.

4. UEC attempted to negotiate an easement from Morrow County for the 230kV Transmission Line but was unsuccessful.

5. Attached as Exhibit 3 is a true and correct copy of a summary report of the docket in UEC's Petition for Certification of Public Convenience and Necessity before the Oregon Public Utility Commission, PCN 4.

6. Attached as Exhibit 4 is a true and correct copy of excerpts of Staff's opening testimony and exhibits filed in the PUC proceeding on July 30, 2020.

7. Attached as Exhibit 5 is a true and correct copy of the PUC's Order No. 21-074, dated March 5, 2021, granting UEC's Petition for Certificate of Public Convenience and Necessity, which I understand from the PUC is also a certified copy.

8. Attached as Exhibit 6 is a true and correct copy of the Tallmans' Request for Reconsideration, dated April 30, 2021, submitted by Defendant's attorney in the underlying action, Charles F. Hudson.

9. Attached as Exhibit 7 is a true and correct copy of Staff's Response to the Tallmans' Request for Reconsideration, dated May 17, 2021.

10. Attached as Exhibit 8 is a true and correct copy of the PUC's order denying the Tallmans' motion for reconsideration.

11. Attached as Exhibit 9 is a true and correct copy of a transcription of the voicemail Jonathan Tallman left for me on July 1, 2021.

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I declare under penalty of perjury under the laws of the state of Oregon and the United States that the foregoing is true and correct to the best of my knowledge and belief.

DATED this 9th day of August, 2021

JOSHUA LANKFORD, P.E.
VP, ENGINEERING & OPERATIONS
UMATILLA ELECTRIC COOPERATIVE

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Summary Report

PCN 4 UMATILLA ELECTRIC COOPERATIVE PETITION FOR PCN

Category: Public Convenience and Necessity
Filed By: UMATILLA ELECTRIC COOPERATIVE ASSN
In the Matter of UMATILLA ELECTRIC COOPERATIVE, Petition for Certification of Public Convenience and Necessity. Filed by Tommy Brooks.

Sent to Electric List.

Filing Date: 3/19/2020
Case HANHAN, NADINE 503-931-0161
Law Judge(s): ALLWEIN, CHRISTOPHER 971-375-5058

SCHEDULE:

Date: 1/5/2021		**Event:**	FINAL ORDER DUE DATE
Date: 11/23/2020		**Event:**	BRIEF DUE
Date: 11/10/2020		**Event:**	BRIEF DUE
Date: 10/29/2020 9:00 AM	**Location:** VIA-ZOOM WEBIANR	**Event:**	HEARING
Date: 10/12/2020 4:00 PM		**Event:**	COMMENTS/RESPONSES DUE
Date: 10/2/2020 2:00 PM		**Event:**	COMMENTS/RESPONSES DUE
Date: 9/30/2020 2:00 PM		**Event:**	OTHER FILING DUE
Date: 9/28/2020 2:00 PM		**Event:**	COMMENTS/RESPONSES DUE
Date: 9/22/2020		**Event:**	TESTIMONY/EXHIBITS DUE
Date: 9/9/2020		**Event:**	TESTIMONY/EXHIBITS DUE
Date: 8/19/2020		**Event:**	TESTIMONY/EXHIBITS DUE
Date: 7/30/2020		**Event:**	TESTIMONY/EXHIBITS DUE
Date: 7/16/2020		**Event:**	COMMENTS/RESPONSES DUE
Date: 6/25/2020 3:00 PM	**Location:** VIA-TELEPHONE	**Event:**	TELEPHONE CONFERENCE
Date: 6/10/2020		**Event:**	PETITION TO INTERVENE DUE
Date: 6/4/2020 6:00 PM	**Location:** VIA-TELEPHONE	**Event:**	PUBLIC COMMENT HEARING
Date: 6/4/2020 6:00 PM	**Location:** BY TELEPHONE	**Event:**	PUBLIC COMMENT HEARING
Date: 5/12/2020	**Location:** CANCELED	**Event:**	PUBLIC COMMENT HEARING
Date: 4/8/2020 10:00 AM	**Location:** VIA-TELEPHONE	**Event:**	TELEPHONE CONFERENCE

Summary Report

PCN 4 UMATILLA ELECTRIC COOPERATIVE PETITION FOR PCN

ACTIONS:

Date: 6/24/2021 **Order:** 21-207 **Action:** ORDER
Order No. 21-207, signed by Commissioners Megan W. Decker, Letha Tawney, and Mark R. Thompson; DISPOSITION: APPLICATION FOR RECONSIDERATION DENIED. Copies served on 6/24/21.

Date: 5/17/2021 **Action:** COMMENTS/RESPONSE
UMATILLA ELECTRIC COOPERATIVE'S Response In Opposition to Request for Reconsideration, filed by Tommy A. Brooks and
Chad M. Stokes.

Date: 5/17/2021 **Action:** COMMENTS/RESPONSE
STAFF'S RESPONSE TO REQUEST FOR RECONSIDERATION; filed by Johanna M. Riemenschneider.

The filing was filed yesterday, but due to technical difficulties we could not process it.

Date: 4/30/2021 **Action:** RECONSIDERATION
Tallman Request for Reconsideration, filed by Charles F. Hudson.

Date: 3/5/2021 21-074 **Action:** ORDER
Order No. 21-074 signed by Commissioners Megan W. Decker, Letha Tawney, and Mark R. Thompson; DISPOSITION: PETITION FOR CERTIFICATE OF PUBLIC AND NECESSITY GRANTED. Copies served 3/5-21.

Date: 1/21/2021 **Action:** LAW JUDGE RULING/MEMORANDA
Chief ALJ Nolan Moser issues Ruling; DISPOSITION: UEC MOTION IS DENIED. Copies served on 1-21-21.

Date: 1/5/2021 **Action:** SERVICE LIST CHANGE
Walo LLC's NOTICE OF WITHDRAWAL OF COUNSEL; filed by Steven F. Cade.

Date: 12/28/2020 **Action:** MOTION
UEC's request that structure of Huddle folders for discovery be arranged differently, filed by Tommy A. Brooks.

Date: 11/23/2020 **Action:** BRIEF
UMATILLA ELECTRIC COOPERATIVE'S REPLY BRIEF; filed by Tommy A. Brooks and Chad M. Stokes.

Date: 11/23/2020 **Action:** BRIEF
STAFF'S REPLY BRIEF; filed by Johanna M. Riemenschneider.

Date: 11/23/2020 **Action:** BRIEF
Terry & Cheryl Tallman Reply Brief; filed by Terry Tallman.

Date: 11/20/2020 **Action:** TRANSCRIPT
Transcripts for the 10-29-20 Evidentiary Hearings. Please contact transcriber, Jean Mueller at 541-259-1139 for copies.

Date: 11/16/2020 **Action:** BRIEF
Gary and Casey Frederickson's Reply Brief, filed by Nick R. Blanc.

Date: 11/10/2020 **Action:** BRIEF
Staff's Opening Brief; filed by Johanna M. Riemenschneider

Date: 11/10/2020 **Action:** BRIEF
UEC's Opening Brief, filed by Tommy Brooks and Chad M. Stokes.

Date: 11/10/2020 **Action:** BRIEF
Terry and Cheryl Tallman's Opening Brief, filed by Terry Tallman. Served after 5 pm.

Date: 11/10/2020 **Action:** BRIEF
Gary and Casey Frederickson's Opening Brief, filed by Nick Blanc.

Date: 10/29/2020 **Action:** LAW JUDGE RULING/MEMORANDA
ALJ Christopher J. Allwein issues Memorandum. Copies served to service list on 10/29/20.

Date: 10/29/2020 **Action:** COMMISSION RULING/MEMORANDA
Commissioners Megan W. Decker, Letha Tawney, and Mark R. Thompson issue Ruling; DISPOSITION: MOTION FOR MODIFIED PROTECTIVE ORDER AND REQUEST FOR ORAL ARGUMENT DENIED. Copies served on 10/29/20.

Summary Report

PCN 4 UMATILLA ELECTRIC COOPERATIVE PETITION FOR PCN

Date: 10/27/2020 **Action:** CROSS EXAM STATEMENT
INTERVENORS GARY AND CASEY FREDERICKSON'S CROSSEXAMINATION STATEMENT AND EXHIBITS; filed by Nick R. Blanc.

Date: 10/23/2020 **Action:** LAW JUDGE RULING/MEMORANDA
ALJ Christopher J. Allwein issues MEMORANDUM. Copies served on 10/23/20.

Date: 10/22/2020 **Action:** OTHER FILING/PLEADING
UMATILLA ELECTRIC COOPERATIVE'S HEARING ACTIVE PARTICIPANT LIST; filed by Chad M. Stokes and Tommy A. Brooks.

Date: 10/22/2020 **Action:** CROSS EXAM STATEMENT
UMATILLA ELECTRIC COOPERATIVE'S Cross-Examination Statement; filed by Chad M. Stokes and Tommy A. Brooks.

Date: 10/22/2020 **Action:** CROSS EXAM STATEMENT
Staff's Statement on Cross-Examination and Stipulated Exhibits; filed by Johanna M. Riemenschneider

Date: 10/22/2020 **Action:** OTHER FILING/PLEADING
Staff's List of Active Participants; filed by Johanna M. Riemenschneider

Date: 10/19/2020 **Action:** OTHER FILING/PLEADING
Morrow County's Active Participant List; filed by Justin Nelson.

Date: 10/16/2020 **Action:** LAW JUDGE RULING/MEMORANDA
ALJ Christopher J. Allwein issues Memorandum REGARDING REMOTE HEARING PROCEDURES AND FILING REQUIREMENTS. Copies served to service list on 10/16/20.

Date: 10/16/2020 **Action:** HEARING
NOTICE OF EVIDENTIARY HEARING. Copies servied to service list on 10-16-20.

HEARING scheduled 10/29/2020 9:00 AM begin, 10/29/2020 12:00 PM end.
Room: VIA-ZOOM WEBIANRReporter: DIGITAL
Law Judge: ALLWEIN, CHRISTOPHER

Date: 10/14/2020 **Action:** LAW JUDGE RULING/MEMORANDA
ALJ Christopher J. Allwein issues MEMORANDUM. Copies served on 10/14/20.

Date: 10/13/2020 **Action:** LAW JUDGE RULING/MEMORANDA
ALJ Christopher J. Allwein issues Ruling; DISPOSITION: MOTION DENIED. Copies served on 10/13/20.

Date: 10/12/2020 **Action:** COMMENTS/RESPONSE
STAFF'S RESPONSE TO ADMINISTRATIVE LAW JUDGE MEMORANDUM; filed by Johanna Riemenschneider.

Date: 10/12/2020 **Action:** COMMENTS/RESPONSE
UEC's RESPONSE TO ADMINISTRATIVE LAW JUDGE MEMORANDUM; filed by Tommy A. Brooks.

Date: 10/7/2020 **Action:** COMMENTS/RESPONSE
UEC's Response to Staff's Motion to Suspend Procedural Schedule; filed by Tommy A. Brooks and Chad M Stokes.

Date: 10/7/2020 **Action:** LAW JUDGE RULING/MEMORANDA
ALJ Christopher J. A1lwein issues MEMORANDUM. Copies served on 10/07/20. Served after 5pm.

Date: 10/2/2020 **Action:** COMMENTS/RESPONSE
MORROW COUNTY RESPONSE TO UEC AND COMMISSION OBJECTION TO MODIFIED PROTECTIVE ORDER ORAL ARGUMENT REQUESTED; filed by Justin Nelson.

Date: 10/2/2020 **Action:** MOTION
STAFF MOTION TO TEMPORARILY SUSPEND PROCEDURAL SCHEDULE
[Expedited Consideration Requested] Johanna M. Riemenschneider.

Date: 10/2/2020 **Action:** TESTIMONY & EXHIBITS
Staff's Rebuttal and Cross-Anwering Errata Filing Staff/300, Hanhan/3; filed by Johanna M. Riemenschneider.

Summary Report

PCN 4 UMATILLA ELECTRIC COOPERATIVE PETITION FOR PCN

Date: 9/28/2020 **Action:** COMMENTS/RESPONSE
STAFF RESPONSE TO MORROW COUNTY MOTION FOR MODIFIED PROTECTIVE ORDER FOR MORROW COUNTY; filed by Johanna M. Riemenschneider.

Date: 9/28/2020 **Action:** COMMENTS/RESPONSE
UMATILLA ELECTRIC COOPERATIVE'S RESPONSE IN OPPOSITION TO MORROW COUNTY'S MOTION FOR MODIFIED PROTECTIVE ORDER FOR MORROW COUNTY; filed by Tommy A. Brooks and Chad M. Stokes.

Date: 9/22/2020 **Action:** MOTION
MORROW COUNTY'S MOTION FOR MODIFIED PROTECTIVE ORDER FOR MORROW COUNTY; filed by Justin Nelson. Recieved on 9-21-20 and docketed on 9-22-20

Date: 9/22/2020 **Action:** TESTIMONY & EXHIBITS
UEC's Surrebuttal Testimony and Exhibits of Robert Echenrode (UEC/500, Echenrode) filed by Britta Henry.

Date: 9/22/2020 **Action:** LAW JUDGE RULING/MEMORANDA
ALJ Christopher J. Allwein issues MEMORANDUM. Notice of Contested Case Hearing rights attached. Copies served on 9-22-20.

Date: 9/9/2020 **Action:** TESTIMONY & EXHIBITS
Staff's Rebuttal and Cross-Answering Testimony; Exhibits of Nadine Hanhan, (Staff/300, Hanhan). Filed by Kay Barnes.

Date: 8/19/2020 **Action:** TESTIMONY & EXHIBITS
UEC's Reply Testimony and Exhibits of Robert Echenrode (UEC/400, Echenrode) filed by Britta Henry.

Date: 7/30/2020 **Action:** TESTIMONY & EXHIBITS
Staff's Opening Testimony and Exhibits of Nadine Hanhan (Staff/100-104, Hanhan), Yassir Rashid (Staff/200-203, Rashid. Filed by Mark Brown.

Date: 7/30/2020 **Action:** SIGNATORY PAGES
UEC's Signatory Page related to Protective Order No. 20-094, filed by Tommy A. Brooks. Qualified persons under Paragraph 10 (Access to Highly Confidential Information) are Chad M. Stokes and Tommy A. Brooks.

Date: 7/27/2020 **Action:** OTHER FILING/PLEADING
Morrow County's Request for Huddle Access, filed by Justin Nelson.

Date: 7/13/2020 **Action:** LAW JUDGE RULING/MEMORANDA
ALJ Christopher J. Allwein issues Prehearing Conference Memorandum. Notice of Contested Case Hearing rights attached. Copies served to service list on 7-13-20.

Date: 7/2/2020 **Action:** OTHER FILING/PLEADING
Walo's Request for Huddle Access, filed by Steven F. Cade.

Date: 6/22/2020 **Action:** LAW JUDGE RULING/MEMORANDA
ALJ Christopher J. Allwein issues Ruling; DISPOSITION: PETITIONS TO INTERVENE GRANTED. Copies served to service list on 6-22-20.

Date: 6/19/2020 **Action:** LAW JUDGE RULING/MEMORANDA
Administrative Law Judge Christopher J. Allwein issues Ruling; DISPOSITION: PROCEDURAL SCHEDULE SUSPENDED. Copies served to service list on 6-19-20 after 5 pm.

Date: 6/17/2020 **Action:** MOTION
STAFF MOTION TO TEMPORARILY SUSPEND PROCEDURAL SCHEDULE [Expedited Consideration Requested]; filed by Johanna M. Riemenschneider.

Date: 6/12/2020 **Action:** CONFERENCE
NOTICE OF TELEPHONE PREHEARING CONFERENCE; Notice served to PCN 4 service list.

TELEPHONE CONFERENCE scheduled 6/25/2020 3:00 PM
Room: VIA-TELEPHONEReporter: DIGITAL
Law Judge: ALLWEIN, CHRISTOPHER

Summary Report

PCN 4 UMATILLA ELECTRIC COOPERATIVE PETITION FOR PCN

Date: 6/10/2020 **Action:** PETITION TO INTERVENE
Morrow County's Petition to intervene with contact of Justin Nelson. Filed by Justin Nelson.

Date: 6/9/2020 **Action:** PETITION TO INTERVENE
WALO LLC's Petition to Intervene, with contacts of Steven F. Cade and Charles R. Markley. Filed by Steven F. Cade.

Date: 6/8/2020 **Action:** PETITION TO INTERVENE
Gary and Casey Frederickson's Petition to Intervene, with contacts of Nick R. Blanc. Filed by Nick R. Blanc.

Date: 6/5/2020 **Action:** PETITION TO INTERVENE
Terry and Cheryl Tallman's Petition to Intervene, with contacts of Terry Tallman. Filed by Terry Tallman. Filed in public comments on June 5, 2020.

Date: 5/28/2020 **Action:** PUBLIC COMMENT
Morrow County Comments submitted by Chair Lindsay, Commissioner Doherty, and Commissioner Russell received on May 21, 2020.Copies served May 28, 2020.

Date: 5/22/2020 **Action:** LAW JUDGE RULING/MEMORANDA
ALJ Christopher J. Allwein issues Ruling: Motion Granted; Procedural Schedule Modified. Notice of Contested Case Hearing rights attached. Copies served to service list on 5-22-20.

Date: 5/19/2020 **Action:** MOTION
Staff's Motion to Modify Procedural Schedule [Expedited Consideration Requested]; filed by Johanna M. Riemeschneider.

Date: 5/13/2020 **Action:** PUBLIC COMMENT HEARING
NOTICE OF PUBLIC COMMENT HEARING Copies electronically served to PCN 4 and Electric service lists on 5/13/20.

PUBLIC COMMENT HEARING scheduled 6/4/20 6:00 PM

VIA-TELEPHONE

CALL IN: 866-390-1828
ACCESS CODE: 2252868

Room: VIA-TELEPHONE Law Judge: ALLWEIN, CHRISTOPHER

Date: 5/11/2020 **Action:** CANCELLATION/CHANGE
NOTICE OF CANCELLATION OF PUBLIC COMMENT HEARING. Copies served Service List on 5-11-20.

Date: 5/1/2020 **Action:** PUBLIC COMMENT HEARING
Canceled SEE 5/11/20 Notice of Cancellation-
NOTICE OF PUBLIC COMMENT HEARING Copies served electronically on 5/1/20.

PUBLIC COMMENT HEARING scheduled 5/12/20 6:00 PM
VIA-TELEPHONE
CALL IN: 866-390-1828
ACCESS CODE: 2252868

Room: VIA-TELEPHONELaw Judge: ALLWEIN, CHRISTOPHER

Date: 4/22/2020 **Action:** LAW JUDGE RULING/MEMORANDA
ALJ Christopher J. Allwein issues Prehearing Conference Memorandum. Notice of Contested Case Hearing rights attached. Copies served to service list on 4-22-20.

Summary Report

PCN 4 UMATILLA ELECTRIC COOPERATIVE PETITION FOR PCN

Date: 4/1/2020 **Action:** CONFERENCE

NOTICE OF TELEPHONE PREHEARING CONFERENCE. Copies electronically served to PCN 4 service list and Electric industry service list on 4/01/20 and via U.S. Mail to those without email address on 4/2/20.

DIAL-IN NUMBER: 866-434-5269
ACCESS CODE: 8641605

TELEPHONE CONFERENCE scheduled 4/8/2020 10:00 AM
Room: VIA-TELEPHONE Reporter: DIGITAL
Law Judge: ALLWEIN, CHRISTOPHER

Date: 3/26/2020 **Action:** OTHER FILING/PLEADING

UEC's Certificate of Service for Confidential Exhibit UEC/302/Mueller filed by Tommy Brooks.

Date: 3/25/2020 **Action:** SIGNATORY PAGES

Umatilla Electric Cooperative's Signature Page related to Protective Order No. 20-093 filed by Tommy A. Brooks. Qualified persons under Paragraph 12 are of Tommy A. Brooks and Chad M. Stokes. Qualified person under Paragraph 13 is Craig Woycheese.

Date: 3/24/2020 20-094 **Action:** PROTECTIVE ORDER

Modified Protective Order No. 20-094, signed by Christopher J. Allwein, Administrative Law Judge; DISPOSITION: MOTION FOR MODIFIED PROTECTIVE ORDER GRANTED. Copies served to PCN 4 and Electric Service Lists on 3/24/20.

Date: 3/24/2020 **Action:** OTHER FILING/PLEADING

Umatilla Electric Cooperative's Request for Huddle Access; Filed by Tommy A. Brooks.

Date: 3/23/2020 20-093 **Action:** PROTECTIVE ORDER

Protective Order No. 20-093, signed by Christopher Allwein, Administrative Law Judge; DISPOSITION: MOTION FOR PROTECTIVE ORDER GRANTED. Copies served to PCN 4 and Electric Service Lists on 3/23/20.

Date: 3/19/2020 **Action:** INITIAL (APPLICATION, COMPLAINT, PETITION)

In the Matter of UMATILLA ELECTRIC COOPERATIVE, Petition for Certification of Public Convenience and Necessity. Filed by Tommy Brooks.

Sent to Electric List.

Date: 3/19/2020 **Action:** MOTION

UMATILLA ELECTRIC COOPERATIVE's Motion for Protective Order [Expedited Consideration Requested]. Filed by Tommy Brooks.

Sent to Electric List.

Date: 3/19/2020 **Action:** TESTIMONY & EXHIBITS

UMATILLA ELECTRIC COOPERATIVE's Testimony and Exhibits of Louis Toth, PE (UEC/100-108, Toth), Robert Echenrode (UEC/200-203, Echenrode), and Jeffrey M. Mueller, PE (UEC/300-303, Mueller). Filed by Tommy Brooks.

Sent to Electric List.

Confidential to #1079

Date: 3/19/2020 **Action:** MOTION

UMATILLA ELECTRIC COOPERATIVE's Motion for Modified Protective Order [Expedited Consideration Requested]. Filed by Tommy Brooks.

Sent to Electric List.

SERVICE LIST:

Summary Report

PCN 4 UMATILLA ELECTRIC COOPERATIVE PETITION FOR PCN

NICK R BLANC
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ORDER NO. 21-074

ENTERED Mar 05 2021

BEFORE THE PUBLIC UTILITY COMMISSION

OF OREGON

PCN 4

In the Matter of UMATILLA ELECTRIC COOPERATIVE, Petition for Certification of Public Convenience and Necessity.	ORDER

DISPOSITION: PETITION FOR CERTIFICATE OF PUBLIC AND NECESSITY GRANTED

I. INTRODUCTION

In this order, we grant the petition filed by Umatilla Electric Cooperative (UEC) for a certificate of public convenience and necessity (CPCN) to construct a 4.3 mile overhead 230 kilovolt (kV) transmission line from a planned Highway 730 Switchyard to a planned substation near Olson Road in Boardman.

II. BACKGROUND

A. Factual Background

UEC provides electric service to its Oregon members in Morrow, Umatilla, Union, and Wallowa counties. The UEC service territory is located west of Boardman in Morrow County and covers much of Umatilla County, surrounding the cities of Hermiston and Pendleton and into the Blue Mountains. As a consumer-owned utility, UEC is not subject to our jurisdiction with regard to its rates, service, and financial matters. However, UEC must petition for a CPCN if the construction of a transmission project will likely involve the condemnation of land or the taking of an interest therein.[1]

When a petition is received, the Commission must review and investigate the request. We are required to hold a public hearing and determine the necessity, safety, practicability, and public interest of the corresponding proposal. Our issuance of a CPCN is considered conclusive evidence that the project is necessary for public convenience. The CPCN is then employed as such in any subsequent eminent domain proceedings.[2] In this order, we grant UEC's petition based on the results of our investigation.

[1] *See* ORS 758.015(1)
[2] ORS 758. 015(2).

B. Procedural Background

1. 2020 Public Meeting and Interventions

On March 19, 2020, UEC submitted its petition, along with testimony and exhibits supporting the construction of the proposed transmission line. We held a prehearing conference on April 8, 2020, to establish a procedural schedule. On June 4, 2020, we held a public comment hearing. To allow additional parties to participate in the proceedings, a second prehearing conference was held on June 25, 2020. Representatives appeared on behalf of Gary and Casey Frederickson, Terry and Cheryl Tallman, Randy and Kate Yates, Walo LLC, Umatilla Electric Cooperative, and Staff. During the prehearing conference, parties agreed to a procedural schedule which we subsequently adopted.

2. Testimony and Exhibits

On July 30, 2020, Staff filed its opening testimony and exhibits, followed by UEC reply testimony on August 19, 2020. Staff submitted rebuttal and cross answering testimony on September 9, 2020. UEC submitted rebuttal and cross answering testimony on September 22 2020. Staff filed an errata to its rebuttal and cross answering testimony on October 2, 2020.

3. Hearing

The administrative law judge conducted an evidentiary hearing remotely on October 29, 2020. Robert Echenrode, Louis Toth, and Jeffrey Mueller were witnesses for UEC. Staff proffered witnesses Nadine Hanhan and Yassir Rashid. The witnesses were primarily cross-examined by Mr. Terry Tallman and counsel for the Fredericksons. Post-hearing, UEC, Staff, the Tallmans, and the Fredericksons submitted initial and reply briefs.

4. Confidential Information

On September 22, 2020, Morrow County filed a request to issue a second modified protective order. Counsel for Morrow County obtained confidential information through the Huddle file-sharing program and downloaded it onto their servers. In our October 29, 2020 ruling, we denied the motion for a second protective order. Morrow County did not follow our process for challenging the confidential designation of the material, and did not inform UEC that it obtained the information until several weeks later. We determined the disclosure was inadvertent and that the material remained confidential.

On December 28, 2020, UEC requested that the Huddle file-sharing program be re-organized to more clearly designate and protect confidential material. As noted in the January 21, 2021 ruling by the Chief Administrative Law Judge, Huddle will maintain its

current organization. After the inadvertent disclosure, Huddle file folders and processes were reviewed, and found to be sufficient. Due to the COVID-19 pandemic, we developed a separate process in 2020 to receive confidential material electronically (as opposed to paper versions) outside of the Huddle program.[3] We continue to employ this process and therefore find a reorganization of Huddle unnecessary at this time.

III. LEGAL STANDARD

A. Oregon Law

ORS 758.015 requires specific information accompany a petition for a CPCN, which includes "setting forth a detailed description and the purpose of the proposed transmission line, the estimated cost, the route to be followed, the availability of alternate routes, a description of other transmission lines connecting the same areas, and such other information in such form as the commission may reasonably require in determining the public convenience and necessity."[4]

The law contains additional requirements we must complete in our consideration, including conducting an investigation of each item as noted above and entering an order based on the findings of the hearing and investigation.[5]

Further, unless the petitioner is also seeking approval from the Energy Facility Siting Council for the same transmission line, the order shall be subject to review as in other cases. Here, the line does not meet the threshold requiring approval from the Energy Facility Siting Council as it is less than 10 miles long.[6]

B. Oregon Administrative Rules

OAR 860-025-0030 provides additional detail regarding specific items that must be submitted in a petition for a CPCN. These additional items include that the description of the proposed line must contain information that "should be in sufficient detail to enable a full understanding of the public convenience, necessity and justification in the public interest for the proposed transmission line and the benefits to be derived therefrom, and to enable a determination of its safety and practicability."[7] The petitioner must include maps of the service area, the proposed route and alternative routes, descriptions of land to be condemned, costs and financial feasibility, explanations of alternative routes, and statements and supporting data regarding alternative routes.[8] Finally, the rule describes

[3] *In the Matter of Public Utility Commission of Oregon, Waiver of Rules to Accommodate Temporary Changes in Business Practices*, Docket No.UM 2061, Order No. 20-888 (Mar 18, 2020).
[4] ORS 758.015(1).
[5] *See* ORS 758.015(2).
[6] ORS 469.300(11)(a)(C).
[7] *See* OAR 860-025-0300(1)(b)
[8] *See* OAR 860-025-0030(1)(b)(c)(A) to (G)(e)(g).

the findings we must make when approving a petition. This includes adopting findings that "the proposed transmission project complies with Statewide Planning Goals and is compatible with the acknowledged comprehensive plan(s) and land use regulations of each local government where the project is to be located."[9]

C. Previous Decisions

In previous cases, this Commission defined the terms necessity, safety, practicability, and justification as follows:

> "Necessity" means "great or absolute need." In turn, "need" means "a lack of something requisite, desirable, or useful." Thus, to establish the necessity of a project, the petitioner must demonstrate that Oregonians will forego something desirable and useful without it.
>
> "Safety" means "the condition of being safe, freedom from being exposed to danger; exemption from hurt, injury, or loss. To establish the safety of a project, petitioner must show that the project will be constructed, operated, and maintained in a manner that protects the public from danger."
>
> "Practicability" means "the quality or state of being practicable * * *." "Practicable," in turn, means "possible to practice or perform; capable of being put into practice, done, or accomplished * * *. To establish the practicability of the project, the petitioner must show the project is feasible and will be effectively and efficiently constructed."
>
> "Justification" means "the act of or instance of justifying * * *." "Justify," in turn, means "to prove or show to be valid, sound, or continuing to fact or reason * * *. Thus, to show that a project is justified, the petitioner must show sufficient reason for the project to be built. To make this determination, we consider the public benefits and costs of the project. Where possible, we rely on benefits and costs that can be quantified in economic terms."[10]

In these previous cases, we relied on the plain, ordinary meanings of these terms.[11] We review and apply these same standards of necessity, safety, practicability, and

[9] *See* OAR 860-025-0030(2).
[10] *See*, *In the Matter of Umatilla Electric Cooperative Petition for Certification of Public Convenience and Necessity*, Docket No. PCN 1, Order No. 17-111 (Mar 21, 2017); and *In the Matter of PacifiCorp dba Pacific Power*, Docket No. UM 1495, Order No. 11-366 (Sep 22, 2011).
[11] Order No. 17-111 at 4-6.

justification below. This discussion is organized by presenting necessity and justification together because they encompass intertwined issues relating to the purpose and rationale of the project. Safety and practicability are discussed individually. Finally, we review the land use compatibility.

IV. DISCUSSION

A. Necessity and Justification

1. UEC's Petition

UEC states that the transmission line is necessary for several reasons. First, UEC notes that its load growth rate since 2014 is 13.3 percent based on system capacity. Second, the current 115 kV line will exceed safe limits as UEC's load continues to grow. Forecast line loading shows that the existing lines would be subject to physical damage in the future without the addition of the new line. Along with increased capacity and reliability, UEC notes that the line will benefit development in the area.

More specifically, UEC witness Echenrode states that, as of the end of 2019, energy sales were up approximately 20 percent over the prior year, and approximately 125 percent over the last five years. UEC is now the largest electric cooperative in the ten western states in terms of power sales. As a result, UEC is expanding, replacing, and adding infrastructure to economically accommodate this growth in system capacity while at the same time taking advantage of opportunities to improve reliability economically. The transmission line will address local area capacity growth challenges and provide added system reliability through the addition of a new source to the Boardman/Morrow Flat area.[12]

UEC also states that the route chosen is justified. UEC examined three alternative routes and found that, in terms of cost, benefit and impact, the preferred route is justified by the comparative cost, benefit to its system and is the least impactful in terms of property, environmental and agriculture considerations. These items are discussed in more detail below. UEC notes that annual expenses associated with this capital investment are expected to be entirely offset by increases in retail electric sales in the Boardman/Morrow Flat area.[13]

[12] UEC/200, Echenrode/2-3.
[13] UEC/200, Echenrode/4.

2. *Positions of the Parties*

a. *Staff*

Staff agrees with UEC that the cooperative experienced consistent and significant growth from 2014 to 2019. Staff performed its investigation of this increase in load by reviewing UEC's growth rate over the past 20 years.

Staff finds the term "necessity" to mean that, absent the construction of the project, the reliability of UEC's transmission system will be compromised and UEC will likely fail to provide reliable and safe electric service to its members, and will likely fail to meet growing demand in its service territory.[14]

Staff notes that UEC conducted a contingency analysis that considered nine scenarios for the current transmission system under N-1 contingency (meaning the loss of one transmission element) after factoring load growth in the years 2026 and 2036. The analysis demonstrated that UEC should implement 230 kV line upgrades in addition to its existing 115 kV system to meet the growing demand in its service territory.[15] Based on its investigation and analysis, Staff concludes that the line is necessary and recommends approval of the line as proposed by UEC.[16]

Regarding justification, Staff did not perform a cost-benefit study, stating that the majority of the line's benefits are unquantifiable. Improvements to reliability and the ability to serve current and expected load growth are benefits to which it is difficult to assign a monetary value. Staff expresses its expectation that, as a consumer-owned cooperative, UEC is acting on the behalf of all of its customers, and any costs incurred are the result of actions taken by the representatives of the customers themselves. In a cooperative, according to Staff, the customers are also the stakeholders, and any profits the utility makes are either returned to them or are re-invested in the cooperative. So, while Staff did consider the total costs in its assessment of the filing, Staff did not consider cost to bear the same importance as it would if UEC were an IOU.[17]

Staff concludes that the line as proposed is justified based on a comparison of the proposal with the three alternatives analyzed by UEC (two alternate 230 kV line routes and a third alternative that would upgrade an existing 115 kV line) and consideration of each route's impacts. First, the cost of the proposed line ($12.4 million) was comparable

[14] Staff/200, Rashid/7.
[15] Staff/200, Rashid/9.
[16] Staff/200, Rashid/2.
[17] Staff/100, Hanhan/7-8.

to two 230 kV alternatives.[18] Each of the two alternative 230 kV routes required condemnation of land, as each crossed 17 parcels (as does the proposed route). In contrast, the proposed line requires the least amount of new easements (29.6 acres). Alternative Route 1 would have required 32.1 acres of new easements and Alternative Route 2 required 40.6 acres in new easements.

In addition to the cost and acreage for the different routes stated above, Staff notes that UEC further justifies the preferred route by explaining that the third alternative, utilizing the existing 115 kV line (and thus avoiding the need for condemnation), would require significant upgrades to other infrastructure, increasing the cost of this alternative to more than $30 million. According to UEC, this more expensive option would not provide the improved reliability of the preferred route.[19]

Energy efficiency was also deemed an inadequate alternative. Staff provided UEC's response to questions about non-wires alternatives. Staff states that, although UEC's energy efficiency programs are robust, the savings produced by these programs have been outpaced by load growth experienced within UEC's service territory.[20]

Finally, Staff points out UEC's statements that Alternative Route 1 goes through a zone called the Service Center, which would have impacted additional properties, does not parallel BPA's lines, and potentially would have impacted safety planning with the Port of Morrow/Columbia River Highway Interchange. In contrast, Alternative Route 2 was rejected because of environmental impacts and challenges, including that it crosses an irrigation circle, wetlands, and properties that are zoned residential.[21]

Staff states that UEC "did its due diligence to explore alternative options, control costs, and worked with landowners to minimize impacts."[22] Staff believes that UEC "has demonstrated that it has exhausted its other options, and that the line is justified."[23]

b. The Fredericksons

The Fredericksons own property adjacent to a portion of the proposed route. In their initial brief and reply brief, the Fredericksons assert that the record fails to demonstrate the necessity of the line and question the justification for the route chosen. Specifically, the Fredericksons assert that the proposed route is the "best available for UEC's

[18] Alternative Route 1 was estimated to cost ~$12.1 million, and Alternative Route 2 was estimated to cost approximately ~$12.8 million. A third alternative, which required no condemnation, was a 115 kV upgrade and cost-prohibitive with an estimate of ~$30.1 million.
[19] Staff/102, Hanhan/43 (PUC Staff Data Request 65).
[20] Staff/100, Hanhan/14 (citing PUC Staff Data Request 41 (Staff/102)).
[21] UEC/108, Toth/3.
[22] Staff/100, Hanhan18.
[23] *Id.*

purposes, but not the only viable one."[24] In addition to the four routes examined by UEC, the Fredericksons note four other potential routes identified in a letter received as part of the public comments.

The letter, dated June 4, 2020, submitted by Gary W. Coburn, describes four additional possibilities that utilize an industrial corridor north of Interstate 84. Mr. Coburn summarized the contents of the letter during the June public comment hearing. The Fredericksons note that Staff and UEC examined these routes and stated that, while they were possible, they were not the preferred route. The Fredericksons also state that placing the line underground was not considered.

Further, the Fredericksons note that UEC did not demonstrate how the transmission line was necessary to benefit farmers. The Fredericksons state that without such a demonstration, the transmission line cannot be sited on land zoned Exclusive Farm Use (EFU).

The Fredericksons cite a Land Use Board of Appeals (LUBA) case which they assert describes a similar situation (EFU-zoned land being appropriated for a utility facility). In that case, they say, the construction of a utility facility was denied by LUBA because, *inter alia*, "a finding that the proposed site is the best of available sites is inadequate."[25]

Finally, the Fredericksons state that the land is not being taken for public use. Rather, the Fredericksons rely on assertions from "community members" that the land is being taken for the increased energy needs of one UEC customer.[26]

3. UEC and Staff Response

UEC addresses the Fredericksons' brief by noting that it does not state the correct statutory standard for *necessity* in this proceeding. UEC points out that the Fredericksons instead use the definition of *necessity* as it is presented in ORS 215.275:

> As used in ORS 215.283 and refined by ORS 215.275, the "necessity" of a utility facility refers to the necessity to be in the EFU zone. LUBA has explained that, to comply with ORS 215.275, an applicant must first make a reasonable effort to identify reasonable non-EFU zoned sites. If non-EFU sites are identified, the applicant must demonstrate that those alternative sites are not feasible based on one or more of the factors set out in ORS 215.275(2).[27]

[24] Frederickson Opening Brief at 7.
[25] Frederickson Opening Brief at 7, citing *Harshman v. Jackson County*, 41 LUBA 330 (2002).
[26] Frederickson Opening Brief at 9.
[27] UEC Reply Brief at 5, citing *Getz v. Deschutes County*, 58 OR LUBA 559 (2009).

UEC notes that, even using the Frederickson's EFU standard, the transmission line siting on EFU-zoned land was necessary because the Highway 730 switchyard is surrounded by EFU-zoned land.[28] UEC states that the Fredericksons did not identify any route that would avoid the use of EFU zoned property. Thus, it is necessary to site the transmission line on EFU-zoned land for any possible route.

Regarding the "single customer" assertion, UEC first notes that the line is necessary to address reliability concerns. UEC cites Oregon case precedent to demonstrate that Oregon courts have long held that a use directly benefiting a limited number of persons—even one person – can nevertheless constitute a "public use."[29]

In its reply brief, Staff explains that neither the Tallmans nor the Fredericksons dispute the demonstrated and expected load growth as demonstrated by UEC and examined by Staff. Therefore, Staff concludes "a finding of necessity for the proposed transmission line does not appear in dispute."[30]

In addition, Staff notes that alternative routes may be considered in evaluating the practicability or justification in the public interest. UEC explained that it did not select a route north of Interstate 84 for evaluation as the proposed or an alternative route because routes north of Interstate 84 were not "less impactful" than the proposed route and alternative routes evaluated in the Petition. Segments for such a route would be "much more difficult, if not impossible, to site when compared to the preferred route and to the other alternatives UEC analyzed."[31] Staff reiterates UEC's analysis on these routes, and further notes that the Fredericksons do not identify evidence that rebuts these findings.

4. Commission Resolution on Necessity and Justification

Based on UEC's petition and Staff's review, we find the line to be necessary and justified. Staff examined and confirmed UEC's load growth. Staff reviewed UEC's load growth documentation from 2014 provided in UEC's initial application and requested and analyzed UEC's growth over the previous 20 years. By doing so, Staff corroborated a similar level of load growth.[32]

We agree with UEC that the Fredericksons appear to substitute the definition of "necessary" employed for land use questions surrounding EFU-zoned land for the definition in our precedent. The LUBA precedent cited is not applicable here. As

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[28] UEC Reply Brief at 5.
[29] UEC Reply Brief at 6, citing *Bridal Veil Lumbering Co. v. Johnson*, 30 Or 205, 210 (1896). The Court allowed condemnation of private property to build a railway serving a single lumber company, declaring it a "public use" where any person could have used the railway for transportation or shipping – even though no one did.
[30] Staff Reply Brief at 1.
[31] *Id.* at 2, citing Staff/102, Hanhan/37.
[32] Staff/100, Hanhan/8-9, and Figure 1.

demonstrated by UEC and Staff, the addition of the transmission line is necessary to accommodate load growth and maintain reliable service. Therefore, we determine that the proposed line is necessary and in the public interest, based on evidence of load growth, UEC's current and future capacity needs, and reliability considerations.

The justification for the line is based not only on the need for the project, but also a consideration the public benefits and costs of the project. As noted above, we rely on the benefits and costs that can be quantified in economic terms when available. From the record, it is apparent that UEC considered (and Staff reviewed) the cost of several alternatives, including those contained in the public record. As presented by UEC and reviewed by Staff, the cost of the line is comparable to the two 230 kV alternatives and significantly less expensive than the 115 kV upgrade. The preferred 230 kV route addresses UEC's demonstrated growth and future capacity concerns. The cost of the line will be offset by increased electricity sales in the Boardman/Morrow Flat area. Therefore, we conclude, based on the costs and benefits presented by the parties, that the preferred route is justified and in the public interest.

We note that Staff has stated an expectation that consumer-owned utilities, such as UEC, act in the interest of their customers because the customers have more direct control over the utility. We clarify that we are implementing our review of proposed transmission lines under ORS 758.015 in the same way, and subject to the same standards, regardless of the ownership nature of the utility. Although we share Staff's recognition that consumer-owned utilities have a different relationship with their customers, we are not inclined to assume that justification or need is demonstrated by the ownership structure of the utility in and of itself.

B. Practicability

1. UEC's Petition

UEC describes the starting and ending points for the preferred route as the planned Highway 730 Switchyard and the planned Olson Road Substation (which will provide distribution service). Between those points, the transmission line will utilize existing transmission corridors to the extent possible in order to minimize miles of new corridor, which, according to UEC, minimizes the impact to the community and the environment. The proposed route also makes use of publicly-owned property, areas where UEC already has existing easements, and properties where UEC was able to find willing landowners.[33]

UEC states that siting the crossing under Bonneville Power Administration's (BPA) existing transmission lines in this area was a major constraint guiding the overall route selection, and UEC located a crossing that is consistent with BPA's permitting

[33] UEC/200, Echenrode/4.

requirements. Siting the crossing over the West Extension Irrigation District canal is consistent with the Bureau of Reclamation's permitting requirements, which permit such crossings.

UEC also notes that it met with Oregon Department of Transportation representatives at the site where the transmission line would be located on highway right-of-way and received positive assessment of the proposed route. Morrow County's Planning Department has reviewed the proposed route and is aware of the county road crossings for which UEC will need to file crossing permits. The City of Boardman has reviewed the proposed route and has advised UEC's land use team about a planned loop road to enhance traffic safety in the Laurel Lane Road, Interstate-84 interchange area (Port of Morrow Interchange). The design of the proposed route will accommodate the City's road development plan.[34]

2. Positions of the Parties

a. Staff

Staff's opinion, based on information provided by UEC and additional information requested and received, is that the line is practicable. Staff states that UEC has selected the best available route, that the transmission line is financially feasible, and that the line will be constructed efficiently and effectively.[35]

Staff requested additional information about required crossing permits. UEC responded that the proposed route has two ODOT highway crossings, two county road crossings, a canal crossing, and a BPA line crossing. Though UEC has yet to apply for the necessary crossing permits, it represented to Staff that the crossing permits are typically sought after easements are secured.[36]

b. Tallmans

During the hearing, Mr. Tallman stated that the Tallmans were still uncertain about how the line would impact a planned loop road. In addition to owning two parcels that would be subject to condemnation under the proposed route, the Tallmans run a small business that could be adversely affected by road modifications. Mr. Tallman inquired about the status of the road and why no specific plans were publicly accessible.[37]

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[34] *Id.* at 5.
[35] Staff/200, Rashid/13-14.
[36] Staff/102, Hanhan/15 (PUC Staff Data Request 18).
[37] Tr. at 19, line 14 through at 20, line 5.

3. UEC and Staff Response

On the stand, in response to Mr. Tallman's inquiry, UEC witness Echenrode stated that UEC "has received no information that our proposed design would impact or restrict the development of loop road" and that "the plans for the road will continue to be developed."[38]

In its reply brief, Staff continues to find the proposed line is feasible, can be efficiently and effectively constructed, and is justified in the public interest.

4. Commission Resolution on Practicability

We agree with Staff that the line is practicable. In addition to the information contained in the initial petition, UEC responded to several Staff data requests regarding the feasibility of the route and cost impacts. Based on the cost, crossing permits and other factors required to be addressed prior to and during construction, UEC's preferred route is feasible. Therefore, we find that the line meets our practicability standard.

C. Safety

1. UEC's Petition

UEC contends that it has substantial experience in constructing, operating, and maintaining transmission lines in a safe, efficient manner. UEC witness Toth explained that "[t]he Transmission Line will be constructed, operated, and maintained to meet or exceed all applicable National Electrical Safety Code standards, as well as all applicable federal, state and local laws, regulations, and ordinances."[39]

2. Positions of the Parties

a. Staff

Staff relies on the statements made in UEC's petition, including that the PUD has been operating for more than 83 years. Staff notes that UEC will meet the standard required in a CPCN evaluation. Staff witness Rashid notes that he has found no evidence that high voltage transmission lines pose health risks "to humans who live in proximity to those lines outside of the horizontal clearance zone."[40]

[38] *Id.* at 19, lines 21-23.
[39] UEC/100, Toth/17.
[40] Staff/200, Rashid/11.

b. Tallmans

In their opening brief, the Tallmans note several health hazards from overhead power lines, including potentially detrimental effects on pacemakers and implanted cardiac pacemakers in a study from 1983. The Tallmans also refer to a report from California which presents potentially harmful effects of electro-magnetic fields (EMF) from power lines on humans and animals.[41] However, a citation for the specific report is not included.

3. UEC and Staff Response

UEC does not respond to the Tallman's health assertions. Staff replies to this concern by noting that there is "no conclusive medical evidence that high voltage transmission lines, constructed under modern construction standards, pose health risks to humans who live in proximity to those lines outside of the horizontal clearance zone."[42] Thus, Staff does not concur with the Tallmans the project presents a health and safety risk. Staff further notes in its reply that, because UEC will comply with all National Electric Safety Code standards for construction and operation of the line, that the safety criteria for the CPCN is satisfied.[43]

4. Commission Resolution on Safety

As we have stated previously safe construction and operation an electric transmission system is paramount to the public interest.[44] We agree with Staff that UEC has a record of safe system operation, is committed to use the relevant and most recent safety standards to build, operate, and maintain the proposed line. Therefore, we find that the safety considerations have been adequately addressed by UEC, Staff, and by the record in this case. We encourage UEC to employ emerging best practices for wildfire prevention in construction and operation of the line.

D. Land Use Findings

1. UEC's Petition

The proposed line will cross through two jurisdictions with planning authority—the City of Boardman and Morrow County. UEC notes that both jurisdictions have comprehensive plans acknowledged by the Department of Land Conservation and Development (DLCD).

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[41] Tallman Initial Brief at 3-4.
[42] Staff/200, Rashid/11.
[43] Staff Reply Brief at 4, citing OAR 860-024-0010.
[44] *In the Matter of Tillamook People's Utility District, Petition for Certificate of Public Convenience and Necessity*, Docket No. PCN 2, Order No. 19-293 at 16 (Sep 10, 2019).

The City of Boardman planning department has advised UEC's land use team that the proposed project will intersect the Service Center (SC) zone and General Industrial (GI) zone. The proposed project is permitted outright in both SC and GI zones consequently it would require only a standard non-discretionary zoning permit. UEC's land use team will continue to work with local planning and regulatory staff as the project progresses.

Regarding Morrow County, the transmission line is an outright permitted use and does not require land use approval except for the portion of the line that passes through the County's EFU zone. UEC applied for a Land Use Decision from the County after obtaining permission from all property owners within that zone.

2. Positions of the Parties

a. Staff

Staff notes the city and county comprehensive plans and zoning regulations, and states that, to its knowledge, neither jurisdiction has a plan amendment or regulation relevant to this petition that is pending approval at DLCD. UEC submitted a letter with its petition from the City of Boardman, which states that transmission lines are permitted outright in the two planning zones affected by the proposed route within the City. This letter supports a finding of compatibility under OAR 860-025-0030(2)(b). UEC's land use approval was issued by Morrow County on July 21, 2020, satisfying OAR 860-025-0030(2)(16)(a). According to Staff, UEC has demonstrated that the transmission project is compatible with land use regulations and statewide planning goals.

b. Fredericksons

The Fredericksons do not believe the line benefits farmers, which they assert is a requirement because the proposed line extends through farm territory. The Fredericksons cite to agricultural policy which is meant to preserve agricultural land.[45] The Fredericksons opine that the route extends "almost entirely" through land zoned as EFU, instead of utilizing corridors north of Interstate-84. Further, the Fredericksons assert that because UEC fails to demonstrate that the transmission line benefits area farms, and because the line degrades the beauty of the area and would allow for the expansion of non-farming activities such as the construction and operation of data centers in the area, that the preferred route of the transmission line is not compatible with Oregon's statewide planning goals regarding agricultural lands.[46]

[45] OAR 660-015-0000(3) states that "agricultural lands shall be preserved and maintained for farm use, consistent with existing and future needs to agricultural products, forest and open space and the state's agricultural land policy expressed in ORS 215.243 and 215.700."

[46] Frederickson Initial Brief at 5-6; Reply Brief at 4.

c. Tallmans

The Tallmans argue that the transmission line does not comport with the City of Boardman's prohibition on overhead lines.

3. UEC and Staff responses

UEC notes that the transmission line passes through six different land use zones in two different jurisdictions. Only four of the seventeen parcels the Transmission Line crosses are in the Exclusive Farm Use (EFU) zone.

UEC further notes that the Fredericksons' brief cites to a legislative policy—ORS 215.243 – rather than to any specific statewide land use planning goal. Although that statute is relevant to Statewide Planning Goal 3 (Goal 3), it does not actually establish the contours of Goal 3 nor impose any specific mandate. Instead, Goal 3 is implemented through a combination of statutes and rules, which includes ORS 215.283. That statute expressly allows non-farm utility facilities like transmission lines to be sited in an EFU zone by right. Thus, UEC asserts that, contrary to the Fredericksons' arguments, the transmission line complies with Goal 3 even without evidence of specific benefits to farm uses.[47]

Staff notes that the Commission may rely on decisions from affected cities or counties without making our own findings as to compliance with state land use requirements. Staff points out that the City of Boardman confirmed that the line is an outright permitted use, not requiring a discretionary permit. The Morrow County Planning Commission approved the Morrow County Planning Director's decision approving the line. Thus, Staff concludes that the Commission is not bound to make an independent finding, and may rely on the documentation on the record to find the transmission line is compatible with relevant land use goals and regulations.

4. Commission Resolution on Land Use Findings

We agree with Staff that, as stated in OAR 860-025-0030(3)(a), we may rely on decisions from the affected local jurisdictions. On the record there are express approvals from both the City of Boardman and Morrow County that the transmission line is compatible with each jurisdiction's land use plan and regulations. Therefore, we conclude that UEC's proposed facility and route complies with Oregon's statewide land use planning goals.

[47] UEC Reply Brief at 4; citing UEC/104, Toth/1.

V. CONCLUSION

We find that UEC has met the legal requirements under ORS 758.015 and OAR 860-025-0030(2) for a certificate of public convenience and necessity for the proposed line. We approve UEC's petition.

VI. ORDER

IT IS ORDERED that that the Umatilla Electric Cooperative is granted a Certificate of Public Convenience and Necessity to construct a 4.3 mile overhead transmission line from the planned Highway 730 Switchyard to a planned substation near Olson Road in Boardman, both to be constructed by Umatilla Electric Cooperative.

Made, entered, and effective Mar 05 2021.

Megan W. Decker
Chair

Letha Tawney
Commissioner

Mark R. Thompson
Commissioner

A party may request rehearing or reconsideration of this order under ORS 756.561. A request for rehearing or reconsideration must be filed with the Commission within 60 days of the date of service of this order. The request must comply with the requirements in OAR 860-001-0720. A copy of the request must also be served on each party to the proceedings as provided in OAR 860-001-0180(2). A party may appeal this order by filing a petition for review with the Court of Appeals in compliance with ORS 183.480 through 183.484.

BEFORE THE PUBLIC UTILITIES COMMISSION

OF OREGON

PCN 4

In the Matter of UMATILLA ELECTRIC COOPERATIVE, Petition for Certification of Public Convenience and Necessity	REQUEST FOR RECONSIDERATION

Pursuant to ORS 765.561, intervenors Terry and Cheryl Tallman request reconsideration of the Commission's Order No. 21-074 granting a Certificate of Public Convenience and Necessity to Umatilla Electric Cooperative (UEC).

For the reasons they and other intervenors have articulated (including the testimony of Gary W. Colburn), the Tallmans believe that UEC and Staff have not given sufficient consideration to the alternatives identified in the record below, or provided the Commission with information and analysis sufficient to make a reasonable assessment and comparison of their relative impacts. In the Tallmans' view, this additional analysis and comparison is necessary in order to allow the Commission to make a sound decision, and should be the burden of UEC as applicant.

Even if the Commission is determined to adhere to its current decision, however, it should reconsider its Order to the extent necessary to more precisely define the scope of its Certificate in order to avoid the possibility that it will be interpreted more broadly to support the condemnation of property interests beyond those considered by the Commission.

The Tallmans note that UEC's petition, the analysis of Staff, and the Commission's deliberations have all focused on the need for a new 230 kilovolt (kV) transmission line, including drawings and other detail concerning the facilities to be constructed. Although this specific transmission line is referenced in the introduction of the Order (at 1, Section I), the adjudicatory portion of the Order (at 16, Section VI) contains only a broader reference to an overhead transmission line to be constructed by UEC. This is of concern, as the Order elsewhere indicates

that the Commission is granting UEC's petition and portions of the petition might later be characterized as authorizing a broader Certificate, including provision for the subsequent addition of expanded facilities to meet future needs that have not been substantively addressed in any fashion by the petition, in the analysis of Staff, or by the Commission.

More specifically, UEC's submissions in support of its petition included the form of "desired" easement it has utilized in voluntary transactions (UEC Petition at 11 and Exhibit 104). The same form is later referenced as a "sample easement" (UEC Petition at 14 and Exhibit 104). The form set forth in Exhibit 104, however, would convey property rights that are broader than the facilities described and analyzed in the petition, and indeed exceed UEC's statutory condemnation authority.

The form easement, which is also referenced in response to information required of the petitioner under OAR 860-025-0030(1)(f), provides not only for the installation of the transmission line that is the subject of the petition and related testimony and Staff analysis but more broadly for a perpetual easement "to construct, operate, maintain, repair and replace [unspecified] utility lines and facilities, including, but not limited to, lines for the transmission or distribution of electrical power, telephone lines, television and communication lines, or any related system and facilities on, across, over, or under a strip of land ___ feet wide located on property described" together with rights not only to repair but to replace, add to, and improve such facilities: "Grantor further grants the right to inspect and make repairs, changes, alterations, improvements, removals from, substitutions and additions to the facilities as Grantee may from time to time deem advisable . . . ." (UEC 104/Toth 12)

While it may be desirable, practical and forward thinking for UEC to seek such rights in voluntary transactions, it would be inappropriate for the utility to rely on a Commission Certificate to seek such interests in the exercise of its statutorily delegated power of eminent domain, which it has represented to the Commission will be utilized only as a last resort. Under ORS 758.015, UEC is required to petition the Commission for a Certificate of Public Convenience and Necessity if the construction of a transmission project is likely to involve the exercise of the power of eminent

domain. The scope of UEC's underlying authority to condemn, however, is defined by the legislative delegation contained ORS 772.210.

The Tallmans respectfully request that the Commission reconsider its Order and, at a minimum, include language specifying that the Certificate is for those facilities and property interests necessary to construction of the currently proposed 230kV transmission line.

DATED: April 30, 2021

LANE POWELL PC

By: s/ Charles F. Hudson
CHARLES F. HUDSON, OSB No. 830494
Telephone: 503.778.2100
hudsonc@lanepowell.com
Attorneys for Terry and Cheryl Tallman

ORDER NO. 21-07

ENTERED Jun 24 2021

BEFORE THE PUBLIC UTILITY COMMISSION

OF OREGON

PCN 4

In the Matter of UMATILLA ELECTRIC COOPERATIVE, Petition for Certification of Public Convenience and Necessity.	ORDER

DISPOSITION: APPLICATION FOR RECONSIDERATION DENIED.

On April 30, 2021, Terry and Cheryl Tallman (the Tallmans) submitted a request for us to reconsider the grant of a certificate of public convenience and necessity (CPCN) to Umatilla Electric Cooperative (UEC) for the purpose of building a 4.3 mile, 230 kilovolt (kV) transmission line.[1] The Tallmans claim that four alternative routes, proposed via public comment, were not afforded sufficient consideration and analysis in these proceedings. The Tallmans further requested the scope of our order be clarified to limit any property that may be eventually sought by UEC in a condemnation proceeding, asserting that the language in both the order and proposed easement was overbroad. UEC and Staff filed responses in opposition to the Tallman's request.

If a party demonstrates sufficient reason for reconsideration, the commission may grant such an order.[2] During the proceedings, UEC adequately addressed each of the four proposed alternative routes.[3] Regarding the taking of an interest in land, a condemnation proceeding requires, as a part of the initial filing, a description of the property interest being sought.[4]

[1] Order No. 21-074 (Mar 5, 2021).
[2] ORS 756.561(1).
[3] Staff/102 Hanhan/46-48. Staff asked UEC to review the June 4, 2020 letter from Gary Colburn of EFI Global, and state whether UEC considered any of Mr. Colburn's proposed routes, and if so, to provide the results of its analysis for each route. UEC provided the analysis for each of the proposed routes, explaining why it did or did not consider each alternative, and the reasons for rejecting each of the four routes.
[4] ORS 35.255

We find that the Tallmans' application for reconsideration does not demonstrate, as required by OAR 860-001-0720(3)(a) to (c), that there is new evidence, a recent change in law or policy, or an error of law or fact on our part that was essential to our decision. Neither do the Tallmans show good cause for further examination of an issue essential to our decision.

ORDER

IT IS ORDERED that the application for reconsideration of Order No. 21-074, submitted by Terry and Cheryl Tallman, is denied.

Made, entered, and effective Jun 24 2021.

Megan W. Decker
Chair

Letha Tawney
Commissioner

Mark R. Thompson
Commissioner

A party may appeal this order by filing a petition for review with the Court of Appeals in compliance with ORS 183.480 through 183.484.

CERTIFICATE OF SERVICE

I hereby certify that I caused the foregoing **DECLARATION OF JOSHUA LANKFORD, P.E., IN SUPPORT OF PLAINTIFF'S MOTION FOR ADVANCE OCCUPANCY AND RESPONSE IN OPPOSITION TO DEFENDANT'S MOTION TO DISMISS** to be served on:

Charles F. Hudson
hudsonc@lanepowell.com
Bruce H. Cahn
cahnb@lanepowell.com
LANE POWELL PC
601 SW Second Avenue, Suite 2100
Portland, OR 97204-3158
Telephone: (503) 778.2100

Attorneys for Defendant
1ST John 2:17, LLC

by the following indicated method(s):

[✓] by **MAILING** a full, true and correct copy thereof in a sealed, postage-paid envelope, addressed as shown above, and deposited with the U.S. Postal Service at Portland, Oregon, on the date set forth below.

[✓] by notice of **ELECTRONIC FILING** by using the Odyssey File & Serve at the party's email address as recorded on the date of service in the eFiling system (UTCR 21.100(4)), if applicable.

[✓] by causing a full, true and correct copy thereof to be sent by **ELECTRONIC MAIL** by to the party, at the address listed above on the date set forth below.

DATED: August 9, 2021

CABLE HUSTON LLP

s/ Nicole M. Swift
Nicole M. Swift, OSB No. 141419
nswift@cablehuston.com
1455 SW Broadway, Suite 1500
Portland, OR 97201
Attorneys for Plaintiff

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TELEPHONE (503) 224-3092, FACSIMILE (503) 224-3176

IN THE CIRCUIT COURT OF THE STATE OF OREGON

FOR THE COUNTY OF MORROW

UMATILLA ELECTRIC COOPERATIVE, an Oregon cooperative corporation, Plaintiff, v. 1ST JOHN 2:17, LLC, an Oregon limited liability company, successor-in-interest to Terry Tallman and Cheryl Tallman, as tenants by the entirety, Defendant.	Case No. 21CV28343 **DECLARATION OF ROBERT ECHENRODE IN SUPPORT OF PLAINTIFF'S MOTION FOR ADVANCE OCCUPANCY AND RESPONSE IN OPPOSITION TO DEFENDANT'S MOTION TO DISMISS**

I, Robert Echenrode, do hereby declare:

1. I am the General Manager and Chief Executive Officer of Umatilla Electric Cooperative ("UEC"). I make this Declaration in support of UEC's Motion for Advance Occupancy and Response in Opposition to Plaintiff's Motion to Dismiss ("Motion") in the above-captioned lawsuit, based on personal knowledge and belief.

2. Attached as Exhibit A is a true and correct copy of the prefiling offer that UEC issued Terry and Cheryl Tallman on June 2, 2021, by certified mail, to 706 Mt. Hood Avenue SW, Boardman, Oregon 97818.

3. Attached as Exhibit B is a true and correct copy of the certified mailing receipt of UEC's June 2, 2021 prefiling offer package.

4. Attached as Exhibit C is a true and correct copy of the statutory warranty deed, dated June 16, 2021 and recorded on June 18, 2021, by which Terry K. Tallman and Cheryl

CABLE HUSTON LLP
1455 SW BROADWAY, SUITE 1500
PORTLAND, OREGON 97201-3412
TELEPHONE: (503) 224-3092, FACSIMILE: (503) 224-3176

Tallman transferred their ownership in Morrow County Tax Lots 3205, 3302, and 3207 to Defendant 1st John 2:17, LLC. The Easement needed on Defendant's Property will cross Morrow County Tax Lots 3205 and 3302.

5. Attached as Exhibit D are true and correct copies of title reports dated July 2, 2021 for Morrow County Tax Lots 3205, 3302, and 3207, with highlighted notations.

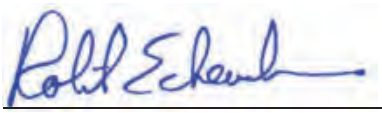
6. Attached as Exhibit E is a true and correct copy of Defendant's Articles of Organization, accessed from the Oregon Secretary of State website.

7. Attached as Exhibit F is a true and correct copy of a transcription of the voicemail Jonathan Tallman left UEC on July 1, 2021.

8. I communicated with Jonathan Tallman multiple times, by phone and through written communications, in attempt to acquire the Easement by negotiation after UEC submitted its prefiling offer on June 2, 2021. Jonathan Tallman presented a written proposal on July 2, 2021, which UEC declined. UEC presented a written settlement offer on July 8, 2021, which Defendant declined.

I hereby declare that the above statement is true to the best of my knowledge and belief, and that I understand that it is made for use as evidence in court and is subject to penalty for perjury.

DATED: August 9, 2021



ROBERT ECHENRODE

CABLE HUSTON LLP
1455 SW BROADWAY, SUITE 1500
PORTLAND, OREGON 97201-3412
TELEPHONE: (503) 224-3092, FACSIMILE: (503) 224-3176

UMATILLA ELECTRIC COOPERATIVE

June 2, 2021

Via Certified Mail

Terry Tallman and Cheryl Tallman
706 SW Mt Hood Avenue
Boardman, OR 97818

Dear Mr. and Mrs. Tallman:

As you know, Umatilla Electric Cooperative (UEC) is proposing to construct the Boardman Transmission Project, which includes the design, construction, location, and operation of an approximately 4.3 mile overhead 230kV electric transmission line from the Highway 730 Switchyard to a substation near Olson Road in Boardman (Transmission Line).

UEC has determined that it is necessary to obtain easements on properties along the route of the Transmission Line, including on your property. On March 5, 2021, the Oregon Public Utility Commission (PUC) granted UEC a Certificate of Public Convenience and Necessity, through PUC Order 21-074, and concluded that the Transmission Line is a public use and necessary for public convenience.

In accordance with ORS 35.346, UEC offers to pay you $14,600 as just compensation and compensable damages for the enclosed "Electric Utility Easement" (Easement), which is supported by the enclosed appraisal.

Oregon law provides a minimum of 40 days from the date of this initial written offer for you to consider accepting or rejecting it. You may choose to accept or reject the offer at any time prior to the expiration of the 40-day period. If, following this 40-day period, an agreement has not been reached, UEC may proceed with legal action to acquire the Easement.

Please read these documents carefully and, if acceptable, sign and notarize the Easement, along with the enclosed IRS Form W-9, and return them to me. If you need help locating a notary, please feel free to contact me.

750 W. Elm Avenue • PO Box 1148 • Hermiston OR 97838

Phone: (541) 567-6414 Fax: (541) 567-8142 Toll Free: 800-452-2273

RELOCATION BENEFITS

UEC has determined that you will not be displaced by this project and are not eligible for relocation benefits. You have the right to appeal this determination by submitting to UEC a written request for an appeal within 60 days of this notification.

UEC is here to assist you in the acquisition process. Please do not hesitate to reach out to me with any questions.

I appreciate your timely attention to this matter and look forward to working with you.

Sincerely,

Robert Echenrode
General Manager/CEO

AFTER RECORDING, RETURN TO:

Umatilla Electric Cooperative
P.O. Box 1148
Hermiston, Oregon 97838
UEC REF: Tax Lots 3205, 3302

ELECTRIC UTILITY EASEMENT

Terry K. Tallman and Cheryl Tallman (collectively, "Grantor"), for good and valuable consideration, receipt of which is hereby acknowledged, grant to Umatilla Electric Cooperative, an Oregon cooperative corporation ("Grantee"), and its licensees, successors and assigns, a perpetual and non-exclusive electric utility easement ("Easement") on, across, over, and under a strip of land described in Exhibits A-1 and A-2 and depicted in Exhibits B-1 and B-2 ("Easement Area"), for the purposes of constructing, operating, maintaining, repairing, and replacing electric utility lines, including lines for the transmission and distribution of electrical power and communication lines reasonably necessary for the operation of Grantee's electrical system, and associated service facilities (collectively, the "Facilities").

Grantee shall have the right to enter upon and use the Easement Area for the purposes described above, which also includes the right to inspect and make repairs, changes, alterations, improvements, removals from, and substitutions to the Facilities, and to make additions to the overhead Facilities in the Easement Area. With the exception of up to three (3) electric utility poles in the approximate locations depicted on Exhibit C attached, and related guy wires, Grantee shall not install any Facilities on the ground surface of the Easement Area. After the completion of construction, Grantee shall not have the right to increase the number of poles or related guy wires occupying the ground surface of the Easement Area, or change their location, without Grantor's written consent, which shall not be unreasonably withheld.

In compliance with applicable law, Grantee also shall have the right to cut, trim, and control the growth, by reasonable chemical means, machinery or otherwise, of trees, shrubbery and vegetation located within the Easement Area that may interfere with the safe operation of Grantee's electrical system. Grantee shall not be responsible, however, for the maintenance of any landscaping in the Easement Area.

Grantor shall not construct, place, or otherwise locate any building, structure, or other obstruction in, upon, or under the Easement Area.

Grantor shall have the right to use the Easement Area, provided said use is not inconsistent with and does not unreasonably interfere with the purpose of the Easement or the use of the Easement Area by Grantee.

Grantee shall repair damage to the Easement Area caused by Grantee and shall restore the Easement Area, as near as reasonably practicable, to the same or like-kind condition as existed prior to Grantee's use of the Easement Area.

All Facilities installed on, across, over, or under the Easement Area at Grantee's expense shall remain the property of Grantee and removable at the option of Grantee.

Made and dated this _____ day of _____, 2021 (the "**Effective Date**").

GRANTOR:

_____
Terry K. Tallman

_____
Cheryl Tallman

ACKNOWLEDGEMENT

State of _____)
) SS.
County of _____)

This certifies that on this _____ day of _____, 2021, before me the undersigned personally appeared the above-named **Terry K. Tallman**, an individual, known to me to be the person who executed the foregoing instrument and acknowledged to me that he executed the same.

_____

My Commission Expires _____

ACKNOWLEDGEMENT

State of _____)
) SS.
County of _____)

This certifies that on this _____ day of _____, 2021, before me the undersigned personally appeared the above-named **Cheryl Tallman**, an individual, known to me to be the person who executed the foregoing instrument and acknowledged to me that he executed the same.

_____

My Commission Expires _____

ACCEPTANCE

GRANTEE:

_____ Date: _____

By:
Title:

JANUARY 30, 2020

EXHIBIT "A"

LEGAL DESCRIPTION
TAX LOT 3205 TRANSMISSION EASEMENT

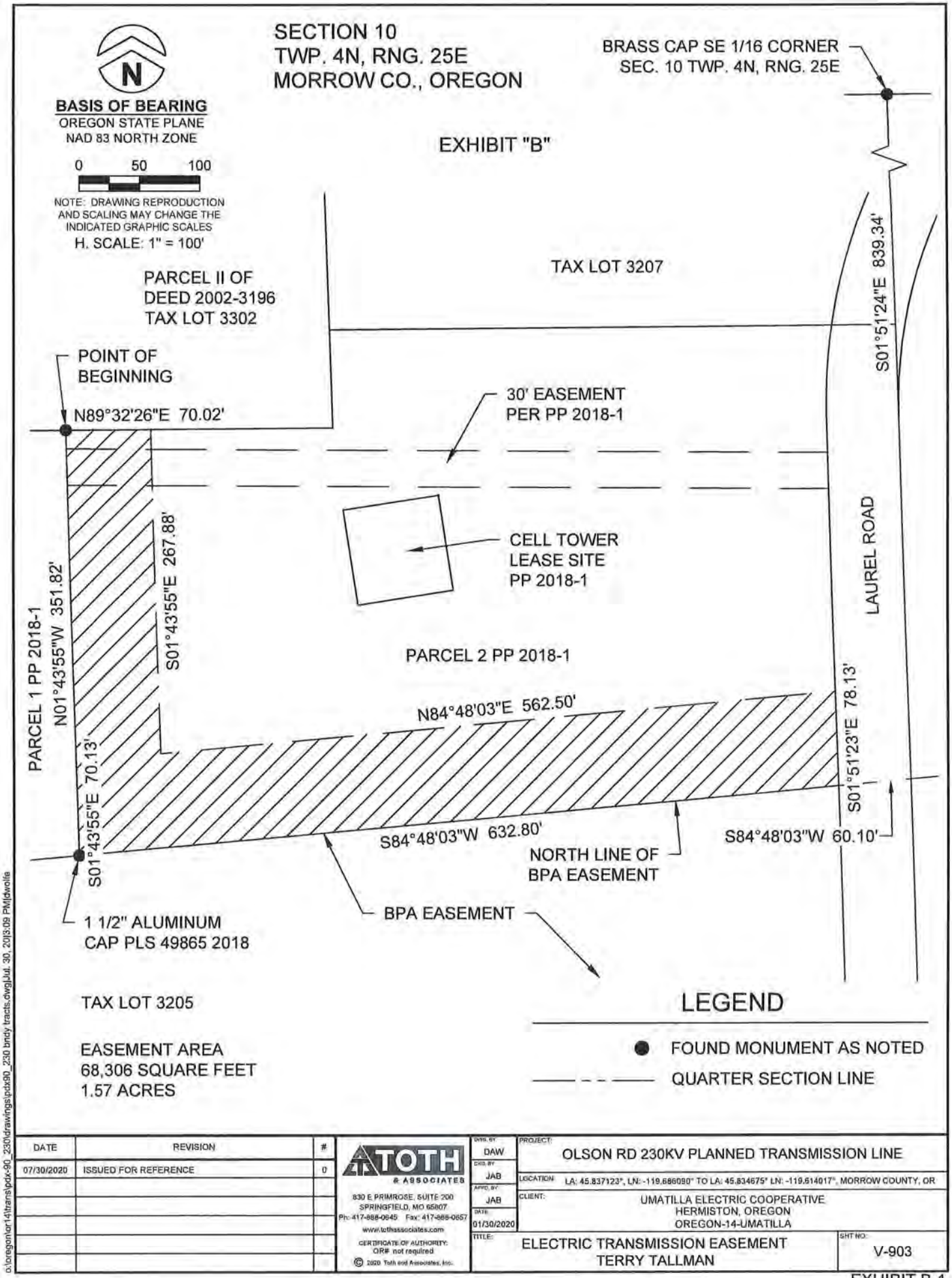
A TRACT OF LAND BEING PART OF PARCEL 2 OF PARTITION PLAT 2018-1 OF THE MORROW COUNTY SURVEY RECORDS, AND LOCATED IN THE SOUTHWEST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 10, TOWNSHIP 4 NORTH, RANGE 25 EAST OF THE WILLAMETTE MERIDIAN, MORROW COUNTY, OREGON, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEAST CORNER OF PARCEL 1 OF SAID PARTITION PLAT 2018-1, THENCE NORTH 89°32'26" EAST ALONG THE NORTH LINE OF SAID PARCEL 2, 70.02 FEET; THENCE LEAVING SAID NORTH LINE AND PARALLEL WITH THE WEST LINE OF SAID PARCEL 2, SOUTH 01°43'55" EAST, 267.88 FEET; THENCE NORTH 84°48'03" EAST, PARALLEL WITH THE NORTHERLY LINE OF THE EXISTING 395.00 FEET WIDE BPA EASEMENT AS DESCRIBED IN DEED RECORDED NOVEMBER 17, 1972, AS M5213 OF THE MORROW COUNTY DEED RECORDS, 562.50 FEET TO THE WESTERLY RIGHT-OF-WAY LINE OF LAUREL ROAD, 30.00 FEET FROM CENTERLINE WHEN MEASURED PERPENDICULAR TO SAID CENTERLINE; THENCE SOUTH 01°51'23" EAST ALONG SAID RIGHT-OF-WAY LINE, 78.13 FEET TO THE INTERSECTION WITH THE NORTHEASTERLY EXTENSION OF THE SOUTH LINE OF SAID PARCEL 1 AND THE NORTHERLY LINE OF SAID BPA EASEMENT; THENCE LEAVING SAID RIGHT-OF-WAY LINE AND ALONG SAID NORTHEASTERLY EXTENSION OF THE SOUTH LINE OF SAID PARCEL 1 AND THE NORTHERLY LINE OF SAID BPA EASEMENT, SOUTH 84°48'03" WEST, 632.80 FEET TO THE SOUTHEAST CORNER OF SAID PARCEL 1; THENCE NORTH 01°43'55" WEST ALONG THE EAST LINE OF SAID PARCEL 1, 351.82 FEET TO SAID NORTHEAST CORNER AND THE POINT OF BEGINNING.

CONTAINING APPROXIMATELY 68,306 SQUARE FEET OR 1.57 ACRES, MORE OR LESS.

THE BASIS OF BEARINGS FOR THIS DESCRIPTION IS PER GPS OBESRVATIONS, OREGON STATE PLANE COORDINATES.





DATE	REVISION	#
07/30/2020	ISSUED FOR REFERENCE	0

TOTH & ASSOCIATES
830 E PRIMROSE, SUITE 200
SPRINGFIELD, MO 65807
Ph: 417-888-0645 Fax: 417-888-0657
www.tothassociates.com
CERTIFICATE OF AUTHORITY: OR# not required
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DWN. BY	DAW
CHD. BY	JAB
APVD. BY	JAB
DATE	01/30/2020
PROJECT	OLSON RD 230KV PLANNED TRANSMISSION LINE
LOCATION	LA: 45.837123°, LN: -119.686090° TO LA: 45.834675° LN: -119.614017°, MORROW COUNTY, OR
CLIENT	UMATILLA ELECTRIC COOPERATIVE HERMISTON, OREGON OREGON-14-UMATILLA
TITLE	ELECTRIC TRANSMISSION EASEMENT TERRY TALLMAN
SHT NO.	V-903

EXHIBIT B-1

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JANUARY 30, 2020

EXHIBIT "A"

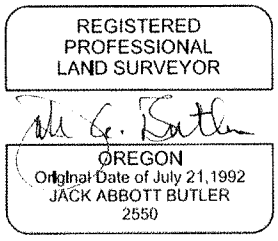
LEGAL DESCRIPTION
TAX LOT 3302 TRANSMISSION EASEMENT

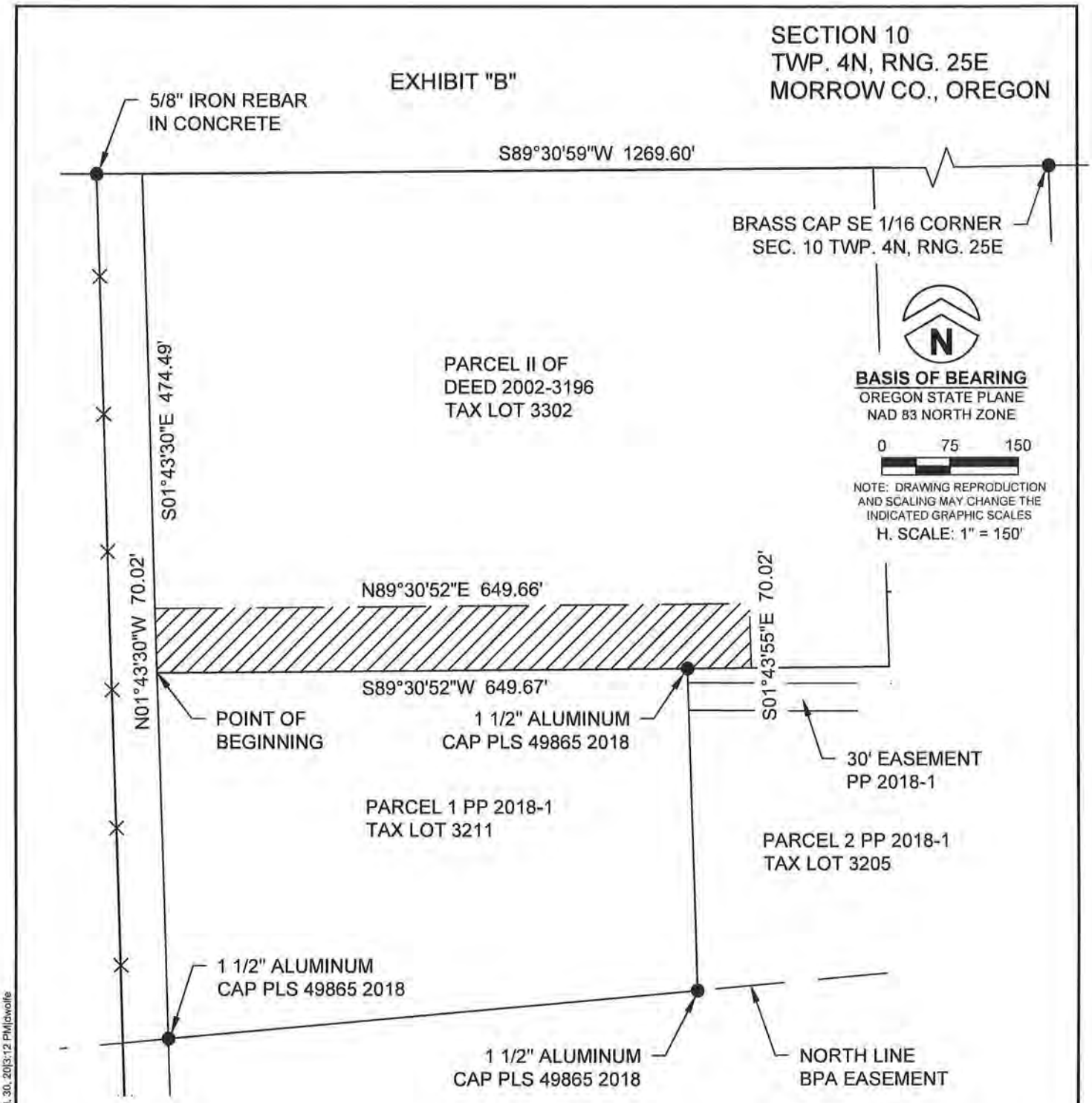
A TRACT OF LAND BEING PART OF PROPERTY DESCRIBED IN DEED DOCUMENT 2002-3196 OF THE MORROW COUNTY DEED RECORDS AND LOCATED IN THE SOUTHWEST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 10, TOWNSHIP 4 NORTH, RANGE 25 EAST OF THE WILLAMETTE MERIDIAN, MORROW COUNTY, OREGON, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF PARCEL 1 OF PARTITION PLAT 2018-1 OF THE MORROW COUNTY SURVEY RECORDS, THENCE NORTH 01°43'30" WEST ALONG THE NORTHERLY EXTENSION OF THE WEST LINE OF SAID PARCEL 1, SAID LINE ALSO BEING THE WEST LINE OF PROPERTY DESCRIBED IN SAID DEED DOCUMENT 2002-3196, 70.02 FEET; THENCE LEAVING SAID WEST LINE, NORTH 89°30'52" EAST, 649.66 FEET; THENCE SOUTH 01°43'55" EAST, 70.02 FEET TO THE INTERSECTION WITH THE EASTERLY EXTENSION OF THE NORTH LINE OF SAID PARCEL 1; THENCE SOUTH 89°30'52" WEST ALONG SAID NORTH LINE AND ITS EASTERLY EXTENSION, 649.67 FEET TO SAID NORTHWEST CORNER AND THE POINT OF BEGINNING.

CONTAINING APPROXIMATELY 45,493 SQUARE FEET OR 1.04 ACRES, MORE OR LESS.

THE BASIS OF BEARINGS FOR THIS DESCRIPTION IS PER GPS OBESRVATIONS, OREGON STATE PLANE COORDINATES.





DATE	REVISION	#
07/30/2020	ISSUED FOR REFERENCE	0

TOTH & ASSOCIATES
830 E PRIMROSE, SUITE 200
SPRINGFIELD, MO 65807
Ph: 417-588-0545 Fax: 417-888-0657
www.tothassociates.com
CERTIFICATE OF AUTHORITY: OR# not required
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DWN. BY: DAW
CKD. BY: JAB
APPD. BY: JAB
DATE: 01/30/2020

PROJECT: OLSON RD 230KV PLANNED TRANSMISSION LINE
LOCATION: LA: 45.837123°, LN: -119.686090° TO LA: 45.834675° LN: -119.614017°, MORROW COUNTY, OR
CLIENT: UMATILLA ELECTRIC COOPERATIVE
HERMISTON, OREGON
OREGON-14-UMATILLA
TITLE: ELECTRIC TRANSMISSION EASEMENT
TERRY TALLMAN
SHT NO: V-902

EXHIBIT B-2

o:\oregon\or14\trans\pdx-90_230\drawings\pdx90_230 bndy tracts.dwg|Jul. 30, 20|3:12 PM|dwolfe

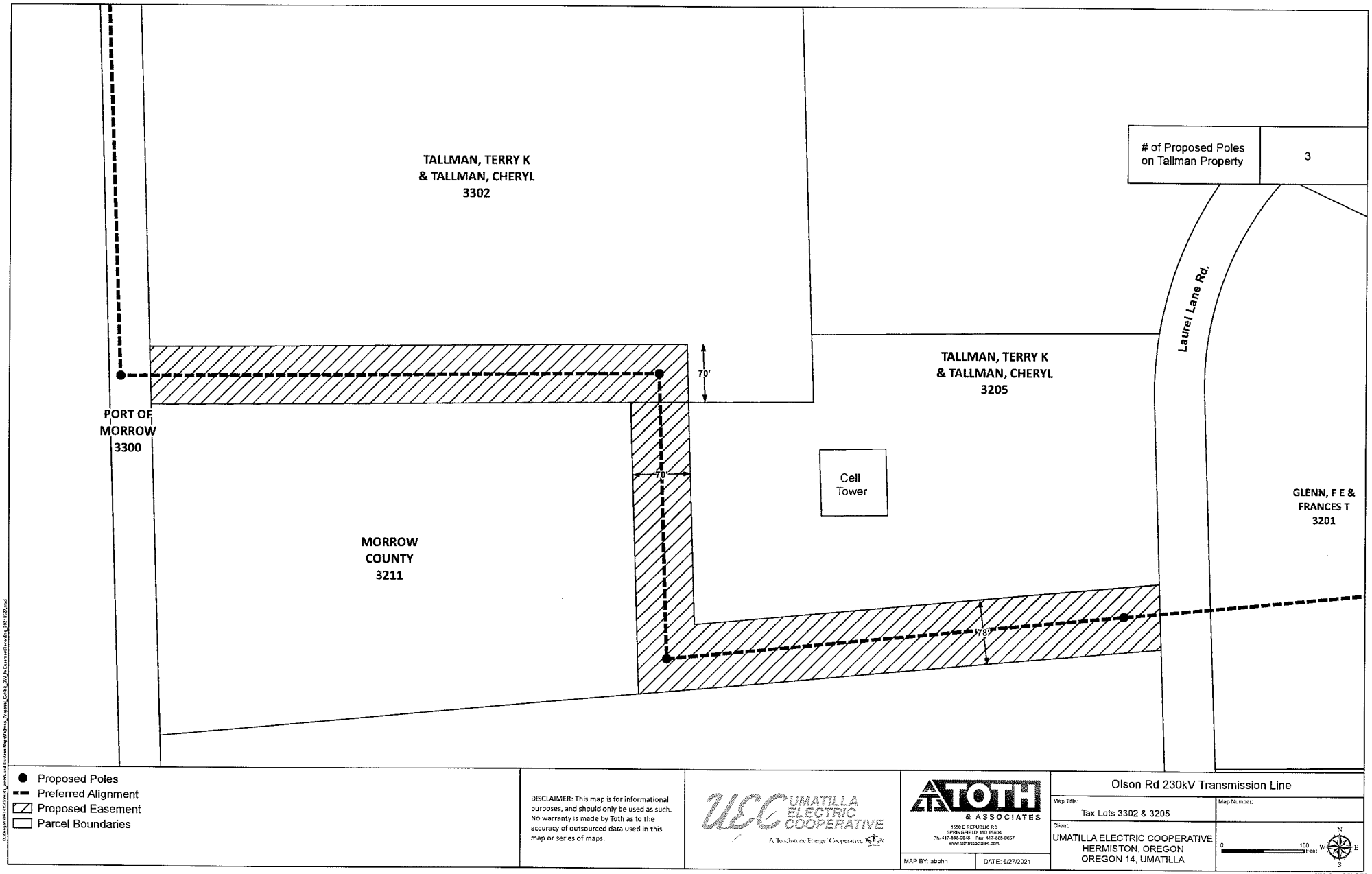

TALLMAN, TERRY K
& TALLMAN, CHERYL
3302
# of Proposed Poles
on Tallman Property
3
Laurel Lane Rd.
70'
TALLMAN, TERRY K
& TALLMAN, CHERYL
3205
PORT OF
MORROW
3300
70'
Cell
Tower
GLENN, F E &
FRANCES T
3201
MORROW
COUNTY
3211
78'
Proposed Poles
Preferred Alignment
Proposed Easement
Parcel Boundaries
DISCLAIMER: This map is for informational purposes, and should only be used as such. No warranty is made by Toth as to the accuracy of outsourced data used in this map or series of maps.
UEC UMATILLA ELECTRIC COOPERATIVE
A Touchstone Energy® Cooperative
TOTH & ASSOCIATES
1550 E REPUBLIC RD
SPRINGFIELD, MO 65804
Ph. 417-886-0845 Fax: 417-886-0857
www.tothassociates.com
MAP BY: abohn
DATE: 5/27/2021
Olson Rd 230kV Transmission Line
Map Title:
Tax Lots 3302 & 3205
Map Number:
Client:
UMATILLA ELECTRIC COOPERATIVE
HERMISTON, OREGON
OREGON 14, UMATILLA
0
100
Feet
N
W
E
S

EXHIBIT C

1. Location of Property

452 Laurel Lane
Boardman, OR 97818

Section:	Highway 730 – Olson Road 230kV
Road:	Electric Transmission Line
Project No.:	----
County:	Morrow
Description Dated:	1/30/2020
Eng. Station:	Not Provided
FAP#:	Not Applicable
Appraisers:	David E. Balfour, MAI Sam A. Karpeles

2. Ownership Information

Legal Owner: Terry K. Tallman and Cheryl Tallman, as tenants by the entirety

Assessor Records Mailing Address: 706 SW Mt. Hood Avenue
Boardman, OR 97818

Contact Person: Terry and Cheryl Tallman
There was no response to 15-day notfication letter.

Contract Purchaser: None reported

Tenant: The subject has a quick-service coffee stand and food-mart building located on the property ("The Farmers Cup"). It is unknown if this is owner-occupied or is leased to a tenant. No income or lease information was provided to the appraisers. Additionally, there is a cell tower on the subject site. No information regarding the lease agreement was provided to the appraisers.

3. Summary of Taking

Area of Entire Property:	1,224,472 SF	(28.11 AC)
ROW Dedication:	None	
Area of Remainder Property:	1,224,472 SF	(28.11 AC) (excluding easements)
Easement for Transmission or Electric Power	45,493 SF	Parcel 1 (1.04 AC)
Easement for Transmission or Electric Power	68,306 SF	Parcel 2 (1.57 AC)

4. Access

Before Taking:

Access Pt.	Near Station	Surface Improvement	Type of Access
1 – Laurel Lane	Outside of project	Commercial/Gravel	Police Power
2 – Laurel Lane	Outside of project	Commercial/Gravel	Police Power

The property has two gravel driveway approaches to Laurel Lane. Access Point 1 is located at the subject's northeasterly corner on Tax Lot 3207 while Access Point 2 is located on Tax Lot 3205. Access Point 2 includes a shared access easement with the westerly adjoining parcel (Tax Lot 3211) owned by Morrow County.

The subject is located within the Interchange Area Management Plan. According to the City of Boardman's Community Development Department, access to the property in the future will consist of right-in / right-out traffic movement from Laurel Lane until the northerly boundary of the existing BPA transmission line encumbering the southerly portion of subject Tax Lot 3205. The project will construct a restrictive median within Laurel Lane together with a "loop road" that will provide access from the Laurel Lane Interchange Access Management Area to Yates Lane which will enable the subject and surrounding owners immediate return access to Interstate 84. Thus, the access management area will not negatively impact the marketability of the subject property. The proposed loop road can be viewed in the Interchange Area Management Plan map in the exhibit section herein. As confirmed by Barry Beyeler, Boardman Community Development Director, the project has been public knowledge for roughly 9 years and is expected to receive funding with project construction likely to be completed in the next 1 to 3 years.

To Remainder: There will be no change in subject access characteristics attributable to the project.

5. Land Use Regulations

Jurisdiction: City of Boardman

Zoning: LI; Light Industrial
Interchange Area Management Plan

Comp Plan Designation: City of Boardman – Industrial

Uses Permitted: The Light Industrial District accommodates a range of light manufacturing, industrial-office uses, automobile-oriented commercial uses (e.g., lodging, restaurants, auto-oriented retail), and similar uses which are not appropriate in downtown or main street areas. The district's standards are based on the following principles:

- Ensure efficient use of land and public services.
- Provide a balance between jobs and housing and encourage mixed-use development.
- Provide transportation options for employees and customers. • Provide business services close to major employment centers.
- Ensure compatibility between industrial uses and nearby residential areas.
- Provide appropriately zoned land with a range of parcel sizes for industry.
- Provide for automobile-oriented uses, while preventing strip-commercial development in highway corridors.

Uses permitted on an outright basis in the LI zone include light manufacturing, research facilities, warehousing and distribution, mini-warehouse and storage, similar uses, automobile-oriented uses, hotels and motels, medical and dental clinics, personal and professional services, repair services, retail trade and services, wholesale trade and services, and similar uses.

Development standards limit building heights to 35 feet or 3 stories, whichever is greater. The maximum lot coverage is 80 percent which includes building and paving. Minimum front setback is 15 feet. There are no minimum interior side or rear yard setbacks. The minimum buffer between development and a residential zone shall be 20 feet.

The subject is also located within an Interchange Area Management Plan managed by the City of Boardman. This management plan's purpose is to provide a circular pattern of traffic around I-84. As confirmed with Barry Beyeler, the City of Boardman Community Development Director, the city will install a median in Laurel Lane from I-84 to the north boundary of the existing BPA transmission line located .24-mile south of the interchange. This will prevent unrestricted access along Laurel Lane and result in the creation of a "loop road" that will provide access for properties in the Interchange Area Management Plan. The "loop road" will link Laurel Lane to Yates Lane allowing properties in the plan area return access to Interstate 84. In summary, traffic will not be restricted in this area but will have circular movement design from I-84 to the north boundary of the existing BPA transmission line. As confirmed by Barry Beyeler, Boardman Community Development Director, the project has been public knowledge for roughly 9 years and is expected to receive funding and with project construction completed in the next 1 to 3 years. Planned routes for the proposed "loop road" can be observed in the exhibit section herein.

6. Present Use

As of the valuation date, the subject industrial land is improved with a quick-service coffee shop / food-mart together with multiple outbuildings that appear to be utilized for agricultural use of the property. Additionally, there is a cell tower located on subject Tax Lot 3205.

Highest and Best Use

Before/Entire Property As-if Vacant:	Industrial oriented development consistent with the underlying zone.
Before/Entire Property as Improved:	Industrial oriented development consistent with the underlying zone. Continued use of the quick-service coffee stand and food-mart as well as the outbuildings and cell tower can be maintained alongside additional development if desired by ownership.
After/Entire Property As-if Vacant:	Industrial oriented development consistent with the underlying zone.
After/Entire Property as Improved:	Industrial oriented development consistent with the underlying zone. Continued use of the quick-service coffee stand and food-mart as well as the outbuildings and cell tower can be maintained alongside additional development if desired by ownership.

7. Utilities:

Current Facilities:	**Drinking Water**	City of Boardman
	Sanitary Sewer	Onsite Septic System
	Storm Sewer	----
	Electricity	Umatilla Electric Company
	TV/Internet	Quasi-public providers
Possible Facilities:	Fully served site	

8. Summary of Valuation:

FMV of Land Acquired:	$14,538
Improvements in the Acquisition Areas:	None
Damages:	None
Special Benefits to Remainder:	None
Fair Market Value:	$14,538
Rounded:	**$14,600**

9. Purpose of Appraisal

The purpose of this appraisal is to estimate the fair market value of the subject property in fee simple title as a whole, when applciable; the fair market value of the property taken as part of the whole, the fair market value of the remainder after the taking as will be affected by contemplated improvements with consideration for damages, if any, and benefits, if any, to the remainder; and the total just compensation due to the property owner by reason of the taking.

The report format is that of a Taking and Damages appraisal assignment. The fair market value estimate pertains to the part of the larger parcel to be acquired relative to the fair market value of the entire property.

The definition of fair market value is defined in the *Oregon Department of Transportation Right-of-Way Manual* (Section 5.315) as follows:

"Fair Market Value is defined as the amount of money, in cash, that property would bring if offered for sale by one who desired but was not obliged to sell and was bought by one willing but not obliged to buy. It is the actual value of the property on the date of the taking, with all its adaptations to general and special uses, that is to be considered. However, nothing shall be allowed for prospective value, speculative value or possible value based upon future expenditures and improvements."

In the State of Oregon "*where a part only of the larger tract of land is taken for a public road under the power of eminent domain, the owner is entitled to the market value of the land and improvements actually taken, and also an amount equal to the depreciation in market value of the remainder of the land caused by the road.*"[1]

The **intended use** of this appraisal is to provide the client with a fair market value estimate for the proposed acquistion(s) for right-of-way negotiation/acquistion purposes.

Scope of Assignment

The ***reporting scope*** is that of an appraisal report as defined in the latest edition of the *Uniform Standards of Professional Appraisal Practice*. The valuation methodology and report content are intended to be in compliance with the Oregon Department of Transportation (ODOT) *Right-of-Way Manual* and *Guide to Appraising Real Property* as to a taking and damage partial acquisition. ODOT is responsible for carrying out the direction and policies of the Oregon Transportation Commission with the delegated authority provided through the Stewardship and Oversight Agreement with FHWA (Section 1.121). ODOT is responsible for Oregon eminent domain program and policies. The *ODOT ROW Manual* is intended to provide necessary training to regional staff, local public agencies (LPA) and consultants on all ODOT eminent domain policy (Section 1.200). Thus, as a consultant, the appraisers have followed ODOT eminent domain policy relative to the appraisal assignment.

The taking and damages report format is appropriate relative to the appraisal problem. This ***appraisal assignment*** seeks to estimate the fair market value directly attributable to proposed acquisition(s).

The ***scope of inspection*** consisted of an exterior viewing of the subject together with a review of aerial exhibits available through public and proprietary resources. All of the comparables cited herein were viewed from the adjoining right(s)-of-way.

The relevant ***scope of analysis*** is the Sales Comparison Approach. Inasmuch as the subject land type is not commonly purchased for ground-lease income producing purposes, the Income Approach is not relevant or meaningful to this assignment. Furthermore, there is an inadequate amount of rental rate and capitalization rate data from which to support a reliable and relevant Income Approach methodology.

[1] Linn County v Pape

Similarly, land cannot be created, thus the Cost Approach is relevant only to the extent of estimating the contributory value of the site improvements (if any).

The ***scope of resource*** utilized to develop the market data used to support the compensation estimate expressed herein included the Regional Multiple Listing Service, CoStar, First American Title, DataTree, county assessment records and market participant relationships.

Property Rights Appraised

The property rights appraised represent the unencumbered fee simple title, which is defined as follows:

> *"A title that signifies ownership of all the rights in a parcel of real property, subject only to the limitations of the four powers of government."*

Client/Intended Beneficiary of Report

This appraisal report has been prepared for the exclusive use and benefit of:

Client	Umatilla Electric Cooperative
Intended User	Umatilla Electric Cooperative

The report may not be used for any other purpose without the expressed written consent of the appraisers. There are no third-party beneficiaries. The report is being provided pursuant to authority from the client; unrelated parties may not rely upon its contents. ***Possession of a copy of this appraisal report does not create a client or intended user relationship with the appraisers.***

Legal Description

Subdivision	Partition Plat 2018-1 / metes and bounds
Parcel	2 / ---- / ----
Tax Lot	3205 / 3302 / 3207
Tax Map	04N25E10
APN	08080 / 08081 / 08224

Larger Parcel Determination

Larger Parcel is defined in the *Uniform Appraisal Standards for Federal Land Acquisitions* (UASFLA 2016), as follows (Section 4.3.3):

> *"The tract or tracts of land that possess a unity of ownership and have the same, or an integrated, highest and best use."*

The Larger Parcel is defined by the 2018 *ODOT ROW Manual* in Section 5.320 as:

> *"Essential to the field of eminent domain appraising is the concept of the larger parcel. The larger parcel impacted by a right of way acquisition may be the entire property under appraisal,*

may only be a portion of the property, or may be several related parcels. Determination and reporting of the larger parcel is required in every appraisal assignment or Administrative Determination of Just Compensation assignment.

The larger parcel is that property under appraisal containing the following elements:

*1. **Unity of title**. In order for one or more tracts of land to be considered to be part of the same larger parcel they shall enjoy the same quality of ownership. The fact that owners have an interest in the parcel, a part of which is not taken, is not sufficient unity of ownership to support a claim for damages to that parcel. This is an issue which may require a legal determination;*

*2. **Contiguity**. For a remainder area to be considered part of the larger parcel it generally shall be physically contiguous with the acquisition area. However, exceptions may be made, depending upon the nature of the operation being performed on the non-contiguous sites; and*

*3. **Unity of use**. For a remainder area to be considered part of the larger parcel it shall be in the same use or an integrated use with the acquisition area. This is an appraisal question and requires a determination by the appraiser.*

The subject property consists of three (3) tax lots that exhibit unity of title, contiguity, and unity of use (industrial development). There are no other parcels under common ownership (unity of title) to consider in the larger parcel analysis. Therefore, the larger parcel consists of three (3) parcels which meet all three (3) elements of larger parcel analysis identified in *ODOT ROW Manual.*

Dates of Significance

Effective Date	January 6, 2021
Date of Report	June 2, 2021

Exposure Time Estimate

Reasonable exposure time is defined in the latest edition of USPAP as the "estimated length of time that the property interest being appraised would have been offered on the market prior to the hypothetical consummation of a sale at market value on the effective date of the appraisal." It is a retrospective opinion based upon analysis of past events assuming a competitive and open market. It is important to note that the concept of reasonable exposure time encompasses adequate, sufficient and reasonable time, as well as effort. It is therefore a function of price, time, and use, and not an isolated estimate of time alone. The term applies to circumstances wherein a property may be overpriced or under-marketed and is different for various types of real estate and under various market conditions. Reasonable exposure time is inextricably linked to the type of real estate and its value range.

All of the industrial land sale comparables utilized herein were the result of private solicitations. A review of RMLS of industrial land sales in the subject vicinity revealed a median time on market of roughly 1 year. Thus, the appraisers are influenced to an exposure time estimate of 1 year.

Marketing Time Estimate

Marketing time is an opinion of the length of time necessary to sell real property at market value immediately after the effective valuation date of the appraisal. It is not intended to be a prediction of a date of sale but is an integral part of the appraisal assignment. Inasmuch as a relatively stable market environment is forecasted for the near term, it is the opinion of the appraisers that a 1-year marketing time estimate is reasonable for the subject site as-if vacant.

10. Assumptions

Extraordinary Assumptions

Extraordinary assumptions are those which must be introduced into the assignment for purposes of reasonable analysis and are assumed to be correct. If any are subsequently found to be incorrect or unsupportable, the compensation estimate concluded herein may require revision. The fair market value estimate concluded herein has not been predicated upon any extraordinary assumptions.

Hypothetical Conditions

Hypothetical conditions assume conditions contrary to known facts about physical, legal or economic characteristics of the subject property, or about conditions external to the property, such as market conditions or trends. The after-situation analysis of the remainder concluded herein has been predicated upon the hypothetical condition that the project has been completed as proposed on the project construction plan set provided to the appraisers which has been included herein.

Jurisdictional Exception

The Jurisdictional Exception Rule of the *Uniform Standards of Professional Appraisal Practice* (USPAP) has been invoked in this appraisal assignment as to report format, project influence, and valuation methodology.

Assignment Conditions

The appraisal assignment results are based upon information provided (if any) by the client, project manager, and/or project engineer including but not limited to preliminary title report(s), legal descriptions, construction plan set, draft conveyance documents, project staking, interviews, and emails. If any information relied upon to formulate the appraisal assignment results is found to be false, the fair market value estimate concluded herein may be impacted. There were no adverse assignment conditions that affected the fair market value estimate concluded herein. Therefore, the reliability of the value estimate concluded herein generally meets the requisites imposed by the *Uniform Standards of Professional Appraisal Practice* as to representing credible assignment results. Supplemental appraisal standards that

are relevant to this assignment include Chapter 5 of the *Oregon State Department of Transportation Right of Way Manual* inasmuch as the purpose and intended use of the appraisal assignment is that of developing and supporting a fair market value estimate that may be utilized for a partial acquisition of the larger parcel for public purposes.

11. Preliminary Title Report Furnished and Examined

Property Ownership/Marketing History:

Subject Vested Owner:	Terry K. Tallman and Cheryl Tallman, as tenants by the entirety
Ownership Confirmation Source:	Mid-Columbia Title Company
Preliminary Title Report No.:	10752
Effective Date:	March 12, 2019
Most Recent Sale:	January 16, 2002
Sale Document No.:	2002-3196
Price (Consideration):	$0
Grantor:	Keith Tallman, Wilma Tallman, Timmy D. Tallman and Lois Tallman
Grantee:	Terry K. Tallman and Cheryl Tallman, as tenants by the entirety

It should be noted that the appraisers relied upon the preliminary title report for identification of subject ownership and existing easements/encumbrances. The appraisers were provided a title report for Tax Lot 3205 only and was not provided a title report for tax lots 3302 or 3207. A review of the referenced Preliminary Title Report as well as subject tax maps and surveys available to the appraisers revealed the following notable easements:

Exception 11: Reservations and Easements, including the terms and provisions thereof, as contained in Paten to Ethel B. McKenzie et al., recorded November 16, 1972 as M-5213 Morrow County Microfilm Records. According to Partition Plat 2018-1, this easement appears to be in relation with the 395-foot wide BPA right-of-way up to half of which is located along the southerly portion of the subject (Tax Lot 3205). The exact overlap area is unknown.

Exception 12: Easement for Underground Irrigation Pipeline in favor of Arnold Braat et ux., recorded May 22, 1978 as M-13347 Morrow County Microfilm Records. According to Partition Plat 2018-1, this easement appears to be located on Tax Lot 3207 and is outside of the proposed acquisition areas.

Exception 13: Right of Way for Electric Transmission and Distributing Lines, in favor of Umatilla Electric Cooperative Association, recorded January 27, 1989 as M-32446 Morrow County Microfilm Records.

According to Partition Plat 2018-1, this easement is located directly north of the subject's access easement granted to the adjoining property (Tax Lot 3211) and the cell tower pad located on subject Tax Lot 3205. The overlap of this existing easement and the proposed acquisition area could not be determined from the information provided to the appraisers.

Exception 16: Easement agreement in favor of Lightspeed Networks, Inc. recorded November 12, 2013, as Microfilm No. 2013-33358. This easement is for the cell tower located on subject Tax Lot 3205 and its access easement, which overlaps with the westerly adjoining parcel's access easement across the subject.

Other notable easements appearing on the subject tax map or Partition Plat 2018-1:

- A 30' access easement providing access to the westerly adjoining parcel (Tax Lot 3211) located along the northerly portion of subject Tax Lot 3205. It appears that the access easement has roughly 2,100 square feet of overlap with the proposed Parcel 2 acquisition area.
- Multiple easements located on subject Tax Lots 3207 and 3302. These easements are all located outside of the proposed acquisition area.

In summary, the subject is encumbered with multiple easements, however, the only confirmed encumbrance within the proposed Parcel 2 acquisition area is a 2,100-square-foot of overlap with the existing 30-foot access easement providing access to the westerly neighboring parcel.

There were no other significant title exceptions identified in the report.

12. 5-Year Sale History of Subject Property

The subject Tax Lot 3205 was partitioned (Partition Plat 2018-1) into a 11.88-acre site (retained by subject ownership), and a 5-acre tract. Subject ownership sold the recently created 5-acre tract in March 2018 for a stated consideration of $122,200 to Morrow County. The County purchased the bare land with the intent to construct a new public works building. The sale, together with an additional $10,000 of due diligence and access improvement costs, equates to $0.61/SF. This unit price is slightly lower than the estimated market value derived herein of $0.65/SF. The 5-acre site sold at a price inferior to that which has been concluded for the subject due to its inferior access (a 30' private easement), as well as its greater distance from I-84 having no substantive roadway exposure. The subject property does not appear to have been sold or publicly marketed in the 5 years preceding the valuation date.

Property Owner Notification and Co-Inspection Opportunity

The appraisers were originally hired by the client to appraise the proposed acquisitions rights in January 2020. In accordance with State Statute, a 15-day notice of appraisal letter was sent to subject ownership by first class and certified mail on January 21, 2020. There was no response to the 15-day notification letter. The appraisers (David E. Balfour, MAI and Sam A. Karpeles) inspected the subject property alone on February 13, 2020. The client requested an updated appraisal report in December 2020. A 15-day letter

was sent on December 11, 2020 and there was no response by ownership. The appraiser (Sam A. Karpeles) re-inspected the subject on January 6, 2021.



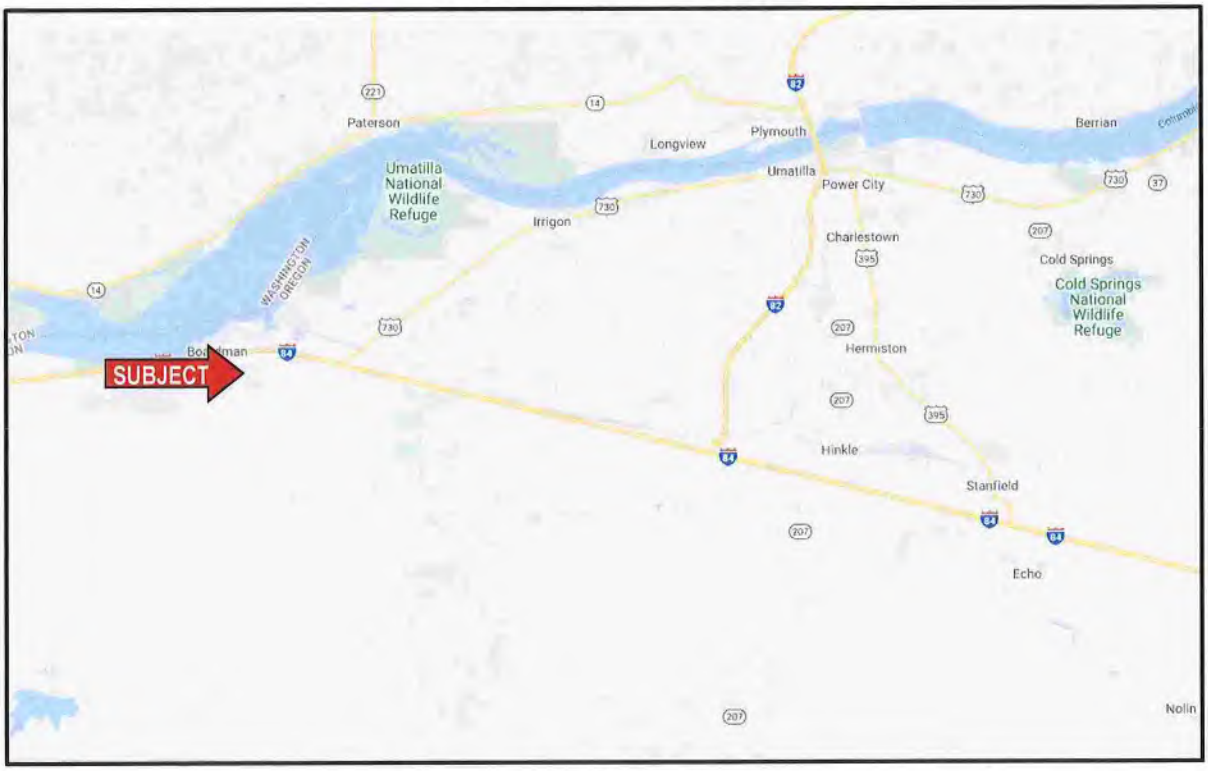
Detail Aerial Photograph



Neighborhood Aerial Photograph



Regional Location Map



Metropolitan Location Map



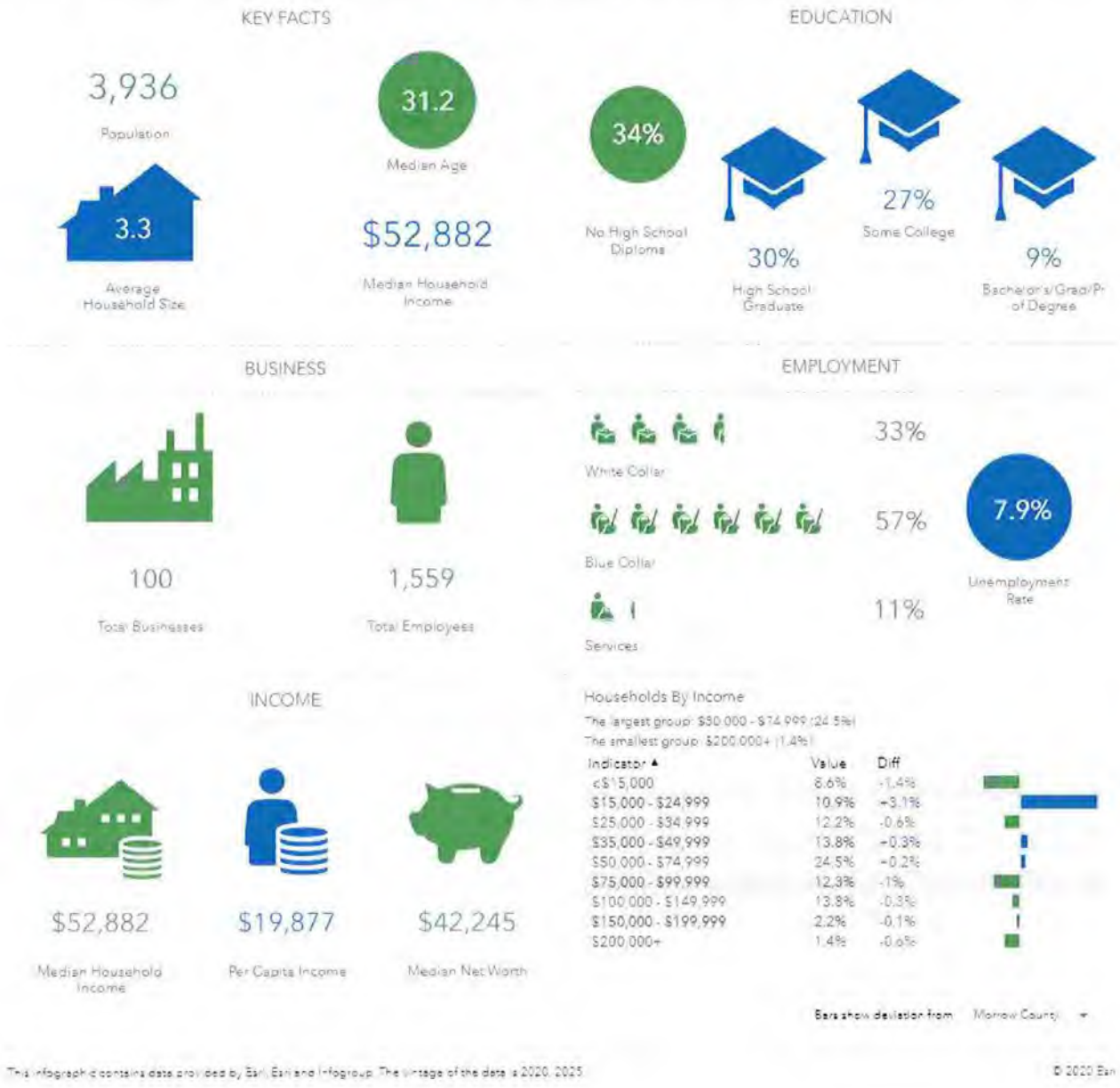
3D Imagery Aerial (Northerly View)



3D Imagery Aerial (Easterly View)

13. Neighborhood Description

The subject location is influenced by the general growth and economic trends of the City of Boardman, Oregon which is summarized in the following infographic provided by ESRI statistical data:



The following tabulation provides a summary of the "Employment in the Morrow County" publication by the State of Oregon Employment Department:

Morrow County Current Labor Force and Industry Employment

				--Change From--	
	November 2020	October 2020	November 2019	October 2020	November 2019
Labor Force Status					
Civilian labor force	5,715	5,953	5,592	-238	123
Unemployed	221	243	179	-22	42
Unemployment rate	3.9%	4.1%	3.2%	-0.2	0.7
Unemployment rate (seasonally adjusted)	*4.3%*	*4.9%*	*3.5%*	*-0.6*	*0.8*
Employed	5,494	5,710	5,413	-216	81

It should be noted that as of Mid-March 2020, a significant pandemic known as the Coronavirus spread around the world and has caused chaos in the financial markets.

In an email dated March 16, 2020, the Appraisal Institute issued guidance (Guide Note 10 and 12) for appraising in the "Aftermath of a Disaster" and "Analyzing Market Trends." As of the date of this appraisal report, it is relevant to consider these Guide Notes and the current economic environment.

Guide Note 10 emphasizes that an appraiser must determine whether the definition of value can be upheld when an appraisal occurs within "a chaotic or unstable market." Guide Note 10 states that in the aftermath of a disaster, the requisites of market value (willing buyer, willing seller, parties are not under duress, parties are acting prudently and knowledgeably, market exposure is reasonable, etc.) can be absent. There are no clear signs of scarcity, decreased desire, changes in effective purchasing power, or other value influencing factors as of the date of the report to warrant market value impacts to the subject property. The market data utilized herein is the most relevant and applicable information analyzed and available to the appraiser. There is no support to conclude that supply and demand are out of balance. There have been no reported changes in lending policies. Interviews with market participants in all segments as of the date of the report did not reveal any significant market shifts that should be applied in this appraisal report.

As evidenced by the preceding labor force statistics, the Morrow County economy appears isolated from the Coronavirus Pandemic event considering that its unemployment rates have remained relatively stable compared to the December 2020 statewide average of 6.0 percent, which has declined from the unemployment rate high of 15 percent following the virus outbreak.

The subject property is located immediately within the southeasterly limits of Boardman, Oregon. The following is an excerpt from the City website:

"Boardman is a rapidly growing community in northeastern Oregon along the banks of the beautiful Columbia River. Primarily an agricultural community, Boardman is a major hub for transportation of manufactured goods. Our city is located along Interstate 84 at exits 164 and 165. Boardman was homesteaded in 1903, by its namesake, Samuel Herbert Boardman. Sam Boardman was the first Superintendent of the Oregon State Parks System, as well as the creator of the "rest stop" after he began planting trees to make little parks where travelers could stop and rest in the shade along our country's first highway. The very first rest stop building is located in a mini park area just off the Interstate for all to appreciate. Come and visit Boardman for hunting, fishing, various water sports, and unique views of the Columbia River along our paved walking trails. We are sure you will want to come back again and again."

The subject property is also generally associated with the City of Hermiston which represents a transportation, logistics and energy hub due to it being the confluence of multiple transportation routes and its location in the Columbia River Basin. Due to the availability of abundant electricity and land inventories, Umatilla and Morrow Counties have been selected to host multiple data center sites over the past few years. Each new center reportedly provides 40 jobs with an average annual income of $68,000. Significant employment centers in the area include Conagra Foods, Good Shepherd Medical Center, Hermiston School District, River Point Farms, United Parcel Service, Union Pacific Railroad, Wal Mart Distribution and Supercenter, and more. Altogether, the Umatilla County labor force continues to stabilize and strengthen.

The major land use contributor to the immediate area is the Port of Morrow. Directly north of the subject property across Interstate 84 is the Port owned and operated Boardman Industrial Park. The following is a summary of the Boardman Industrial Park by the Port of Morrow: *"The Boardman Industrial Park has more than 2,500 acres of industrially zoned land ready for occupancy. Food processors find a welcome home in the Food Processing Park alongside some of the world's best-known names in the industry: Lamb Weston's French fry plant, Oregon Potato Company's potato flake plant and Boardman Foods' onion processing plant. Tens of thousands of tons of potato and onion storage facilities are already in place. And, Port of Morrow Warehousing, a public cold storage facility, is ideally located near all major transportation modes. Boardman Industrial Park sites are particularly suited to transportation-dependent industries. Fiber and seed processing cluster the transportation facilities. Barenbrug USA cleans and ships grass seed all over the globe. Dodge Logging's chip reload facility and Tidewater Terminal's public container and chip reload find excellent Columbia River dock sites in the Port."*

An interview with Lisa Mittelsdorf, Economic Development Director with the Port of Morrow revealed that the Port currently has over 2,500 acres of industrially zoned land located mostly in north Morrow County. The majority of these parcels have a current asking price of roughly $30,000/acre, or $.69/SF, which appears to be consistent with surrounding industrial sale prices and market data reported herein. This asking price has remained stable for at least two (2) years and is a reasonable asking price given the Port's extensive market knowledge and presence as well as their past transactions.

The following is an overview of the Port's Economic Impact Analysis from 2017:

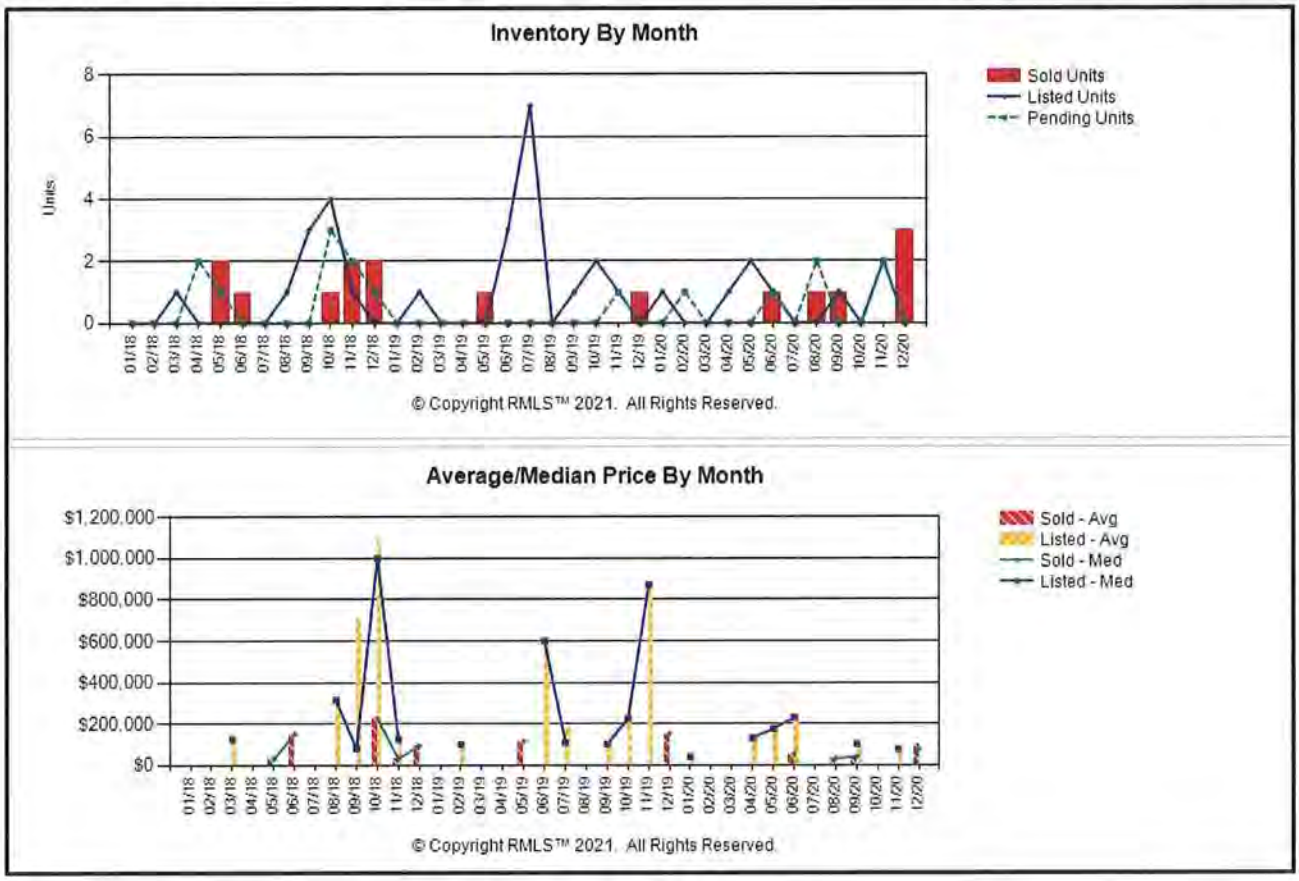
This report provides an analysis of the economic and fiscal impacts generated by the Port of Morrow (Port), along with the private businesses that depend upon the port for its land, buildings, facilities and infrastructure. Overall findings include:

- The Port of Morrow (Port) is the second largest Port (behind the Port of Portland), and is likely the largest single owner of vacant industrial land within the State of Oregon.
- The Port of Morrow contributes to the economic competitiveness of Oregon and the United States, by serving as the main point for freight distribution, export and value-added production of agricultural products (grains, root vegetables, cattle, and milk/dairy products) that are primarily grown in Oregon, Washington, Idaho, Montana, and Wyoming.
- Over the past several years, the Port of Morrow succeeded in diversifying the local/regional economy by accommodating state-of-the-art clean energy production facilities as well as high technology data centers. Economic sectors now served by the Port of Morrow include agriculture, food processing, livestock, transportation, warehousing and freight distribution, information, advanced communications, energy, waste management, and recreation.
- Land and capital infrastructure investments by the Port of Morrow have leveraged billions of private investment, which in-turn has created thousands of jobs and funding used to help pay for new community recreation, workforce training and early childhood education facilities.

The **permanent annual economic impact** of the Port of Morrow and Port-related businesses includes the following:

- Total "permanent" employment of 8,452 jobs
- Economic output of $2.77 billion
- Gross domestic product (GDP) of $1.08 billion
- Over $500 million in labor income
- Local/state tax revenue/payments of over $118 million (includes in lieu payments)
- Federal tax revenue/payments of nearly $142 million

The following graphs represent industrial and commercial land located in north Morrow County as well as the Cities of Hermiston and Umatilla. Although there appears to be a lack of inventory, the average and median sales prices have remained relatively steady in the preceding 48 months as evidenced in the following graphs, other than the occasional outlier (December 2018 and November 2019). In summary, the City of Boardman's industrial market appears to be stable with multiple new developments and expansions occurring in the immediate market area including the Morrow County Public Works Building, Walo LLC, Columbia River Processing expansion, Amazon Data Services, as well as various other Port of Morrow land purchases and sales.



In the final analysis, the subject is differentiated by its location within the City of Boardman and its proximity to Hermiston which both offer a variety of local employment, shopping and support service options. Additionally, it has convenient access to Highway 730, Interstate 82 and Interstate 84. These transportation routes provide connectivity to Hermiston, the Tri-Cities, Pendleton, Walla Walla as well as Portland (175 miles west). Manufacturing, distribution, food manufacturing, agriculture, utilities and data centers continue to be major contributors to the local economy. The seasonally adjusted unemployment rate is currently 4.3 percent in Morrow County and has been steadily improving over the last few years. The City of Boardman's exceptional transportation connectivity and industrial synergy make it a desired location for industrial users.

14. Courthouse Data

Lot Width/Depth	1,123' x 1,212'	**Date Built**	Not reported by assessor
Lot Area	1,224,472 SF	**Date Owner Purchased**	January 2002
Assessment Year	2019-20	**Date Remodeled**	----
RMV Value	$450,810		
Land	$357,300		
Improvements	$93,510		

15./16. Not applicable to Taking and Damages Appraisal Report per ODOT template.

17. Detailed Description of the Property Before Taking

Site Description

Site Area	1,224,472 SF
Maximum Width	1,123 feet
Maximum Depth	1,212 feet
Topography	Gently Sloping
Elevation	+/- 345 - 350' ASL
Sensitive Lands	None
FEMA Flood Zone	"X" – Minimal Flood Risk
Average Daily Traffic Count	None reported

The appraisers were not provided with any environmental contamination or sensitive lands reports relative to the subject; thus, it has been assumed there are no adverse soil or environmental conditions that effect the marketability of the subject.

Improvements Description

Improvements	+/- 600 SF Quick-service coffee shop and food-mart / +/- 2,500 SF Warehouse / outbuildings / Cell-Phone Tower (leased)
Year Built	Not reported by assessor
Design	Metal-frame Warehouse
Improved Area	+/- 3,700 SF
Levels	1
Site Improvements	Gravel, landscaping

The subject currently has a quick-service coffee shop / food-mart as well as a metal-framed warehouse and other outbuildings. There is also a cell tower onsite. The appraisers were not provided with any information on the improvements and did not inspect the interior of the improvements. Morrow County Assessor data did not have any substantive information for the subject site improvements.

Highest and Best Use As-if Vacant

Highest and best use represents an analytical process wherein the physical, legal, social and economic constraints placed upon the property are examined for the purpose of defining that use which is possible and, concurrently, most financially productive. Inasmuch as potential development activity falls within a relatively broad range of legal alternatives, the conclusion of highest and best use is largely influenced by market data observed by the appraisers. It is essentially a refinement process wherein the broadest range of possible uses are identified and then examined for legal appropriateness, complementation to local land use trends as well as wealth maximization.

Legally Permissible Uses: The subject industrial zone accommodates a range of light manufacturing, industrial-office uses, automobile-oriented commercial uses (e.g., lodging, restaurants, auto-oriented retail), and similar uses. Most light industrial and office uses are allowed in this flexible land use zone.

Physical Characteristics: The subject site exhibits size, width, and depth dimensions that can support competitive flex/industrial development scenarios. It benefits from a competitive market position with proximity to multiple primary transportation routes (Interstate 84, Highway 730 and Interstate 82) as well distant exposure to I-84. The site's access, topography, and utility infrastructure capacity further benefit its ability to support development. In summary, the subject site physical characteristics are conducive to supporting the subject legally permitted uses.

Financial Feasibility: The appraisers were not provided with any documentation regarding construction costs for any specific development scenario relative to the subject site. Thus, the subject financial feasibility is unknown and should be investigated by the client. However, it is reasonable to conclude that the fair market value estimate stated herein for the larger parcel as-if vacant provides financial feasibility for flex/industrial construction given that the comparable data represents purchasers who analyzed their respective sale transactions of flex/industrial land sites through top-down analysis wherein stabilized rental income, anticipated development costs, and a project contingency/profit allowance, formed the basis of the negotiated land acquisition prices. Thus, unless atypical development costs are impacting the subject, it is reasonable to conclude that the fair market value estimate stated herein is supportive of financial feasibility. It should be noted that the industrial market is exhibiting stronger demand than the office market and thus represents the most feasible use of the subject site.

Maximum Productivity: As to maximum productivity, interviews with developers in the local market area along with market data support the economic feasibility of industrial development so-long-as the land pricing is reasonable. As discussed in the market overview, the industrial market segment exhibits a stable outlook.

Given the physical, legal, financial, and maximally productive tests of highest and best use analysis, the highest and best use of the subject property as-if vacant is that of supporting industrial oriented

development as permitted in the underlying zone that benefits from its significant transportation proximity and access.

Ideal Improvement

Based upon the previously discussed attributes of the subject, it is the appraisers' opinion that the most probable ideal improvement for the subject is that of a single or multi-tenant industrial oriented development.

Multi-tenant industrial developments typically consist of industrial buildings of either metal frame or concrete tilt-up construction with varying amounts of office space and warehouse space (depending on user needs) together with adequate onsite parking ratios and vehicle circulation.

The appraisers surveyed industrially-zoned, developed properties in the area and gathered the following property characteristics data:

Ideal Improvement				
Address	**Parcel Size (Acres)**	**Building Footprint (SF)**	**Site Coverage**	**Distance from Building to Nearest Property Line (ft)**
315 Yates Ln	14.73	24,500	4%	45
S/O 79588 Rippee Rd	63.53	671,260	24%	35
W/O 452 Laurel Ln	5.00	7,200	3%	61
79588 Rippee Rd	18.00	228,254	29%	50
71320 Columbia Blvd	17.22	148,975	20%	63
N/O 71320 Columbia Blvd	48.32	81,457	4%	130
650 Columbia Ave NE	29.95	246,985	19%	150
600 Columbia Ave NE	24.02	345,866	33%	90
730 Columbia Ave	20.55	444,312	50%	80
72600 Lewis and Clark Dr	25.03	108,464	10%	190
71449 Rail Loop Dr	18.60	194,713	24%	100
Minimum	5.00	7,200	3%	35
Maximum	63.53	671,260	50%	190
Average	25.90	227,453	20%	90
Median	20.55	194,713	20%	80

The average and median site coverage ratio exhibited was 20 percent with a minimum of 3 percent and a maximum of 50 percent. The average and median distance from the building improvements to the nearest property line were 90 feet and 80 feet, respectfully. The minimum distance was 35 feet while the maximum was 190 feet.

It is apparent that industrial developments in the subject immediate market area exhibit low site coverage ratios of roughly 20 percent to utilize the remainder of the site for storage and parking. Additionally, buildings are typically located 80 to 90 feet away from the nearest property line to utilize the site area for competitive circulation.

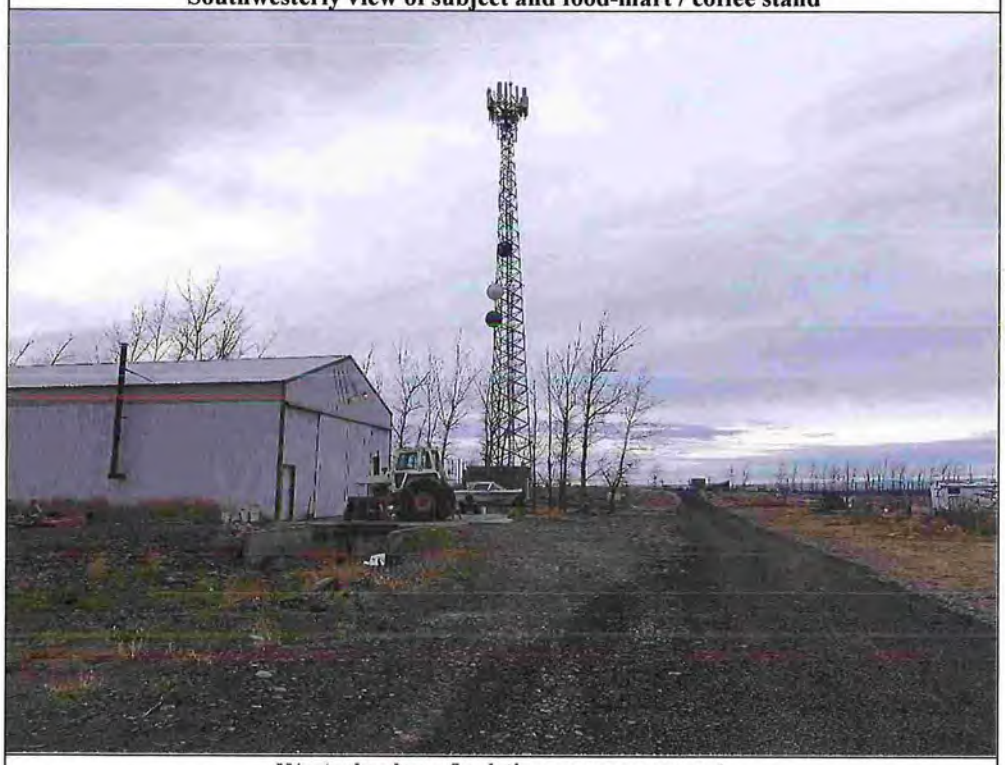
Highest and Best Use as Improved

The subject currently has a quick-service coffee shop / food-mart as well as a metal framed warehouse and other outbuildings. There is also a cell tower onsite. As discussed above, the ideal improvement for the subject would be that of a single or multi-tenant industrial development. Therefore, the highest and best use as improved is the same as that for subject site as-if vacant (industrial development). Recognizing that the site includes significant excess land, continued use of the quick-service coffee stand and food-mart as well as the outbuildings and cell tower could be retained alongside additional development if desired by ownership.

SUBJECT PHOTOGRAPHS TAKEN 1/6/2021



Southwesterly view of subject and food-mart / coffee stand



Westerly view of existing access easement

SUBJECT PHOTOGRAPHS TAKEN 1/6/2021



Easterly view of existing access easement from adjoining (Morrow County) parcel

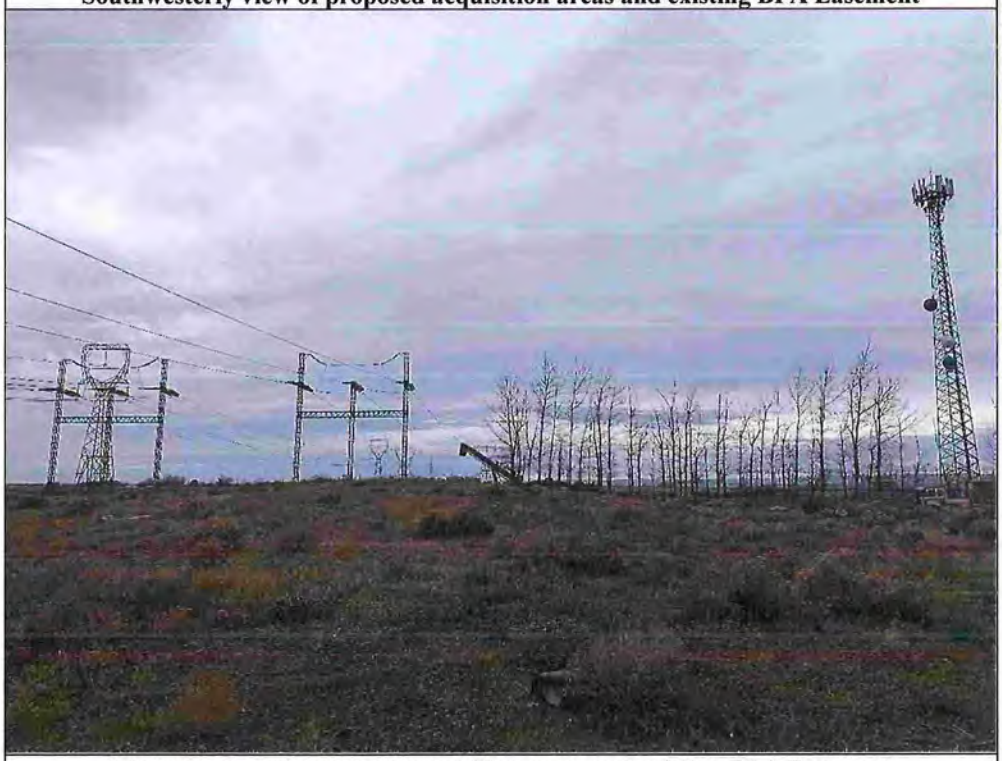


Southerly view of proposed acquisition areas from access easement

SUBJECT PHOTOGRAPHS TAKEN 1/6/2021



Southwesterly view of proposed acquisition areas and existing BPA Easement



Westerly view of proposed acquisition areas and existing BPA Easement

SUBJECT PHOTOGRAPHS TAKEN 1/6/2021



Southerly street scene along Laurel Road (subject right)



Northerly street scene along Laurel Road (subject left)

SUBJECT PHOTOGRAPHS TAKEN 2-13-20



Southwesterly view of subject coffee stand / food-mart and Laurel Lane



Westerly view of subject access and coffee stand / food-mart

SUBJECT PHOTOGRAPHS TAKEN 2-13-20

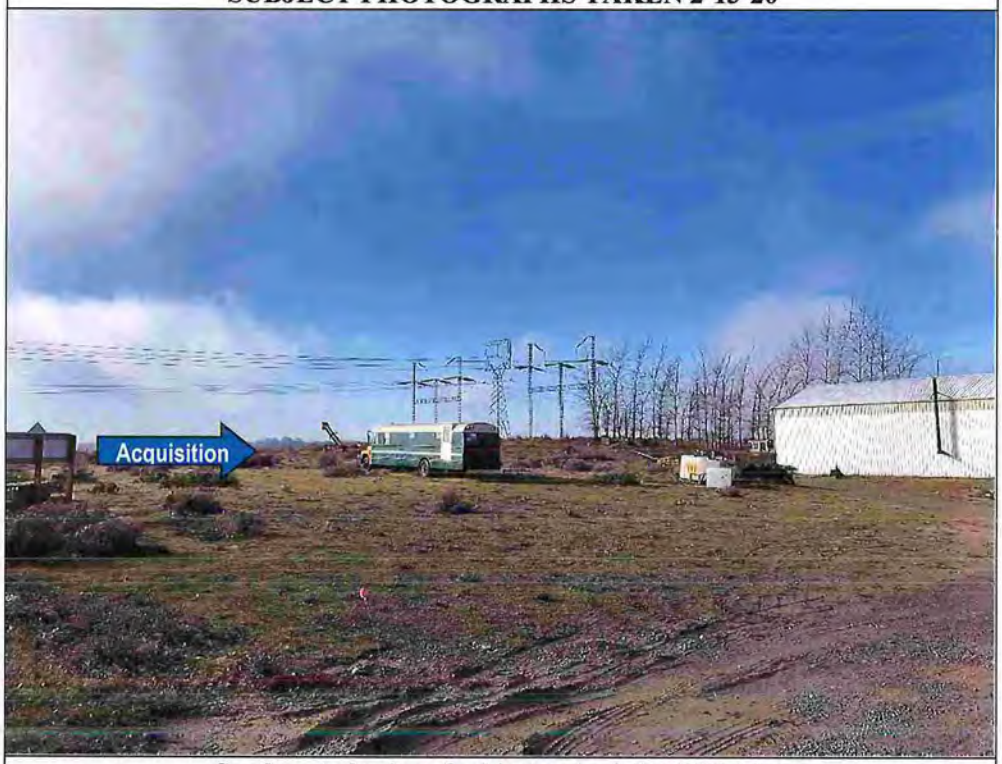


Westerly view of 30-foot access easement serving neighboring Tax Lot 3211 (cell tower and outbuildings in distance)



Northwesterly view of subject

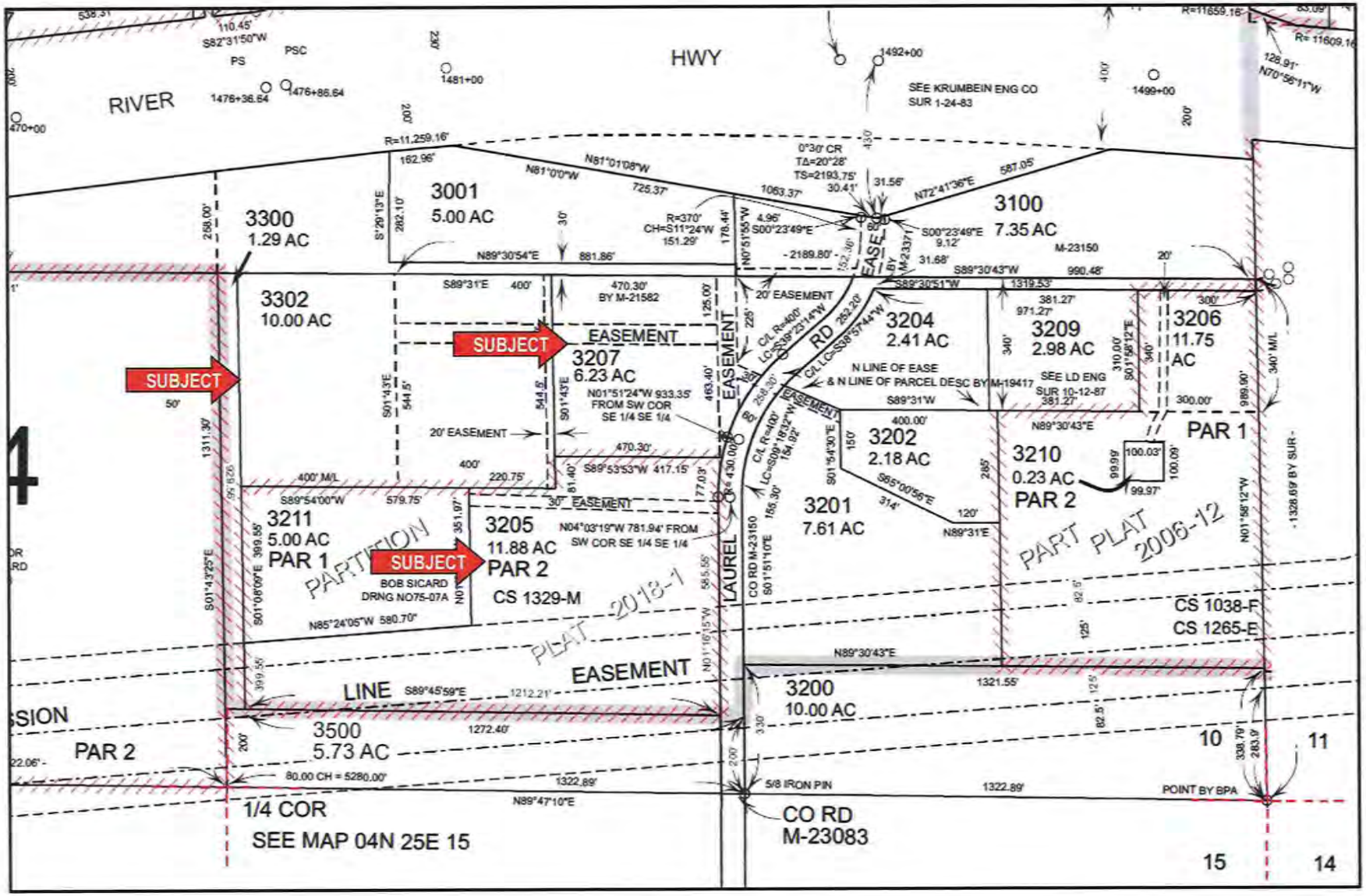
SUBJECT PHOTOGRAPHS TAKEN 2-13-20



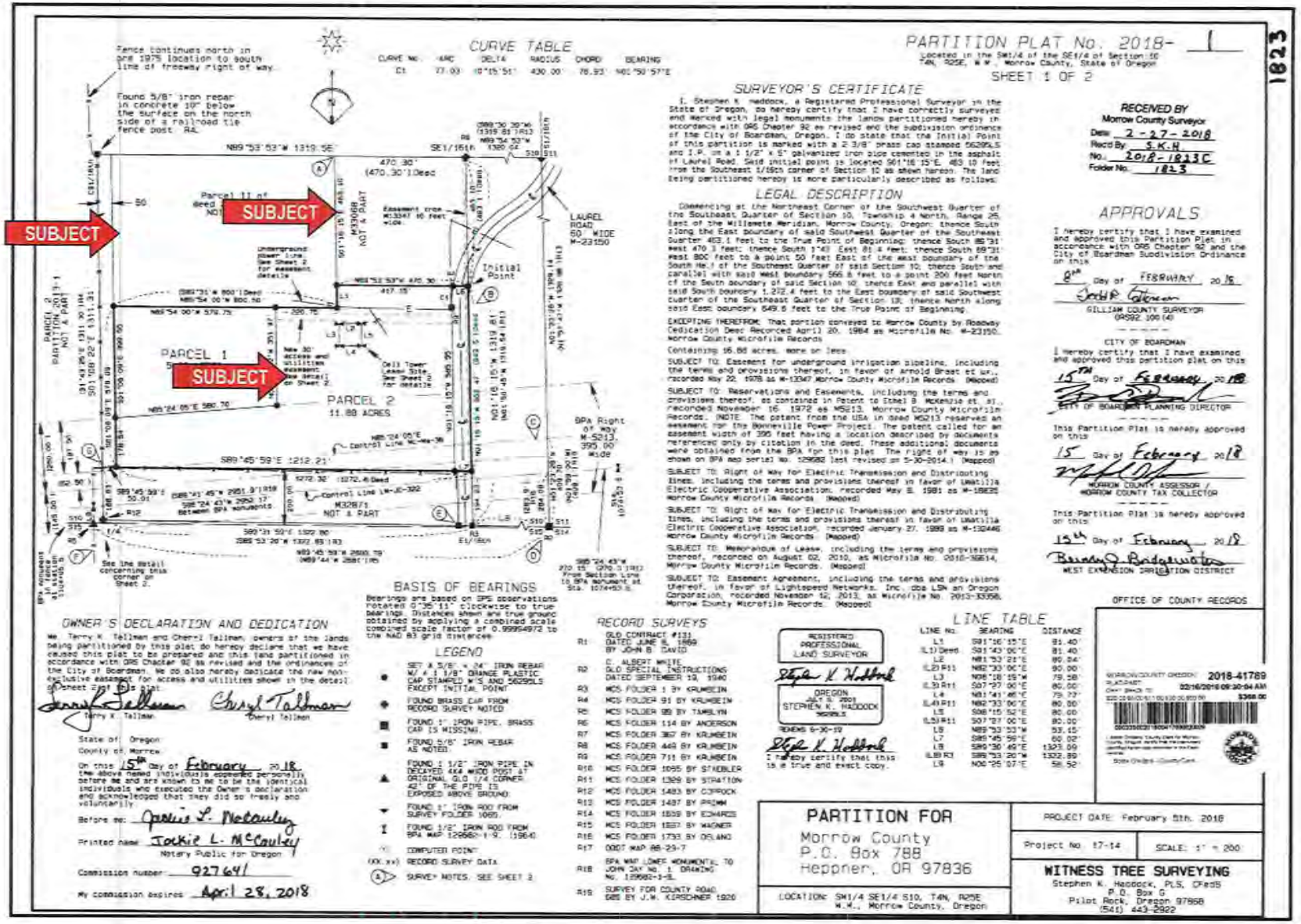
Southwesterly view of subject and existing BPA Line



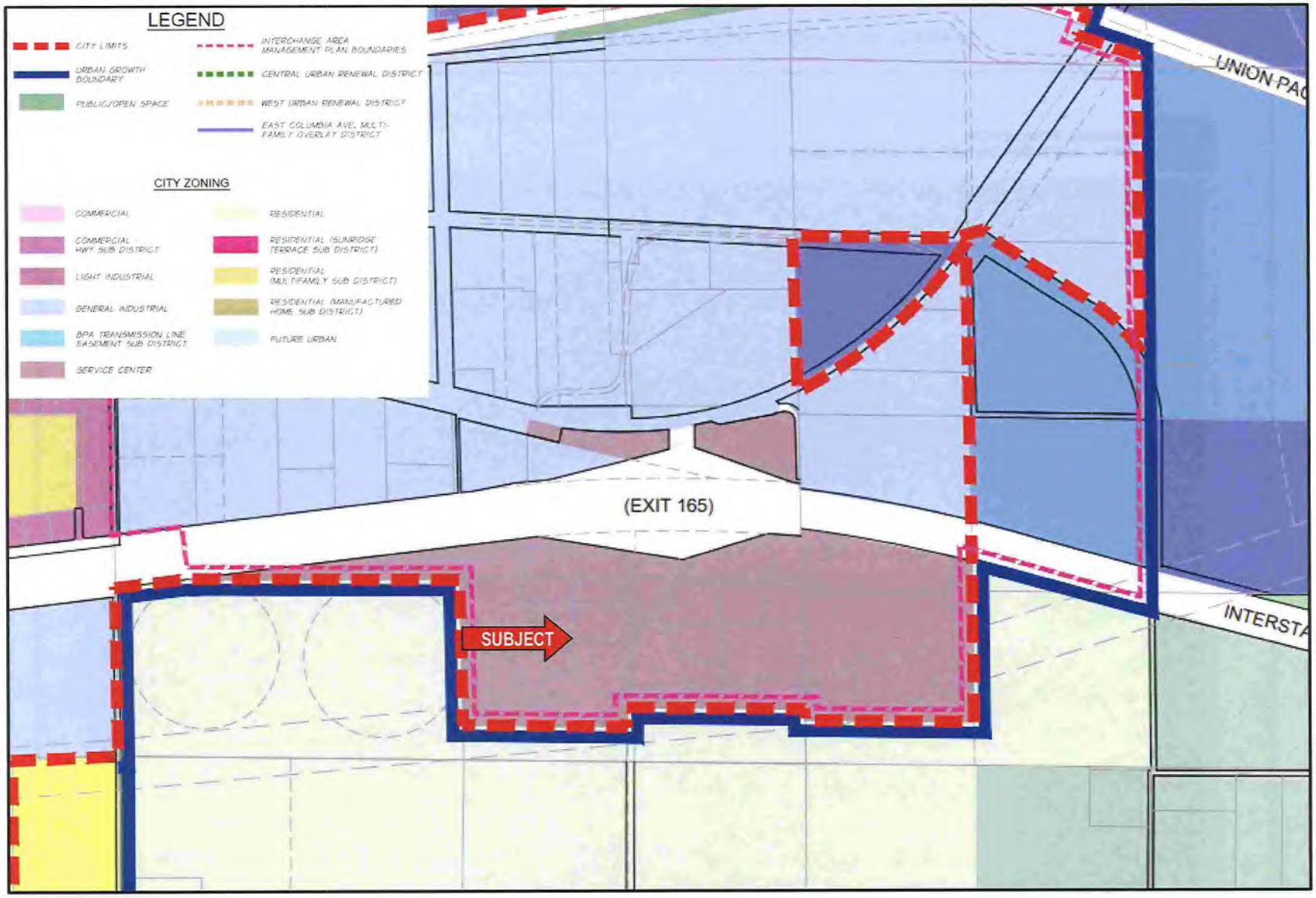
Southerly view of subject and existing BPA Line



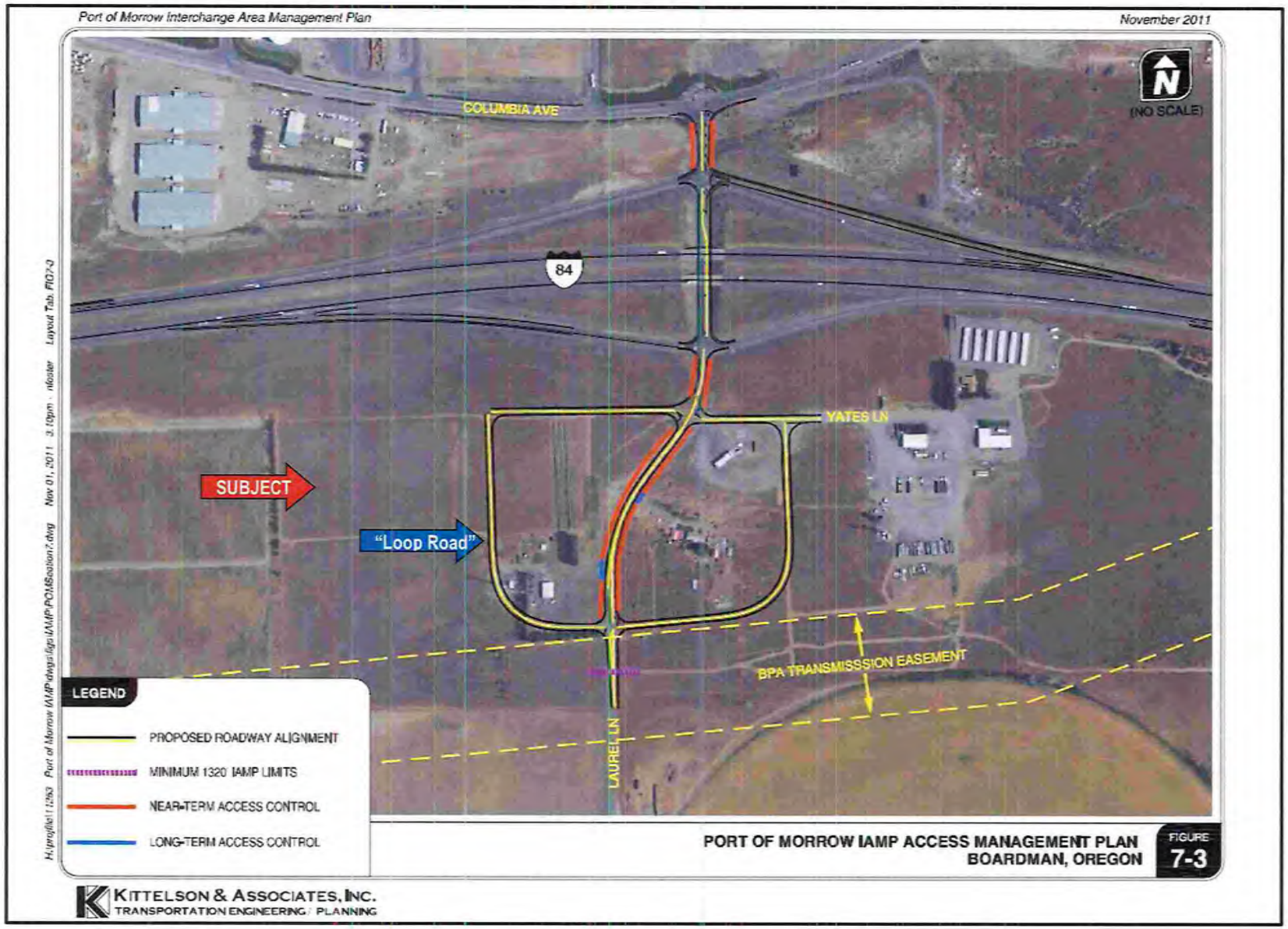
Assessor Map



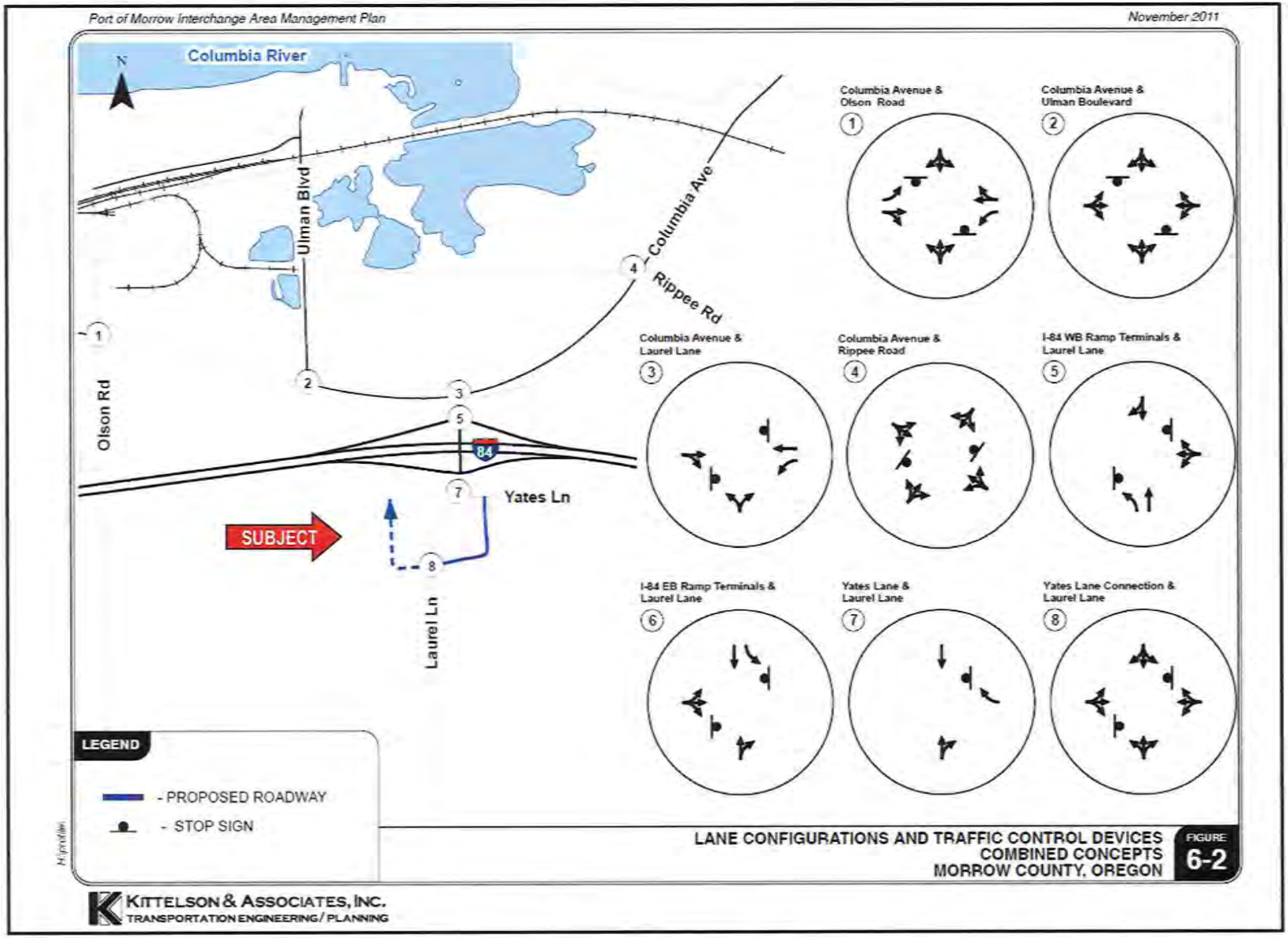
Partition Plat 2018-1



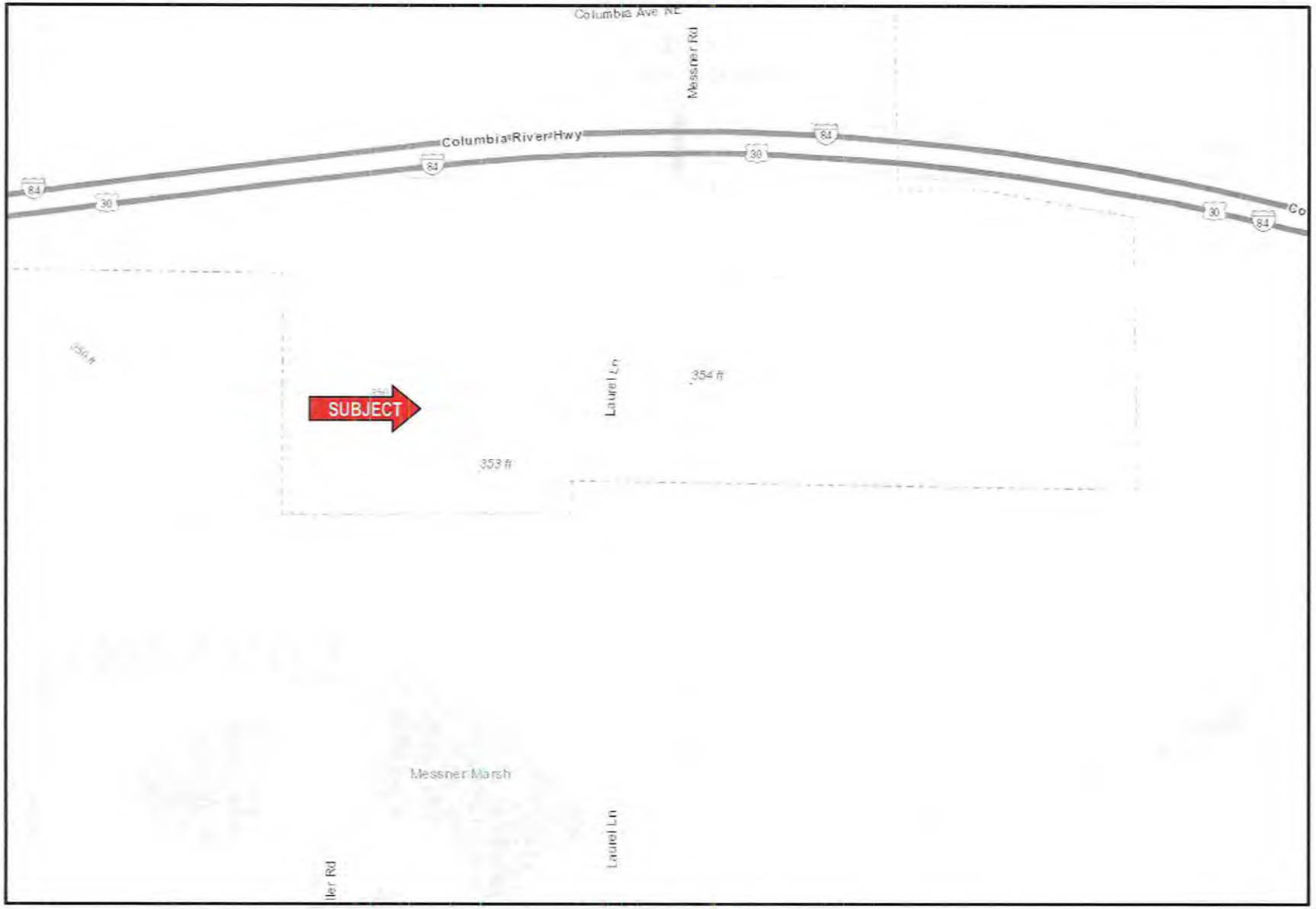
City of Boardman Zoning Map



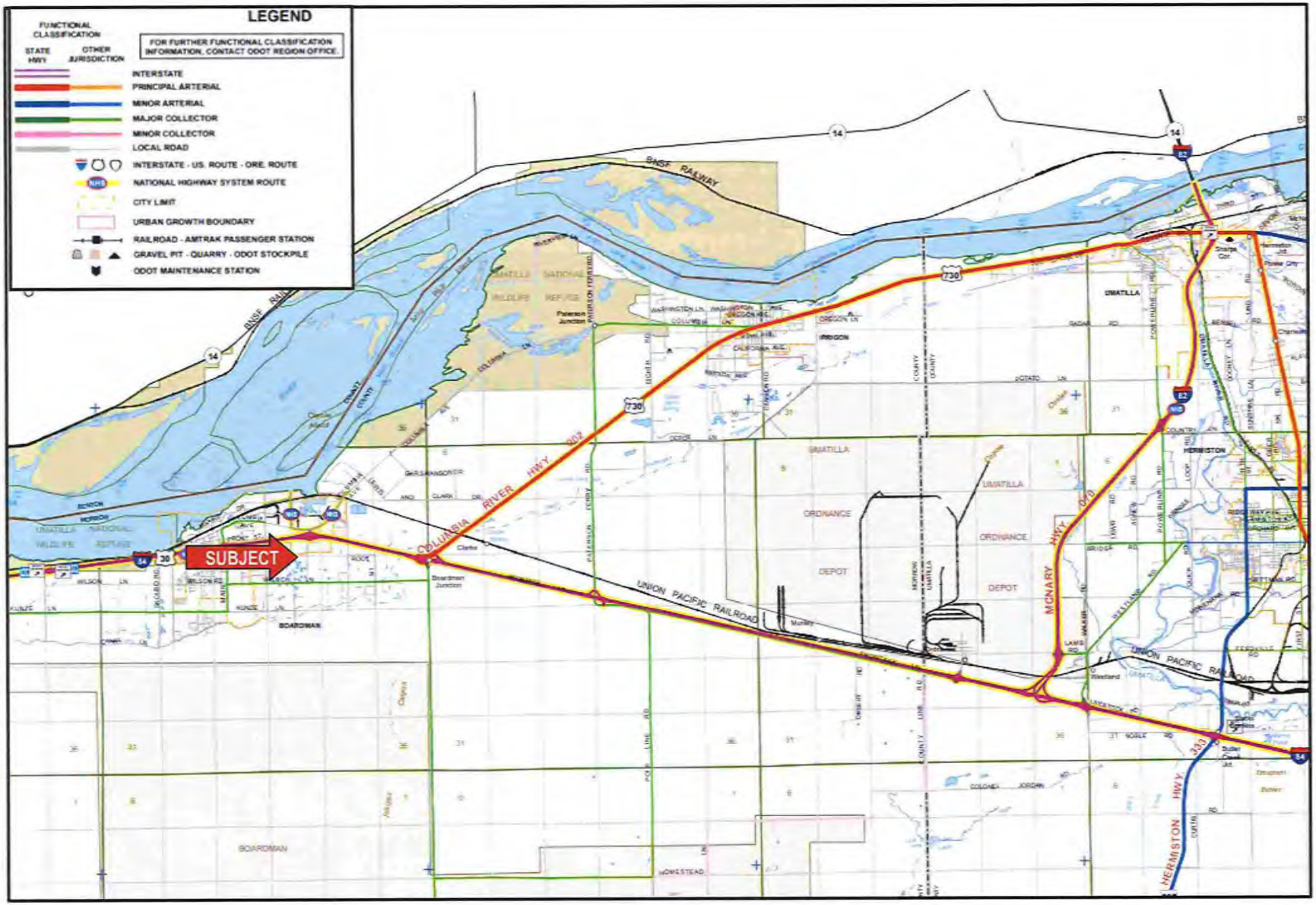
Interchange Area Management Plan (subject to change)



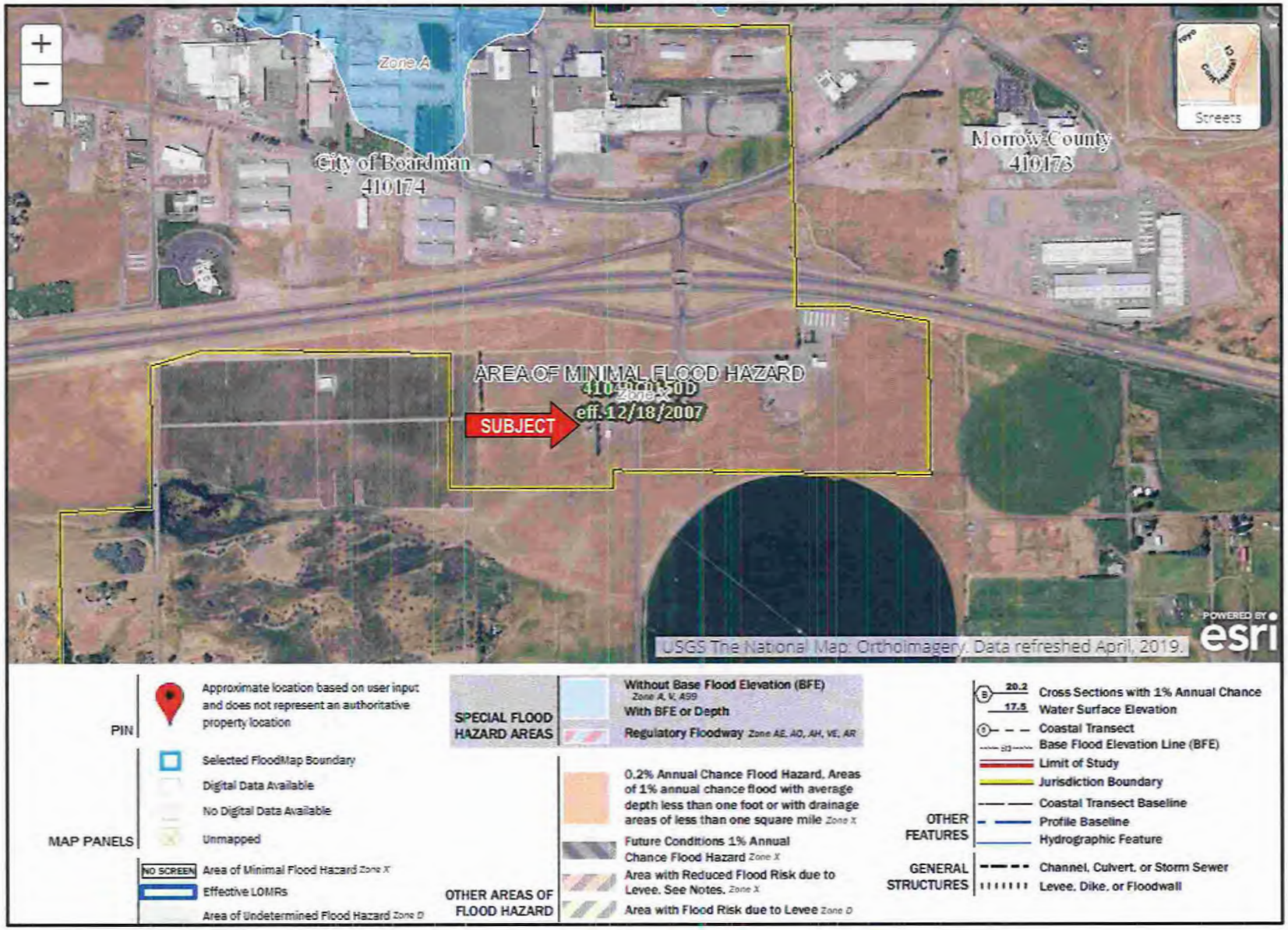
Interchange Area Management Plan & Turning Movements (subject to change)


Columbia Ave NE
Messner Rd
Columbia River Hwy
84
30
SUBJECT
Laurel Ln
354 ft
353 ft
Messner Marsh

Contour Map



Transportation System Plan Map



FEMA Flood Map

18. Valuation of the Land Before the Taking Site Valuation

The Sales Comparison Approach is relevant to valuation of the subject property land component inasmuch as a diligent examination of the marketplace revealed several meaningful transactions.

An investigation of the marketplace was performed, and the following land comparisons are considered to be the most relevant in estimating the fair market value of the subject. All of the transactions were verified as being open market acquisitions at what was deemed to be fair market value by definition. Similarly, the property rights acquired in each instance was that of the fee simple estate, which is deemed to be consistent with that of the subject.



Land Sale Comparable Summary

Comparable	1	2	3	4	5	6
APN	9766	12347	12611	4360	62185	8479 / 8525
Location	Yates Lane Boardman, OR	Laurel Lane Boardman, OR	75240 Gar Swason Rd Boardman, OR	Columbia Boulevard Boardman, OR	Yates Lane Boardman, OR	Hwy 730 and I-84 Boardman, OR
Use	Vacant	Vacant	Vacant	Vacant	Warehouse	Storage
Zoning	LI; Light Industrial	LI; Light Industrial	PI; Port Industrial	GI; General Industrial	LI; Light Industrial	MG; Industrial
Access	Paved Public	Easement	Paved Public	Easement	Paved Public	Paved Public
Exposure	Local	Local	Local	Interstate 84	Local	Interstate 84 / Highway
Utilities	Available	Available	Available	Available	Available	Available
Shape	Rectangular	Mostly Rectangular	Rectangular	Mostly Rectangular	Mostly Rectangular	Irregular
Topography	Mostly Level	Mostly Level	Mostly Level	Mostly Level	Mostly Level	Level
Functionality	Competitive	Competitive	Competitive	Competitive	Competitive	Competitive
Site Improvements	None	None	None	Ashpalt - No Value	None	None
Gross Area AC	2.98	5.00	99.92	18.80	11.75	30.90
Usable Area AC	2.98	5.00	99.92	18.80	11.75	30.90
Usable Area SF	129,809	217,800	4,352,515	818,928	511,830	1,346,004
Seller	Taylor	Tallman	Port of Morrow	Umatilla Ready Mix, Inc.	Taylor	Chastagner
Buyer	Walo LLC	Morrow County	Amazon Data Services	Port of Morrow	Walo LLC	Umatilla Electric Coop
Document	2018-041720	2018-041882	2020-46580	2017-40389	2017-041260	2019-044759
Date	February 2018	March 2018	June 2020	June 2017	November 2017	August 2019
Market Exposure	Private Solicitation	Private Solicitation	Private Solicitation	Private Solicitation / Eminent Domain	Private Solicitation	Private Solicitation
Purchase Motivation	Industrial Development	Public Works Building	Industrial Development	Investment	Industrial Development	Electric Substation
Price	$65,000	$122,200	$2,976,000	$580,000	$375,000	$1,340,500
Site Costs	$0	$10,000	$0	$0	$0	$0
Effective Sale	**$0.50**	**$0.61**	**$0.68**	**$0.71**	**$0.73**	**$1.00**
Source	Fletcher Hobbs Purchaser 541-377-3349	Darrell Green Purchaser Rep. 541-676-2529	Lisa Mittelsdorf Seller Representative 541-567-6173	Lisa Mittelsdorf Seller Representative 541-567-6173	Fletcher Hobbs Purchaser 541-377-3349	Wendy Neal Purchaser Rep. 541-289-1522

Comparable 1





Comparable 1 is a 2.98-acre site that is zoned LI; Light Industrial located along Yates Lane one block south of Interstate 84. It is located within the City of Boardman city limits with Highway 730 situated roughly 2.3 miles east, Interstate 82 roughly 14 miles east and the City of Hermiston located roughly 20 miles east. Furthermore, the location is small industrial pocket of Boardman with proximate access to Interstate 84 and the Port of Morrow Boardman Industrial Park located one (1) block north. The site exhibits level topography with all utility infrastructure available and contiguous. The property was acquired in February 2018 for a negotiated price of $65,000, or $0.50/SF. The transaction closed on a cash-to-seller basis and was considered market in all respects. The purchaser (Walo, LLC) had already purchased the adjoining 11.75 acres (Comparable 4) for $0.73/SF in November 2017 and is currently constructing an industrial warehouse on the front portion of the property with the rear being used as yard storage. Mr. Hobbs confirmed that the purchase price of $0.50/SF was favorable due to the land being separated from its original owners by Mr. Hobbs's (purchaser) 2017 land acquisition which led the seller to be motivated to sell the parcel. It should be noted that the blended rate for this comparable and the Comparable 4 sale equates to $0.69/SF.

Comparable	**1**	Usable Area AC	2.98
APN	9766	Usable Area SF	129,809
Location	Yates Lane Boardman, OR	Seller	Taylor
		Buyer	Walo LLC
Use	Vacant	Document	2018-041720
Zoning	LI; Light Industrial	Date	February 2018
Access	Paved Public	Market Exposure	Private Solicitation
Exposure	Local	Purchase Motivation	Industrial Development
Utilities	Available	Price	$65,000
Shape	Rectangular	Site Costs	$0
Topography	Mostly Level	**Effective Sale Price/SF**	**$0.50**
Functionality	Competitive	Source	Fletcher Hobbs Purchaser 541-377-3349
Site Improvements	None		
Gross Area AC	2.98		

Comparable 2



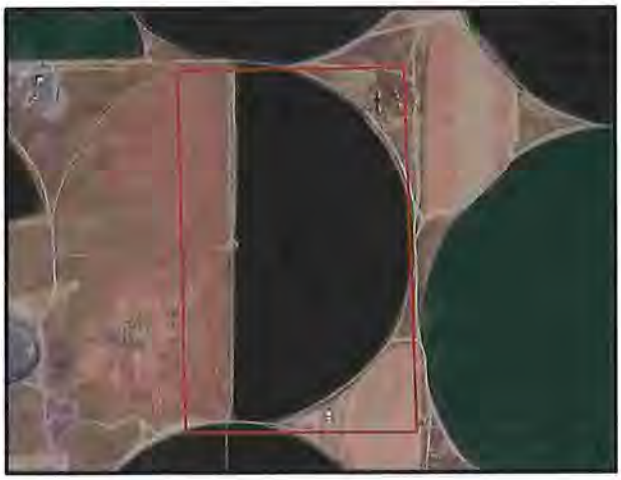


Comparable 2 is the sale of the recently partitioned 5-acre site from the subject property. The property was acquired in March 2018 for a negotiated price of $122,200. An interview with the purchaser representative revealed that the site was ready for development with only minimal additional costs of roughly $10,000 for due diligence and access road improvements. This results in an effective sale price of $0.61/SF. The transaction closed on a cash-to-seller basis and was considered market in all respects. Upon purchase, the County improved the site with gravel surfacing and a 6-foot chain-link fence with barbed wire. The purchasers plan on constructing a new public works building and covered storage areas on the site. The comparable site was the result of a partition from the adjoining properties by the Tallman Family. The southerly property boundary borders an existing BPA line.

Comparable	**2**	Usable Area AC	5.00
APN	12347	Usable Area SF	217,800
Location	Laurel Lane Boardman, OR	Seller	Tallman
		Buyer	Morrow County
Use	Vacant	Document	2018-041882
Zoning	LI; Light Industrial	Date	March 2018
Access	Easement	Market Exposure	Private Solicitation
Exposure	Local	Purchase Motivation	Public Works Building
Utilities	Available	Price	$122,200
Shape	Mostly Rectangular	Site Costs	$10,000
Topography	Mostly Level	**Effective Sale Price/SF**	**$0.61**
Functionality	Competitive	Source	Darrell Green Purchaser Rep. 541-676-2529
Site Improvements	None		
Gross Area AC	5.00		

Comparable 3





Comparable 3 is a 99.92-acre site located along in unincorporated Morrow County along a recently constructed local road. The site is zoned PI; Port Industrial and has historically been utilized as farmland. The site was acquired by the Amazon Data Services in June 2020 for $2,976,000, or $0.68/SF. The site was purchased from the Port of Morrow in a market transaction. The buyer has been purchasing large land tracts in the area and constructing large, server warehouses on the sites, which, according to the Port of Morrow, will be constructed on this site as well. This sale price is consistent with the Port of Morrow asking price of $0.69/SF for various industrial sites in the area. The price was determined by an appraisal and analysis of fair market value. The appraisers were asked to provide appraisal services for the purchase in the spring of 2020 and while the assignment was not accepted, details were confirmed with the seller party.

Comparable	**3**	Usable Area AC	99.92
APN	12611	Usable Area SF	4,352,515
Location	75240 Gar Swason Rd Boardman, OR	Seller	Port of Morrow
		Buyer	Amazon Data Services
Use	Vacant	Document	2020-46580
Zoning	PI; Port Industrial	Date	June 2020
Access	Paved Public	Market Exposure	Private Solicitation
Exposure	Local	Purchase Motivation	Industrial Development
Utilities	Available	Price	$2,976,000
Shape	Rectangular	Site Costs	$0
Topography	Mostly Level	**Effective Sale Price/SF**	**$0.68**
Functionality	Competitive	Source	Lisa Mittelsdorf Seller Representative 541-567-6173
Site Improvements	None		
Gross Area AC	99.92		

Comparable 4





Comparable 4 is an 18.8-acre site located along the northerly right-of-way of Interstate 84. It is located within the Port of Morrow Boardman Industrial Park across Interstate 84 from the subject. The site has level topography with access accommodated from Columbia Boulevard. The site was acquired by the Port of Morrow in June 2017 for $580,000, or $0.71/SF. The acquisition was the result of the Port of Morrow attempting to condemn the property but the final sale price was openly negotiated between the buyer and seller and represents a market transaction. The site was improved with a significantly depreciated gravel parking and surface storage lot that did not reportedly contribute value to the sale transaction. The Port of Morrow was motivated to acquire the property and own a site with "gateway" frontage to I-84. The buyer plans to improve the property with industrial buildings and lease the property to multiple tenants.

Comparable	**4**	Usable Area AC	18.80
APN	4360	Usable Area SF	818,928
Location	Columbia Boulevard Boardman, OR	Seller	Umatilla Ready Mix, Inc.
		Buyer	Port of Morrow
Use	Vacant	Document	2017-40389
Zoning	GI; General Industrial	Date	June 2017
Access	Easement	Market Exposure	Private Solicitation / Eminent Domain
Exposure	Interstate 84	Purchase Motivation	Investment
Utilities	Available	Price	$580,000
Shape	Mostly Rectangular	Site Costs	$0
Topography	Mostly Level	**Effective Sale Price/SF**	**$0.71**
Functionality	Competitive	Source	Lisa Mittelsdorf Seller Representative 541-567-6173
Site Improvements	Ashpalt - No Value		
Gross Area AC	18.80		

Comparable 5





Comparable 5 is an 11.75-acre site that is zoned LI; Light Industrial located along Yates Lane one block south of Interstate 84. It is located within the City of Boardman city limits with Highway 730 situated roughly 2.3 miles east, Interstate 82 roughly 14 miles east and the City of Hermiston located roughly 20 miles east. The site exhibits level topography with all utility infrastructure available and contiguous. The property was acquired in November 2017 for a negotiated price of $375,000, or $0.73/SF. The transaction closed on a cash-to-seller basis and was considered market in all respects. The purchaser (Walo, LLC) also purchased the adjoining 2.98 acres (Comparable 1) for $0.50/SF and is currently constructing an industrial warehouse on the front portion of the property with the rear being used as yard storage. Mr. Hobbs confirmed that he was motivated to acquire the site due to the lack of industrial land adjoining I-84 with this level of transportation connectivity. It should be noted that the blended rate for this comparable and the Comparable 1 sale equates to $0.69/SF.

Comparable	**5**	Usable Area AC	11.75
APN	62185	Usable Area SF	511,830
Location	Yates Lane Boardman, OR	Seller	Taylor
		Buyer	Walo LLC
Use	Warehouse	Document	2017-041260
Zoning	LI; Light Industrial	Date	November 2017
Access	Paved Public	Market Exposure	Private Solicitation
Exposure	Local	Purchase Motivation	Industrial Development
Utilities	Available	Price	$375,000
Shape	Mostly Rectangular	Site Costs	$0
Topography	Mostly Level	**Effective Sale Price/SF**	**$0.73**
Functionality	Competitive	Source	Fletcher Hobbs Purchaser 541-377-3349
Site Improvements	None		
Gross Area AC	11.75		

Comparable 6





Comparable 6 is a 30.9-acre site that is zoned MG; General Industrial. It had frontage to both Highway 730 and Interstate 84 roughly 11 miles west of Interstate 82 and 18 miles southwest of the City of Hermiston. The site was never publicly marketed with the purchaser approaching the seller once learning they were interested in potentially depositing the property. The comparable site was acquired in August 2019 for a negotiated price of $1,340,500 or $1.00/SF. The transaction was reportedly open market and closed on a cash-to-seller basis. The site was purchased by Umatilla Electric Cooperative with the motivation of developing a new electrical transmission line switchyard. The seller performed all clean-up and demolition prior to selling the site, thus, there were no additional development costs required by the buyer. UEC is currently in the process of acquiring an adjoining 3.5 acres to the north in order to obtain additional legal access to the comparable site. The purchase price of that site was not disclosed and did not affect the purchase price for Comparable 5.

Comparable	**6**	Usable Area AC	30.90
APN	8479 / 8525	Usable Area SF	1,346,004
Location	Hwy 730 and I-84	Seller	Chastagner
	Boardman, OR	Buyer	Umatilla Electric Coop
Use	Storage	Document	2019-044759
Zoning	MG; Industrial	Date	August 2019
Access	Paved Public	Market Exposure	Private Solicitation
Exposure	Interstate 84 / Highway 730	Purchase Motivation	Electric Substation
Utilities	Available	Price	$1,340,500
Shape	Irregular	Site Costs	$0
Topography	Level	**Effective Sale Price/SF**	**$1.00**
Functionality	Competitive	Source	Wendy Neal
Site Improvements	None		Purchaser Rep.
Gross Area AC	30.90		541-289-1522

19. Explain Adjustments and Relate Comparable Land Sales Data to Subject:

The comparable data exhibited transaction dates from June 2017 to June 2020. In regard to market trend, there does not appear to be a correlation between sale date and sale price in the sale comparables. Sales occurring in 2017 exhibited higher pricing than those of 2018 and 2020 while the only 2019 sale (highest priced sale) was the result of a motivated buyer.

20. Summary of Comparable Sales Analysis:

The comparables exhibited similar location characteristics, zoning, infrastructure availability, roadway exposure, and tract size characteristics which cumulatively support industrial development. The land sale unit value indications ranged from $0.50 to $1.00/SF. It should be noted that there does not appear to be an apparent size regression trend, thus, so long as parcel size is functional, pricing is influenced by characteristics other than size. The following qualitative analysis has been formulated relative to the subject property:

- **Comparable 1** ($0.50/SF) is similar in location and zoning adjoining the subject property. However, it establishes a lower unit value threshold for the subject given that it was conveyed by a motivated seller and the purchaser reported buying the property at a favorable price.

- **Comparable 2** ($0.61/SF) establishes a lower unit value due to it being the recent sale of the 5-acre site portioned from the subject. The site has inferior access relative to the subject via a 30-foot easement across the subject (Tax Lot 3205). It is also further from I-84 which is inferior to the subject's distant exposure capture to I-84.

- **Comparable 3** ($0.68/SF) establishes an immediate upper unit value due to tethering influences. The comparable site is significantly larger in site area that that of the subject. However, the purchasers were atypically motivated due to their presence in the market area with other nearby data service warehouses.

- **Comparable 4** ($0.71/SF) establishes an upper unit value for the subject due to it being superior in its exposure along Highway 84, and not being impacted by multiple cross easements and encumbrances while most other property characteristics are similar.

- **Comparable 5** ($0.73/SF) also establishes an upper unit value threshold for the subject due to it being purchased by a motivated buyer who desired the site and location for his substantive crop harvesting business. It should be noted that the blended purchase of Comparable 1 and 4 (adjoining properties purchased by same owner) equates to $0.69/SF. The comparable site is also superior to the subject in functionality with no cross encumbrances or easements.

- **Comparable 6** ($1.00/SF) is superior to the subject in its roadway exposure and connectivity being located at the confluence of Highway 730 and I-84. It is superior in functionality as well.

Additionally, the purchaser (UEC) was motivated to acquire the site due to its ideal located as a new electric transmission switchyard. Overall, this comparable establishes an unachievable unit value threshold for the subject.

In summary, the appraisers are influenced to a price per square foot unit value for the subject that is less than the indications of Comparable 3 through 6 and greater than those of Comparable 1 and 2.

21. Summary of Land Value:
Overall, the appraisers are influenced to a fair market value unit price indication of $0.65 per square-foot for the subject site **as-if vacant**.

Relate the FMV to 5-Year Sale History: The larger parcel Tax Lot 3205 was partitioned (Partition Plat 2018-1) into a 11.88-acre site (retained by subject ownership), and a 5-acre tract. Subject ownership sold the recently created 5-acre tract in March 2018 for a stated consideration of $122,200 to Morrow County. The County purchased the bare land with the intent to construct a new public works building. The sale, together with an additional $10,000 of due diligence and access improvement costs, equates to $0.61/SF. This unit price is slightly lower than the estimated market value derived herein of $0.65/SF. The 5-acre site sold at a price inferior to that which has been concluded for the subject due to its inferior access (a 30' private easement), as well as its greater distance from I-84 having no substantive roadway exposure. The other portions of the subject property do not appear to have been sold or publicly marketed in the 5 years preceding the valuation date.

35. Detailed Description of the Taking

Description of the Project

The following is a description of the project provided by Umatilla Electric Cooperative:

"Umatilla Electric Cooperative (UEC) is proposing to construct the Olson Road 230 kV Transmission Line (Proposed Line) in Morrow County near Boardman, OR. The Proposed Line crosses several parcels which fall in Morrow County and the City of Boardman jurisdictions.

The Proposed Line is needed to reliably accommodate electrical growth in the Boardman area. The Proposed Line will be integrated into UEC's electric system grid as a new electrical source into the area. UEC's electrical load in the Boardman area has grown from 62 MW in 2009 to 260 MW in 2019, with forecasted growth to be above 535 MW by the end of 2029. This growth is the main reason behind the need for the new transmission line into the area. The Proposed Line will be needed to continue providing adequate service to the area as electrical load growth continues. The Proposed Line will extend from the planned Hwy 730 Switchyard, to the planned Olson Rd Substation, approximately 4.3 miles. Proposed Line construction will consist of a double circuit 230 kV transmission configuration on single steel pole structures with typical heights between 90 and 130 feet."

Project Exhibits:

The following exhibits are the survey boundaries of the proposed acquisition area(s) as well as the relevant construction exhibits provided by the project engineer:

JANUARY 30, 2020

EXHIBIT "A"

LEGAL DESCRIPTION
TAX LOT 3302 TRANSMISSION EASEMENT

A TRACT OF LAND BEING PART OF PROPERTY DESCRIBED IN DEED DOCUMENT 2002-3196 OF THE MORROW COUNTY DEED RECORDS AND LOCATED IN THE SOUTHWEST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 10, TOWNSHIP 4 NORTH, RANGE 25 EAST OF THE WILLAMETTE MERIDIAN, MORROW COUNTY, OREGON, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF PARCEL 1 OF PARTITION PLAT 2018-1 OF THE MORROW COUNTY SURVEY RECORDS, THENCE NORTH 01°43'30" WEST ALONG THE NORTHERLY EXTENSION OF THE WEST LINE OF SAID PARCEL 1, SAID LINE ALSO BEING THE WEST LINE OF PROPERTY DESCRIBED IN SAID DEED DOCUMENT 2002-3196, 70.02 FEET; THENCE LEAVING SAID WEST LINE, NORTH 89°30'52" EAST, 649.66 FEET; THENCE SOUTH 01°43'55" EAST, 70.02 FEET TO THE INTERSECTION WITH THE EASTERLY EXTENSION OF THE NORTH LINE OF SAID PARCEL 1; THENCE SOUTH 89°30'52" WEST ALONG SAID NORTH LINE AND ITS EASTERLY EXTENSION, 649.67 FEET TO SAID NORTHWEST CORNER AND THE POINT OF BEGINNING.

CONTAINING APPROXIMATELY 45,493 SQUARE FEET OR 1.04 ACRES, MORE OR LESS.

THE BASIS OF BEARINGS FOR THIS DESCRIPTION IS PER GPS OBESRVATIONS, OREGON STATE PLANE COORDINATES.

REGISTERED
PROFESSIONAL
LAND SURVEYOR

OREGON
Original Date of July 21, 1992
JACK ABBOTT BUTLER
2550

JANUARY 30, 2020

EXHIBIT "A"

LEGAL DESCRIPTION
TAX LOT 3205 TRANSMISSION EASEMENT

A TRACT OF LAND BEING PART OF PARCEL 2 OF PARTITION PLAT 2018-1 OF THE MORROW COUNTY SURVEY RECORDS, AND LOCATED IN THE SOUTHWEST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 10, TOWNSHIP 4 NORTH, RANGE 25 EAST OF THE WILLAMETTE MERIDIAN, MORROW COUNTY, OREGON, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

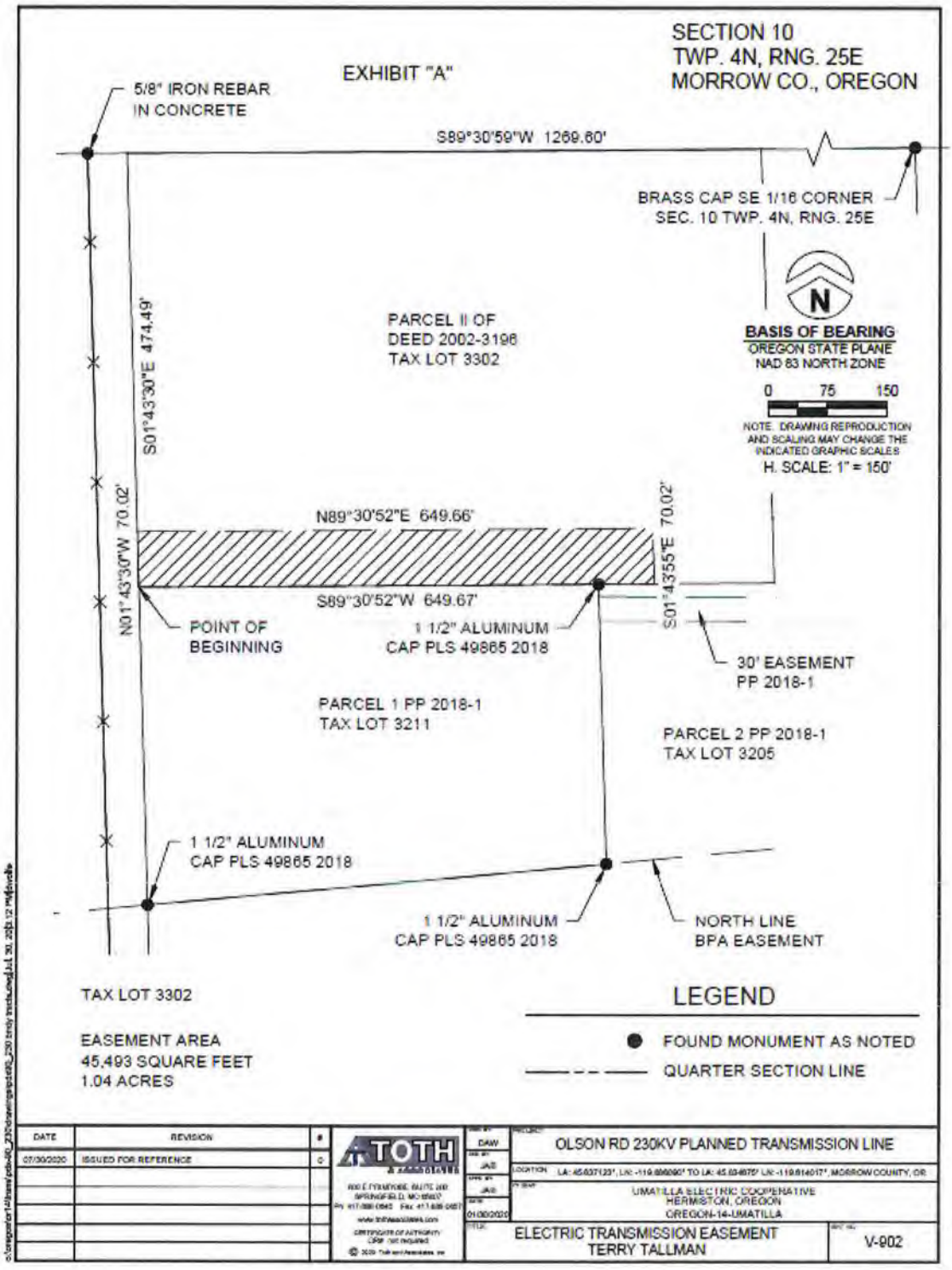
BEGINNING AT THE NORTHEAST CORNER OF PARCEL 1 OF SAID PARTITION PLAT 2018-1, THENCE NORTH 89°32'26" EAST ALONG THE NORTH LINE OF SAID PARCEL 2, 70.02 FEET; THENCE LEAVING SAID NORTH LINE AND PARALLEL WITH THE WEST LINE OF SAID PARCEL 2, SOUTH 01°43'55" EAST, 267.88 FEET; THENCE NORTH 84°48'03" EAST, PARALLEL WITH THE NORTHERLY LINE OF THE EXISTING 395.00 FEET WIDE BPA EASEMENT AS DESCRIBED IN DEED RECORDED NOVEMBER 17, 1972, AS M5213 OF THE MORROW COUNTY DEED RECORDS, 562.50 FEET TO THE WESTERLY RIGHT-OF-WAY LINE OF LAUREL ROAD, 30.00 FEET FROM CENTERLINE WHEN MEASURED PERPENDICULAR TO SAID CENTERLINE; THENCE SOUTH 01°51'23" EAST ALONG SAID RIGHT-OF-WAY LINE, 78.13 FEET TO THE INTERSECTION WITH THE NORTHEASTERLY EXTENSION OF THE SOUTH LINE OF SAID PARCEL 1 AND THE NORTHERLY LINE OF SAID BPA EASEMENT; THENCE LEAVING SAID RIGHT-OF-WAY LINE AND ALONG SAID NORTHEASTERLY EXTENSION OF THE SOUTH LINE OF SAID PARCEL 1 AND THE NORTHERLY LINE OF SAID BPA EASEMENT, SOUTH 84°48'03" WEST, 632.80 FEET TO THE SOUTHEAST CORNER OF SAID PARCEL 1; THENCE NORTH 01°43'55" WEST ALONG THE EAST LINE OF SAID PARCEL 1, 351.82 FEET TO SAID NORTHEAST CORNER AND THE POINT OF BEGINNING.

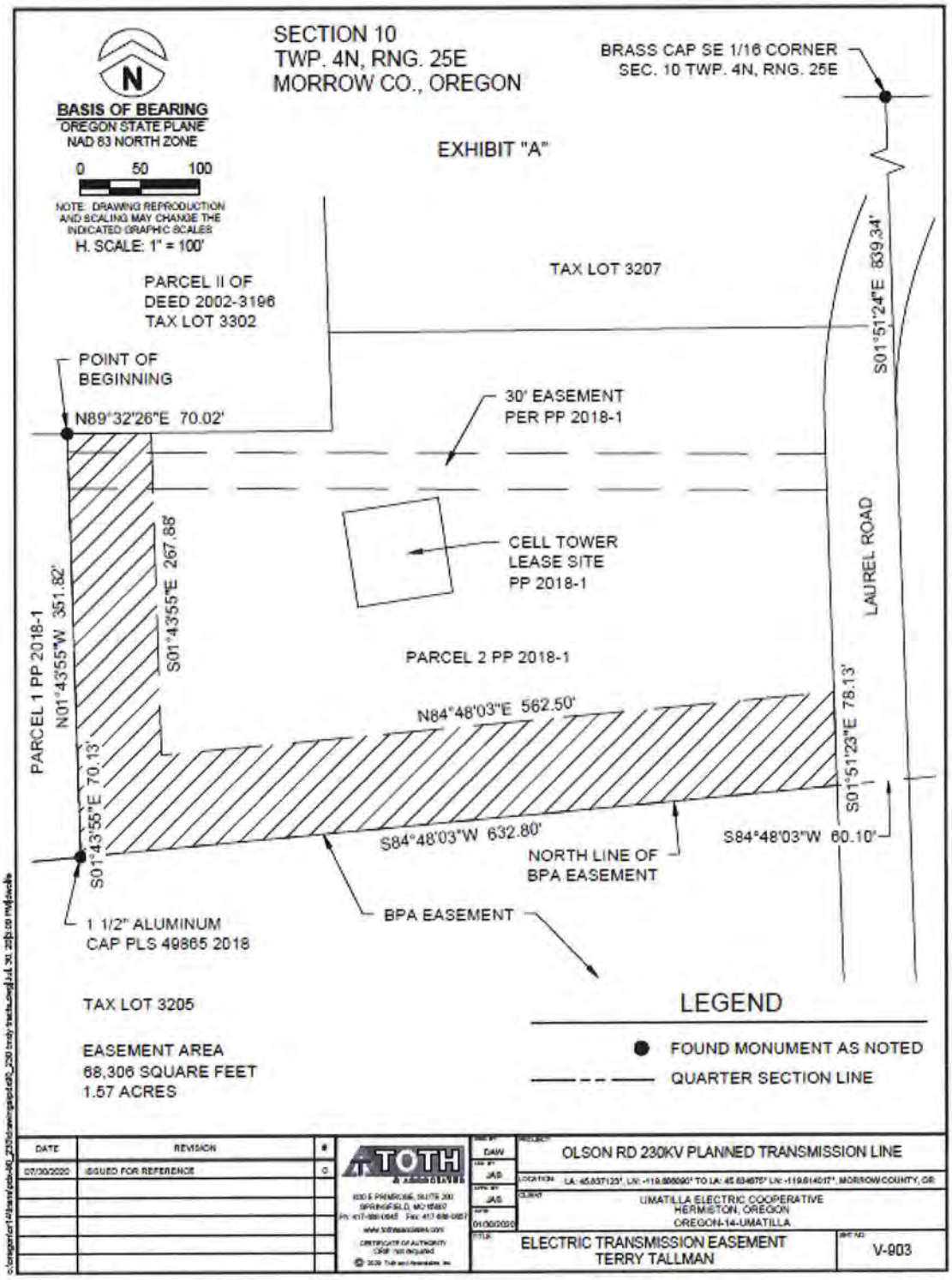
CONTAINING APPROXIMATELY 68,306 SQUARE FEET OR 1.57 ACRES, MORE OR LESS.

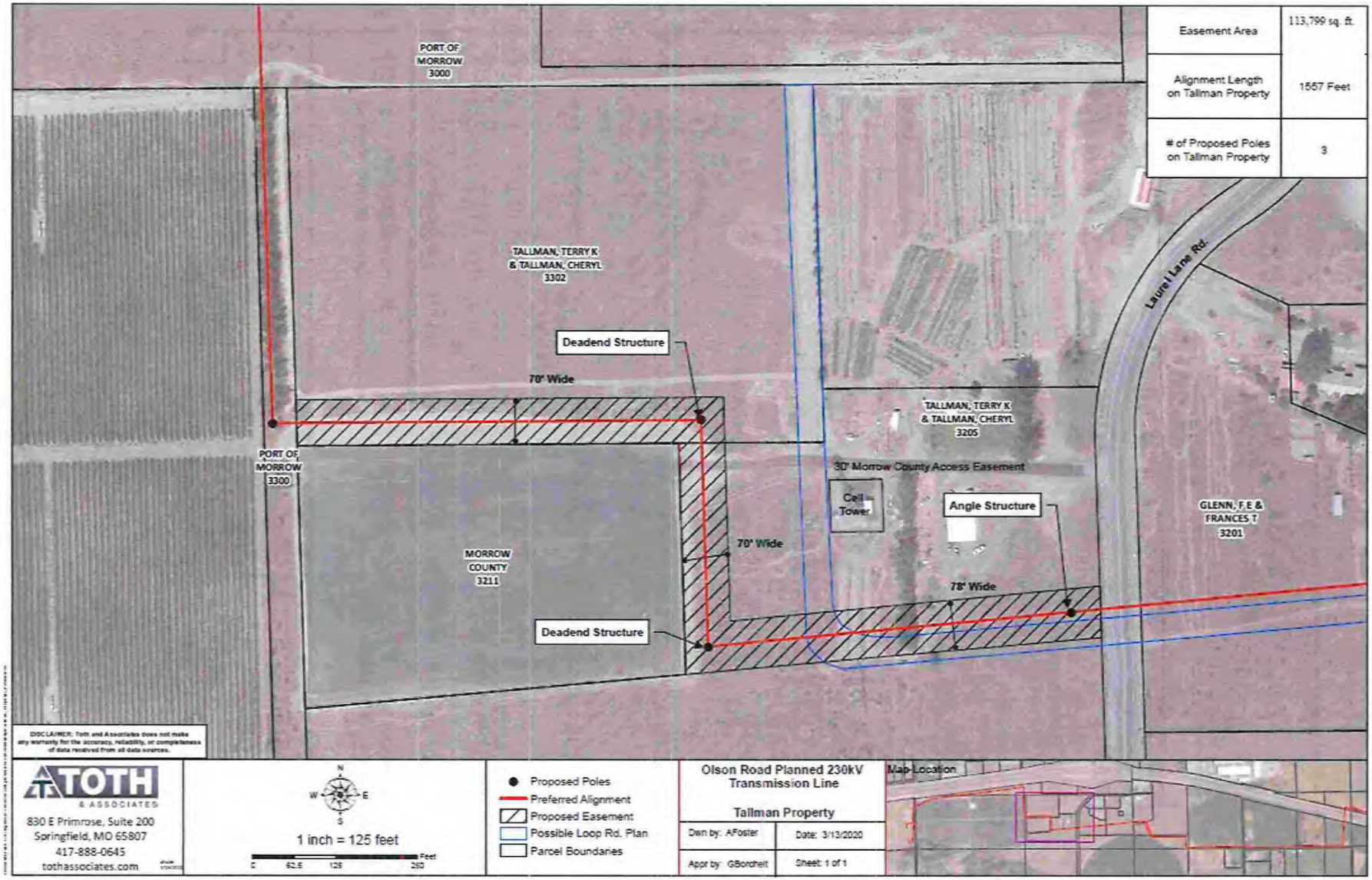
THE BASIS OF BEARINGS FOR THIS DESCRIPTION IS PER GPS OBESRVATIONS, OREGON STATE PLANE COORDINATES.

REGISTERED
PROFESSIONAL
LAND SURVEYOR

OREGON
Original Date of July 21, 1992
JACK ABBOTT BUTLER
2550


EXHIBIT "A"
SECTION 10
TWP. 4N, RNG. 25E
MORROW CO., OREGON
5/8" IRON REBAR
IN CONCRETE
S89°30'59"W 1269.60'
BRASS CAP SE 1/16 CORNER
SEC. 10 TWP. 4N, RNG. 25E
N
BASIS OF BEARING
OREGON STATE PLANE
NAD 83 NORTH ZONE
0 75 150
NOTE: DRAWING REPRODUCTION AND SCALING MAY CHANGE THE INDICATED GRAPHIC SCALES
H. SCALE: 1" = 150'
PARCEL II OF
DEED 2002-3196
TAX LOT 3302
S01°43'30"E 474.49'
N01°43'30"W 70.02'
N89°30'52"E 649.66'
S89°30'52"W 649.67'
S01°43'55"E 70.02'
POINT OF
BEGINNING
1 1/2" ALUMINUM
CAP PLS 49865 2018
30' EASEMENT
PP 2018-1
PARCEL 1 PP 2018-1
TAX LOT 3211
PARCEL 2 PP 2018-1
TAX LOT 3205
1 1/2" ALUMINUM
CAP PLS 49865 2018
1 1/2" ALUMINUM
CAP PLS 49865 2018
NORTH LINE
BPA EASEMENT
TAX LOT 3302
EASEMENT AREA
45,493 SQUARE FEET
1.04 ACRES
LEGEND
FOUND MONUMENT AS NOTED
QUARTER SECTION LINE
DATE
REVISION
#
07/30/2020
ISSUED FOR REFERENCE
0
TOTH & Associates
DAW
JAS
JAS
01/30/2020
OLSON RD 230KV PLANNED TRANSMISSION LINE
LOCATION
UMATILLA ELECTRIC COOPERATIVE
HERMISTON, OREGON
OREGON-14-UMATILLA
ELECTRIC TRANSMISSION EASEMENT
TERRY TALLMAN
V-902


SECTION 10
TWP. 4N, RNG. 25E
MORROW CO., OREGON
BRASS CAP SE 1/16 CORNER
SEC. 10 TWP. 4N, RNG. 25E
N
BASIS OF BEARING
OREGON STATE PLANE
NAD 83 NORTH ZONE
0 50 100
NOTE: DRAWING REPRODUCTION AND SCALING MAY CHANGE THE INDICATED GRAPHIC SCALES
H. SCALE: 1" = 100'
EXHIBIT "A"
TAX LOT 3207
PARCEL II OF
DEED 2002-3196
TAX LOT 3302
POINT OF
BEGINNING
N89°32'26"E 70.02'
30' EASEMENT
PER PP 2018-1
S01°51'24"E 839.34'
CELL TOWER
LEASE SITE
PP 2018-1
LAUREL ROAD
PARCEL 1 PP 2018-1
N01°43'55"W 351.82'
S01°43'55"E 267.88'
PARCEL 2 PP 2018-1
N84°48'03"E 562.50'
S01°51'23"E 78.13'
S01°43'55"E 70.13'
S84°48'03"W 632.80'
S84°48'03"W 60.10'
NORTH LINE OF
BPA EASEMENT
BPA EASEMENT
1 1/2" ALUMINUM
CAP PLS 49865 2018
TAX LOT 3205
EASEMENT AREA
68,306 SQUARE FEET
1.57 ACRES
LEGEND
FOUND MONUMENT AS NOTED
QUARTER SECTION LINE
DATE
REVISION
#
07/30/2020
ISSUED FOR REFERENCE
0
TOTH
DAW
JAS
JAS
01/30/2020
OLSON RD 230KV PLANNED TRANSMISSION LINE
UMATILLA ELECTRIC COOPERATIVE
HERMISTON, OREGON
OREGON-14-UMATILLA
ELECTRIC TRANSMISSION EASEMENT
TERRY TALLMAN
V-903


Easement Area
113,799 sq. ft.
Alignment Length on Tallman Property
1557 Feet
# of Proposed Poles on Tallman Property
3
PORT OF MORROW 3000
TALLMAN, TERRY K & TALLMAN, CHERYL 3302
Deadend Structure
70' Wide
PORT OF MORROW 3300
TALLMAN, TERRY K & TALLMAN, CHERYL 3205
30' Morrow County Access Easement
Cell Tower
Angle Structure
GLENN, F E & FRANCES T 3201
Laurel Lane Rd.
MORROW COUNTY 3211
70' Wide
78' Wide
Deadend Structure
DISCLAIMER: Toth and Associates does not make any warranty for the accuracy, reliability, or completeness of data received from all data sources.
TOTH & ASSOCIATES
830 E Primrose, Suite 200
Springfield, MO 65807
417-888-0645
tothassociates.com
1 inch = 125 feet
Proposed Poles
Preferred Alignment
Proposed Easement
Possible Loop Rd. Plan
Parcel Boundaries
Olson Road Planned 230kV Transmission Line
Tallman Property
Dwn by: AFoster
Date: 3/13/2020
Appr by: GBordheit
Sheet: 1 of 1
Map Location

Detailed Description of the Proposed Taking(s)

In order to support the proposed project, the following partial acquisition(s) of the subject are deemed necessary:

Parcel 1: A 45,493-square-foot Electric Transmission Line Easement is proposed along the southern boundary of subject Tax Lot 3302 adjoining Tax Lot 3211 (owned by Morrow County). The easement area is rectangular in shape with a width of 70.02 feet.

Parcel 2: A 68,306-square-foot Electric Transmission Line Easement is proposed on subject Tax Lot 3205. One portion of the easement adjoins the existing BPA easements while the other portion adjoins the subject's westerly and southwesterly property boundaries adjoining Tax Lot 3211 (Marrow County). The easement area along the BPA easement is rectangular in shape with a width of 78 feet while the area along the westerly boundary is rectangular as well with a width of 70 feet.

Exceptions/Encumbrances within the Acquisition Area: The acquisition area appears to have 2,100 square feet of overlap with the existing 30-foot access easement granted to the Morrow County for neighboring Tax Lot 3211. As discussed in Section 11, the proposed Parcel 1 acquisition area has roughly 2,100 square feet of overlap with the existing 30-foot access easement granted to the Morrow County for neighboring Tax Lot 3211. Thus, previous property rights have been conveyed relative to this easement and the overlap area must be discounted to represent the diminishment in value. The existing easement rights include the right to subsurface and surface construction of improvements (access). An onsite inspection revealed that the access easement is improved with gravel and supports access for the Morrow County parcel. Thus, it is apparent that the subject has lost most, if not all, property use rights given that this area is required to serve as access for the adjoining parcel and cannot be blocked or altered in any form. Thus, the appraisers have excluded these 2,100 square feet of overlap from the fair market value estimate given the lack of property rights remaining for subject ownership.

Functional utility of Acquisition Area in the Before Situation: The proposed acquisition area is entirely usable other than the 2,100 square feet that overlaps with the existing access easement. It should be noted that the proposed "loop road" could potentially overlap with a portion of the proposed acquisition area.

Property Rights Acquired: The following are the easement rights from the easement draft document:

> Terry K. Tallman and Cheryl Tallman (collectively, "Grantor"), for good and valuable consideration, receipt of which is hereby acknowledged, grant to Umatilla Electric Cooperative, an Oregon cooperative corporation ("Grantee"), and its licensees, successors and assigns, a perpetual and non-exclusive electric utility easement ("Easement") on, across, over, and under a strip of land described in Exhibits A-1 and A-2 and depicted in Exhibits B-1 and B-2 ("Easement Area"), for the purposes of constructing, operating, maintaining, repairing, and replacing electric utility lines, including lines for the transmission and distribution of electrical power and communication lines reasonably necessary for the operation of Grantee's electrical system, and associated service facilities (collectively, the "Facilities").

Grantee shall have the right to enter upon and use the Easement Area for the purposes described above, which also includes the right to inspect and make repairs, changes, alterations, improvements, removals from, and substitutions to the Facilities, and to make additions to the overhead Facilities in the Easement Area. With the exception of up to three (3) electric utility poles in the approximate locations depicted on Exhibit C attached, and related guy wires, Grantee shall not install any Facilities on the ground surface of the Easement Area. After the completion of construction, Grantee shall not have the right to increase the number of poles or related guy wires occupying the ground surface of the Easement Area, or change their location, without Grantor's written consent, which shall not be unreasonably withheld.

In compliance with applicable law, Grantee also shall have the right to cut, trim, and control the growth, by reasonable chemical means, machinery or otherwise, of trees, shrubbery and vegetation located within the Easement Area that may interfere with the safe operation of Grantee's electrical system. Grantee shall not be responsible, however, for the maintenance of any landscaping in the Easement Area.

Grantor shall not construct, place, or otherwise locate any building, structure, or other obstruction in, upon, or under the Easement Area.

Grantor shall have the right to use the Easement Area, provided said use is not inconsistent with and does not unreasonably interfere with the purpose of the Easement or the use of the Easement Area by Grantee.

Grantee shall repair damage to the Easement Area caused by Grantee and shall restore the Easement Area, as near as reasonably practicable, to the same or like-kind condition as existed prior to Grantee's use of the Easement Area.

All Facilities installed on, across, over, or under the Easement Area at Grantee's expense shall remain the property of Grantee and removable at the option of Grantee.

Property Rights Retained: The following table demonstrates the physical and legally allowed property rights within the proposed acquisition area in the before and after situations:

Uses	Before Situation	After Situation
Structural Improvements within Setback Area	Not Permitted	Unchanged / Not Permitted
Structural Improvements outside Setback Area	Permitted	Changed / Generally not Permitted
Setbacks	Permitted	Unchanged / Permitted
Storage	Permitted	Unchanged / Permitted
Site Coverage Ratio	Permitted	Unchanged / Permitted
Landscaping	Permitted	Unchanged / Permitted

Non-structural surface occupancy	Permitted	Unchanged / Permitted

Subject ownership can continue to use the area for surface storage, parking, access, landscaping, and site coverage allowance (per zoning). However, surface storage cannot occur in the 30-foot Marrow County easement area. Generally, buildings and structures are restricted unless permitted or agreed to by the grantee. The grantor will lose all property rights for the three (3) poles that are being constructed within the acquisition area.

Purpose and Improvements to be Constructed in the Acquisition Areas: The acquisition area will be utilized for overhead transmission lines as well as supported poles.

Functional utility of Acquisition Area in the After Situation: The subject property will not experience a loss in site area or decrease in site functionality. It is apparent that ownership use rights are minimally changed in the after situation. Thus, the acquisition does not negatively impact the remainder market position. There will be no change in highest and best use. It is apparent that the easement impact is minimal upon the larger parcel market position.

Proposed Easement Value Impact Determination: The value impact of the proposed aerial transmission line easement can be measured by analyzing sale transactions of properties impacted by electric transmission line easements in the market area (primary market data) together with published valuation surveys (secondary market data). The following primary and secondary market data formulated by the appraisers have been considered:

- An attempt to measure the value impact of transmission line easements upon rural land located in Wisconsin was conducted by Thomas Jackson, Ph.D., AICP, MAI, CRE, FRICS and published by the International Right of Way Association magazine ("Electronic Transmission Lines: Is There an Impact on Rural Land Values", *Right of Way*, November/December 2010). The study concluded that "the general finding was that there were small (1.11% to 2.44%) discounts that could be attributable to the presence of the lines and the encumbrance of the properties by the easements. Neither of these small differences were statistically significant. Nonetheless, these findings are consistent with previous findings, which indicated relatively small or non-existent differences. While prior studies had focused primarily on residential properties in urban settings, previous studies of farmland and recreational land found no impact on property values. Furthermore, the extent to which the easement area was encumbered and/or differences in impact due to the position of the easement and transmission lines, were found to be insignificant. In this regard, the encumbrance factors were found to range from 16.0% to 35.3%, assuming no damages to the remainder. Middle and diagonal line positions across the property were found to account for overall price reductions of 3.84% to 2.11% based on preliminary analyses. The patterns referred to as edge or clipping were not found to result in any price differences."

- In "A Rebuttal of Electric Transmission Lines", *Right of Way*, March/April 2011, John Schmick was critical of Mr. Jackson's findings and noted that Mr. Jackson "identifies three types of land (woodland, open land and wetland), but allocates 100% (45% + 55%) of the usage to only two types. If the study included other types of land categories the analysis is further compounded. Additionally, the exhibits at the end of the article suggest building improvements are located on some of the data sites, but there are no comments regarding improvements in this analysis or how they were treated. Is a building site considered open space? Building sites typically reduce tillable acreage and impact value. Based on unadjusted sale prices and indicated average sizes, the price per acre for the online sales equates to $1,898.48 ($119,301/62.84 acres), while that of offline sales is $2,198.94 ($101,591/46.20 acres). Even before adjustments, the data reflects an impact of -15.8% for online sales on a per acre basis for the entire property, not just the easement area. In fact, when the original adjustments are applied to the properties on a per acre basis, ($1,898.48 per acre less 13.1% for online sales and $2,198.94 per acre plus 4.6% for offline sales), there is an overall impact of -28.3%. Given the issues described, it appears that the article is biased toward the electric utility industry."

- An article entitled "High-Voltage Transmission Lines and Rural Western Real Estate Values" published in the Winter 2012 edition of *The Appraisal Journal*, published by the Appraisal Institute, and a companion article entitled "Transmission Line Impacts on Rural Property Value" (*Right of Way*, May/June 2012) were authored by James A. Chalmers, Ph.D. a Certified General Real Estate Appraiser in Billings, Montana. In the former article, the author notes that "As we get to agricultural lands with high amenity recreational and natural resources, the combination of very large size and the importance of the amenity and natural features reduce the probability that the lines will have a material effect on value." The conclusion was that "the research reported here is certainly consistent with the findings in the published literature that property value effects cannot be presumed and are generally infrequent. On the other hand, the current research reminds us that transmission lines can create significant price and absorption effects and provides guidance in identifying circumstances where these effects are most likely to occur." As to production agricultural land, "The Sale Analysis Reports were uniform in their conclusion that there was no market evidence to support a claim of adverse effect of the transmission lines on sale price." However, the author notes that market participants nonetheless revealed nuisance complaints associated with (1) unauthorized access route for trespassers, (2) utility vehicles tear up farm and ranch roads when they are wet, (3) trailers and gates near the lines pick up an electric charge, (4) lines and towers attract lightning strikes which can arc to the ground and start fires and injure livestock, (5) utility access roads are a source of weed introduction, (6) towers and guy lines are a nuisance to farm around and (7) the transmission lines, towers, and guy lines present an aviation hazard. "Interestingly, there was no indication of adjustment to the sale price for the extent of the encumbrance of the property by the transmission line easement. The implication is that the owner

at the time of construction gets compensated for the easement by the utility but does not have to make a corresponding adjustment in the subsequent sale of the property. Presumably this is because the overall agricultural productivity of the property is not affected by the transmission lines."

- An article entitled "Transmission Lines & Industrial Property Value" published in the November/December 2005 edition of *Right-of-Way* authored by Dean Chapman, SR/WA, MAI, SRA, concluded that "the attitude from participants in my survey is basically summed up by a broker in Roseville who sold a medical office building within 20 feet of a large lattice tower for 230kv lines. He said, 'I wish they weren't there, but the property would have sold for the same price with or without them.'" The article addresses a broad range of value impact considerations and the results of the author's market participants' surveys. The appraiser notes that the impact upon improvement siting flexibility and the opportunity to develop to maximum site coverage allowed by zoning is a critical consideration. It was also noted that there are various types of uses that can be accommodated within the transmission line corridor easement such as parking, outdoor storage and landscaping. For that reason, "easements don't affect the usefulness of those areas of the parcel. Therefore, highest and best use was not affected and no diminishing in value was observed." In contrast, there is typically little or no value impact upon parcels that were able to support the purchaser's desired building size. The value impact of easements principally focuses upon the ability to place a site to its highest and best use integrating the easement into the development plan. If the location of the easement is such that a single building supporting the maximum allowable size cannot be constructed, and 2 buildings are needed in order to optimize development capacity, damages/value impact can occur. Based upon the author's survey, a "matched pair sales analysis (MPSA) did, in one instance, support a 38 percent drop in land value as a result of an easement bisecting a parcel. Additionally, the size and placement of towers may also have an impact upon value inasmuch as all surface uses consumed by the structure. It was further noted that towers typically have a surrounding buffer which also must be considered as to site functionality and development capacity. Visual impacts in industrial parks are not typically recognized due to the nature of surrounding improvements. Finally, the author comments upon the impact of electronic magnetic field (EMF) and concluded that there is no measurable impact upon value and that any potential impact was a matter of purchaser perception rather than facts. It was the author's experience and opinion that matched pair sales analysis is relevant but does not have credibility without market participant interviews.

As to the subject market area specifically, the appraisers identified and investigated 5 property listings and sale transactions located in Hermiston, Umatilla and Umatilla County which were impressed to varying degrees by aerial transmission line easements. Interviews with the listing/selling broker revealed a market participant perception of a value impact range of approximately 0 to 30 percent of unencumbered

fee value. The impact range was influenced by property type, such as residential versus industrial, as well as the location of the aerial transmission line easement on the property relative to improvements or building envelope. Generally, market participants reported that the impact of aerial transmission line easements is evaluated on a case-by-case basis with little or no impact being commonplace as to non-residential properties and minimal impact to residential properties. The following are several specific case study examples relating to transmission line easement value impact.



The first case study involves a 4.0-acre parcel improved with a derelict manufactured home that was not inhabitable. The property is located at 30875 Klaus Road, Hermiston. The parcel is bisected near its center by a 250-foot-wide BPA transmission line easement. Approximately 62 percent of the parcel is otherwise unencumbered. The site is rectangular in shape and has a width and depth of approximately 660 feet and 264 feet, respectively. There is no infrastructure availability other than electricity (well and septic needed). The property was exposed to the marketplace for approximately 39 days and sold at a negotiated price of $23,000 in December 2008. The listing broker reported that the value impact of the transmission line easement was approximately $10,000. Adding this estimate to the ultimate sale price of $23,000 results in an unencumbered benchmark value of $33,000 with the easement impact approximating roughly 30 percent of that amount. The purchaser continued to utilize the easement area for yard storage and has improved it with gravel surfacing.



The next case study involves a 12.16-acre parcel of industrially zoned land that is situated in unincorporated Umatilla County adjoining Liberty Lane approximately 1 mile east of Highway 395, roughly 3 miles northeast of Hermiston specifically located south of 81343 Liberty Lane. The easterly half of the tract is bisected by a 250-foot-wide BPA transmission line easement. The property was listed at an asking price of $119,500 and subsequently sold in May 2015 at a negotiated price of $90,000 with the seller viding short-term financing. The property had historically been farmed and was potentially capable of obtaining certified organic status. According to the listing broker, the value impact of the transmission

line easement was approximately 15 to 20 percent of market value with roughly 50 percent of the site area being encumbered. It should be noted that RMLS did not report any other vacant industrial land sales in 2015 that could be utilized for paired sale analysis.



The third case study involves a 3.75-acre tract located in unincorporated Umatilla County adjoining a truck repair facility. The property is specifically located at 31098 Baggett Lane. The parcel is zoned RR-4 which accommodates rural residential home sites. The surrounding area is zoned light industrial. The site was improved with a 2,376-square foot manufactured home. Access to the property is through an industrial area. It was lender owned at the time of sale and was exposed to the marketplace for approximately 327 days at an asking price of $159,950. The initial asking price was $175,000. It eventually sold in December 2013 at a negotiated price of $148,000 with the listing broker indicating that a 50-foot-wide UEC transmission line easement had no material impact upon value as a result of it being located at the easterly extreme of the parcel overlying an area of the site that had historically being utilized as a gravel surfaced storage area at the opposite end of the site from the residence. The easement encumbered approximately 5 percent of site area.



The fourth case study is located in an industrial enclave near the southeasterly urban growth boundary of Umatilla west of Highway 395 south of Union Street. The parcel is approximately 13.35 acres in size, of which roughly 10 acres is development/usable. Its southwesterly corner is encumbered by a BPA transmission line corridor easement as well as a PP&L aerial easement. The northerly boundary of the site is further encumbered by a 20-foot-wide power line easement. Cumulatively, approximately 25 percent of the parcel is encumbered by easements. There are also two (2) surface easements for road purposes. The property was exposed to the market in 2013 for approximately 6 months at an asking price of $700,000 or $43,071 per gross acre. As verified with the listing broker, there were no offers with the listing eventually expiring in July 2013. It was reported that interested parties did not recognize any value diminishment to either the aerial or surface easements that were in place.



The fifth case study is located in an industrial and flex-use area directly north of the Hermiston northerly city limits at the southeast corner of the Follet Lane and Kik Road intersection. The parcel was recently partitioned and is 1.00 acre in size. Its northerly boundary is encumbered with transmission lines adjoining Follet Lane. The property is zoned RSC; Retail/Service Commercial zone which allows various industrial and service-oriented uses. The property is currently active on the market for an asking price of $100,000, or $2.30/SF. An interview with the listing broker (Marsha Henkel) revealed that the site has no offers as of the valuation date (7 months on the market). She reported that people who have been interested are often deterred due to the uncommon zoning as well as its lack of frontage to Highway 395. However, the presence of Transmission Lines is not a recognized factor by interested parties. The listing broker further reported that no one has mentioned the transmission line encumbrance. Ms. Henkel is an active broker in the Hermiston and Boardman area and reported that overhead transmission line easements are usually discounted on a case-by-case basis and sometimes are not discounted at all in the circumstance the property use (highest and best use) is not impacted. The location of the line and zoning of the property are the two most important factors when there is a transmission line encumbrance according to Ms. Henkel. Ms. Henkel also reported that transmission lines located on the edge of industrially zoned properties typically are not discounted. It should be noted that paired data can be inferred by Ms. Henkel's listing one parcel south of the fifth case study which is a current listing of identically zoned land (2.5 AC) that has a similar asking price of $2.30/SF. That site has also received no offers.



Sixth case study, an industrial parcel located along Columbia Boulevard north of I-84 exhibited a 40-foot transmission line easement along the southerly boundary. The 17.5-acre parcel was purchased by the adjoining property owners (Columbia River Processing) who reported acquiring the parcel for future expansion. An interview with a representative revealed that they did not discount the property for the transmission line easement located along the southerly boundary. The property was purchased in September 2018 for $800,000 which results in a unit price of $1.05/SF. This is above market price due to the buyer motivation to expand their current operation with this parcel being the only acceptable parcel for expansion, however, there was no

reported discount for the 40-foot transmission line easement located along the southerly boundary. This sale pairs with the Comparable 5 transaction price and other observed industrial land sales in the market area which confirm no apparent land value discount for the existing transmission line easement.



The next case study involves an 8.68-acre parcel of industrially zoned land that is situated in unincorporated Umatilla County adjoining Liberty Lane approximately 1 mile east of Highway 395 and roughly 3 miles northeast of Hermiston specifically located south of 81410 Liberty Lane. The westerly roughly one-half of the tract is bisected by a 250-foot-wide BPA transmission line easement. The property sold in December 2020 for a negotiated sale price of $150,000, or $0.40/SF, which was the full asking price. According to the listing broker, there were multiple interested parties in the property with the ultimate purchaser being a nearby business owner who acquired the property as additional truck and trailer storage as well as to construct an additional shop. The listing broker revealed that there was no required discounting for the transmission line encumbrance with most users having enough space to construct a competitive building footprint with the remainder of the site under the transmission lines being utilized as parking and storage. The transmission line easement encumbered roughly 37 percent of site area, allowing for a building envelope that is consistent with market requisites discussed in the ideal improvement analysis.



Finally, the last case study involves a .5-acre parcel of commercial land that is situated in the City of Boardman along Main Street less than one (1) block south of Interstate 84. It is within the small pocket of commercial development directly off the Interstate 84 interchange. The site has the BPA Transmission Easement Sub District zoning which allows for most commercial uses but incorporates the existing transmission line easement, which overlies the site's southerly quarter (encumbers +/-38 percent of site area). The property sold in June 2020 for a negotiated sale price of $50,000, or $2.30/SF. According to the listing broker, there were multiple interested parties in the property with the ultimate purchaser being a local business owner who plans on constructing a retail building with access and parking being utilized under the transmission line easement. The listing broker further revealed that there was no required discounting for the transmission line

encumbrance with most users having enough space to construct a competitive building on the northerly portion of the property with the remainder of the site under the transmission line being utilized as access and/or parking.

The appraisers have also considered anecdotal evidence from market participants. An interview with Shanda Williams, who is a long-term local broker, indicated that she has observed buyers discount property value a range of 12 to 25 percent when substantive aerial transmission line easements are present. Generally, smaller properties are more significantly impacted than are larger properties as a result of siting flexibility and buffering. Interviews with local brokers Art Kegler, Lezlee Gunsolley and Randall Newhouse revealed that power line easements typically do not deter buyers from purchasing and that occasional price adjustments are on a case-by-case basis.

Based upon the preceding market participant interviews and case studies, the following excerpts are considered the most influential to the determination of value impact attributable to transmission line easements:

- Various uses can still be accommodated within the easement areas (parking, storage, landscaping, etc.).
- Site coverage is a critical consideration, and market demand for site coverage needs must be investigated. It should be noted that the appraisers investigated industrial properties in the market area which revealed an average site coverage need of 20 percent. Thus, 80 percent of sites on average are utilized for access, parking, landscaping, and/or yard storage uses.
- There is no supportable impact for transmission line easements on parcels where the site area could still accommodate the users desired building size (considering site coverage ratio).
- The value of easement principally focuses upon the ability to place a site to its highest and best use and integrating the easement into a development plan.
- Industrial sites (such as the subject) typically do not recognize an impact from transmission lines.
- The second case study located south of 81343 Liberty Lane, Hermiston, establishes an upper impact threshold of roughly 20 percent given the transmission lines bisected the property (more severe of an impact relative to the subject).
- Market participants report 25 percent or less impact with higher impacts being observed on small-tract or residential properties whereas industrial properties have minimal impact so long as the encumbrances do not impact building envelope functionality.

In conclusion, it is the appraisers' opinion and conclusion that the value impact of the proposed UEC easement, recognizing that it will have only a marginal impact upon the utility and functionality of the remainder parcel, has been estimated at 20 percent of unencumbered fee value with the exception of the

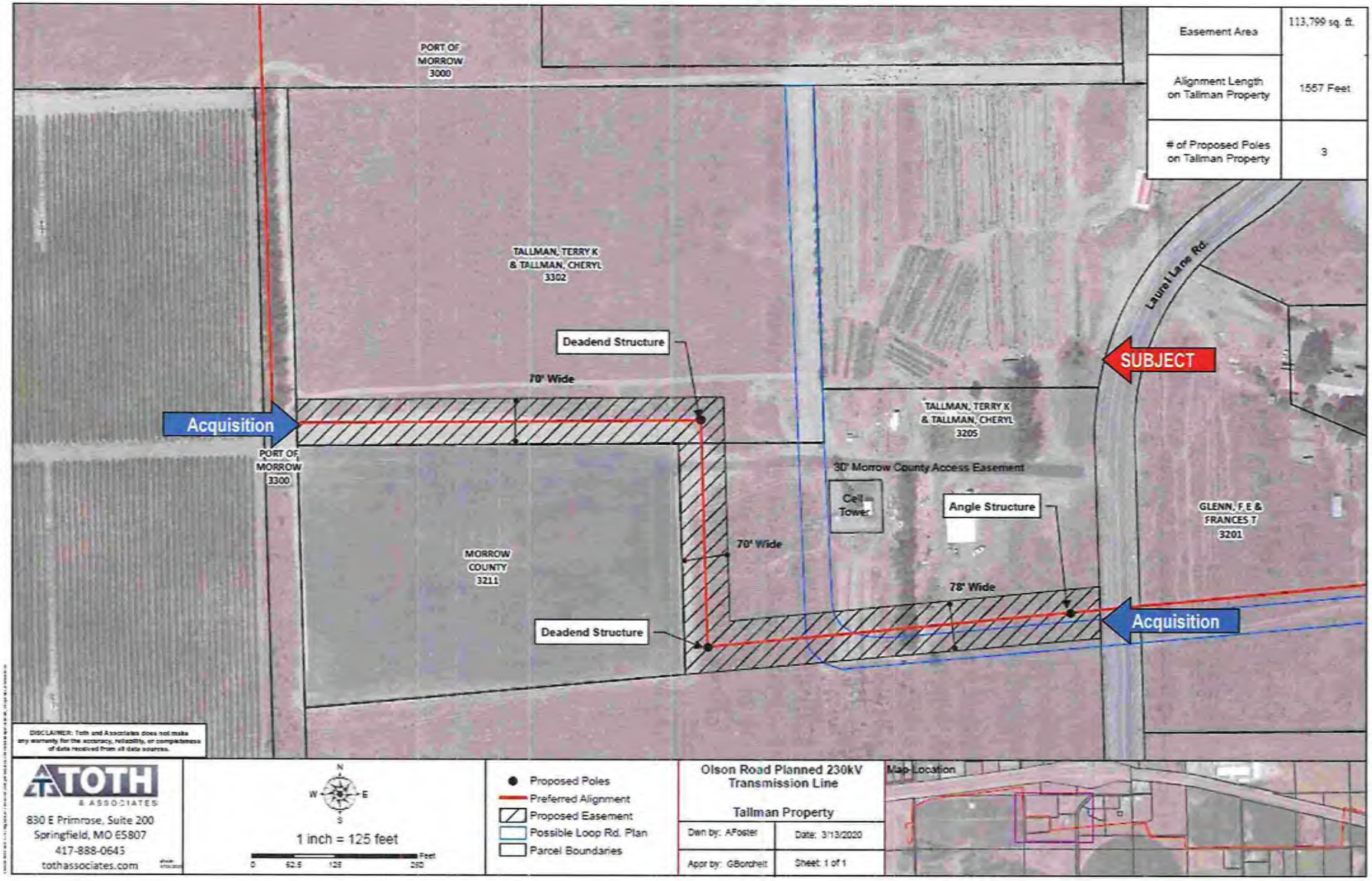
site area that will be consumed by placement of the power pole(s) (if any), which is equivalent to fee value (100% acquisition) inasmuch as all rights of use will be compromised. While the easements do not impact site functionality or highest and best use in a negative manner, the acquisitions do nonetheless impact buildable lands outside of zoning setback areas which influence the appraisers to a value impact near the upper end of the market data range. Thus, the appraisers' conclusion of value impact towards the upper end of the market data research range is reasonable and supportable.

Fair Market Value of Parcel 1 and 2:

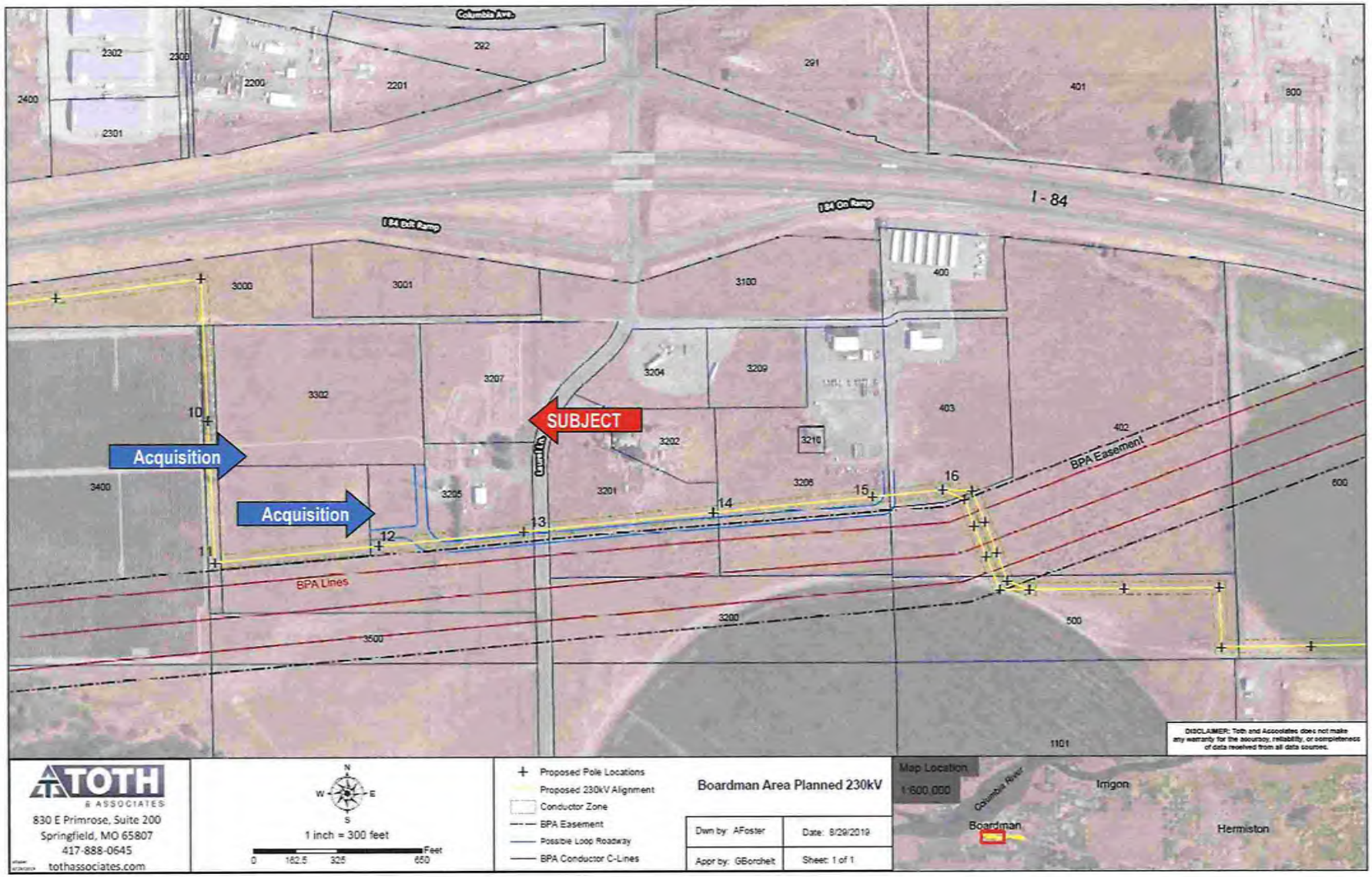
As previously discussed, a 45,493-square-foot (Parcel 1) and a 68,306-square-foot (Parcel 2) perpetual easement and right of way is proposed on the subject. The acquisition area will obtain the subject's surface and aerial rights in the proposed acquisition area. The three (3) poles to be constructed will essentially acquire all property rights.

Fair Market Value of Proposed Acquistion

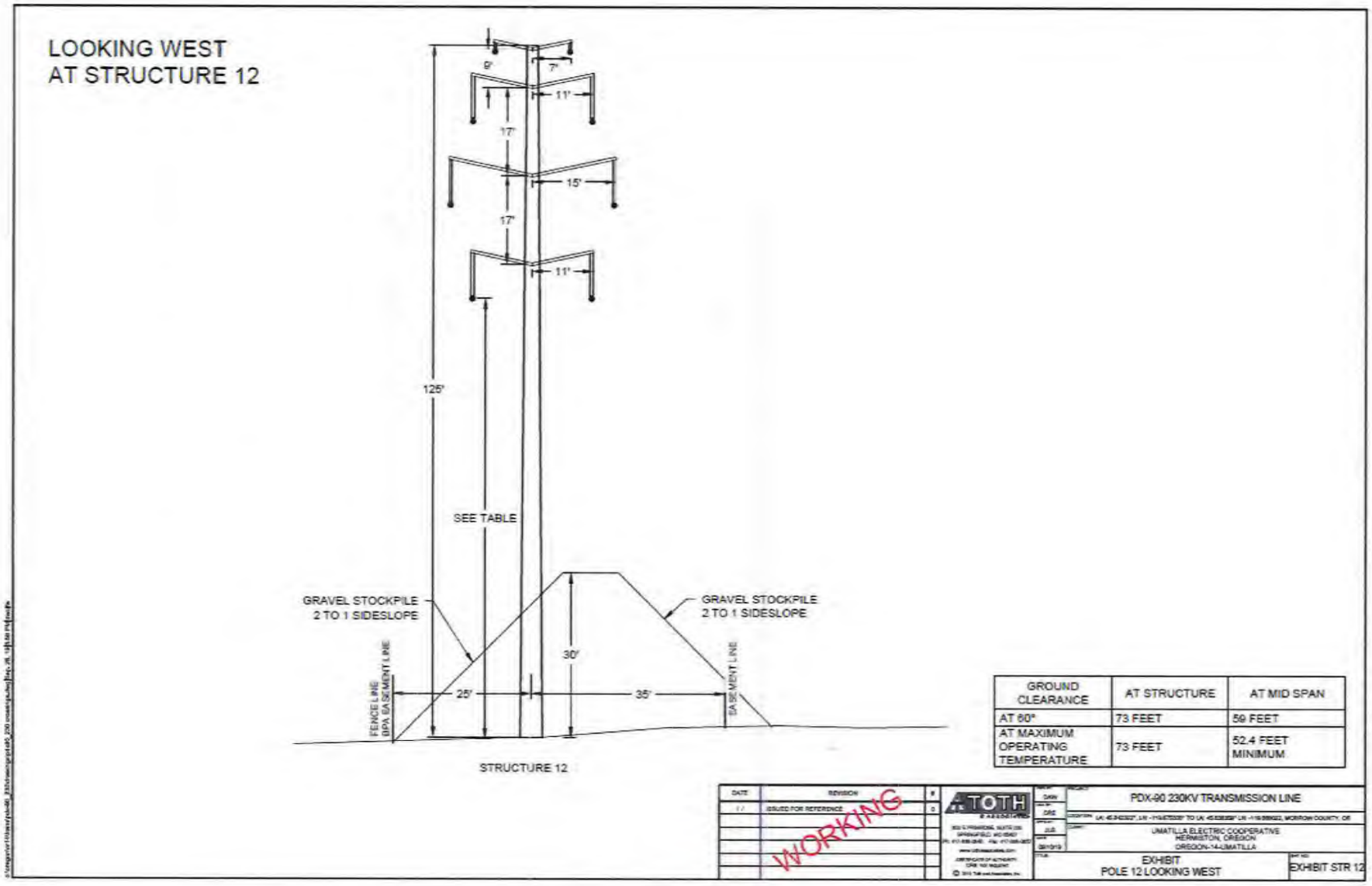
Acquistion	PTR Exception	Area (SF)	Fee Value/SF	Easement Impact	FMV
Overlap with Access Eas.	PP 2018-1	2,100	----	----	----
Parcel 1 & 2	None	111,666	$0.65	20.00%	$14,517
Land Area Supporting Poles	None	33	$0.65	100.00%	$21
Total	----	**113,799**	----	----	**$14,538**



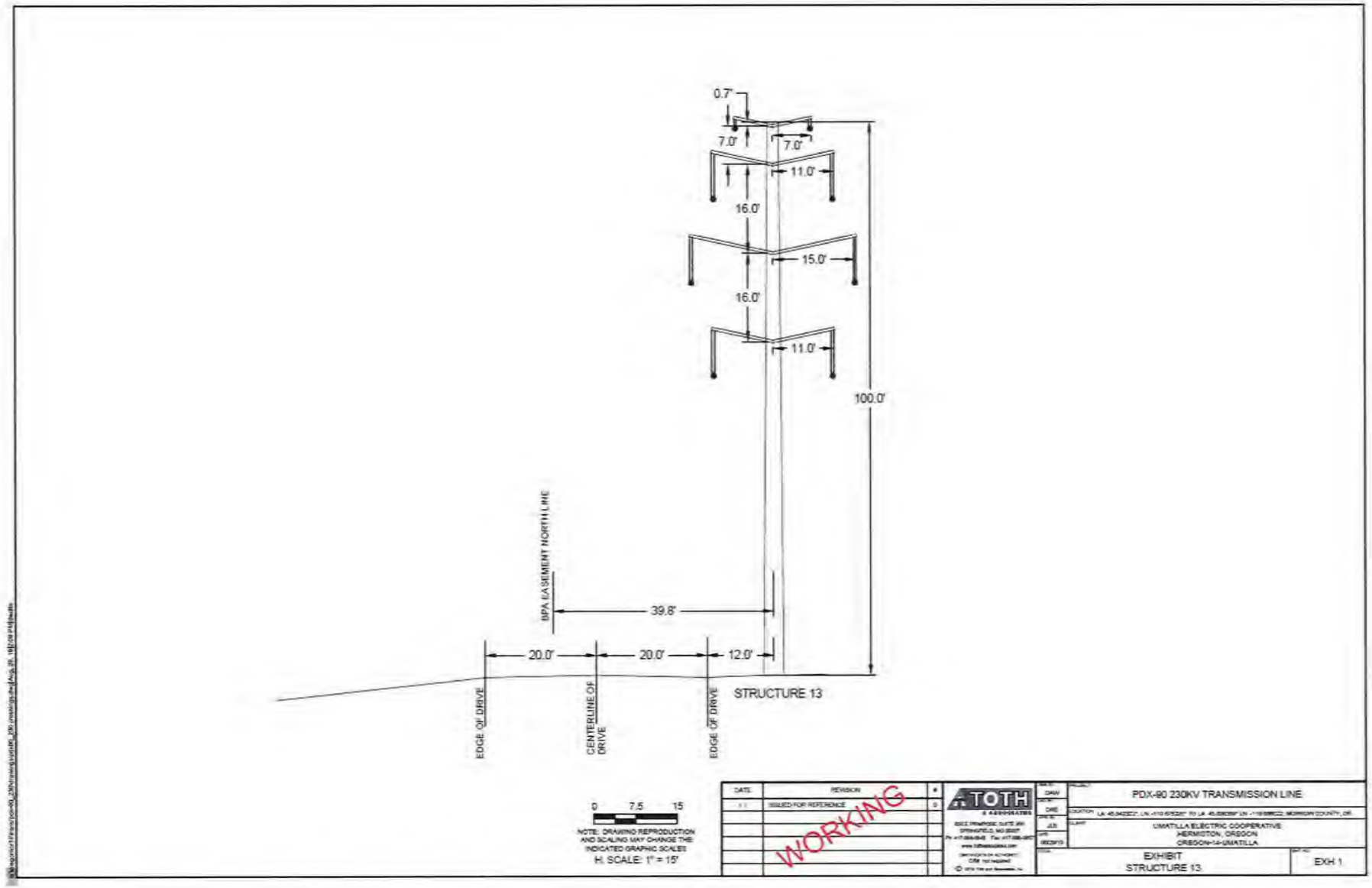
Proposed Easement Route



Aerial Exhibit with Proposed Loop Road (Does not depict easement route of this appraisal report)



Pole 12 Exhibit



Pole 13 Exhibit

36. Valuation of Improvements Located within the Taking

The *ODOT Right-of-Way Manual* (Section 5.390 Improvement Valuation) states:

"When acquiring any interest in real property, the State shall appraise buildings, structures, or other improvements located upon the real property to be acquired. The value of any improvements should be based on their contributory value to the real property being appraised. In the case of a partial acquisition, any impact on the market value of the improvements located on the remainder shall also be considered."

Any (value contributing) improvements located within the acquisition areas are to be compensated for, whereas improvements located within the existing right-of-way are to be disregarded.

The project will not be disturbing any value contributing site improvements within the proposed acquisition area based upon information provided to the appraisers by the project manager. The pole locations will occupy unimproved lands while the lines will be placed by helicopter across the easement areas. Thus, the appraisers have not provided a site improvement value estimate herein.

Personal Property in the Acquisition area(s): The appraisers did not observe any personal property within the proposed acquisition area.

37. Detailed Description of the Remainder Property:

Zoning	Unchanged
Access	Unchanged
Site Area	Unchanged
Improvements	No supportable damages
Highest and Best Use	Unchanged

52. Fair Market Value of the Proposed Acquisition(s):

Explanation of Loss of Value to the Remainder Property:

Damages to Remaining Improvements

In the after situation, the subject site area, access, and highest and best use characteristics are all unchanged. The existing improvement functionality will not be altered. There is no measurable impact of the proposed acquisitions outside of the fair market value estimates concluded herein. Therefore, there is no supportable basis for damages to the subject remaining improvements.

Damages to Remaining Land

In the after situation, the subject is in conformance with all development code requirements. The subject highest and best use remains unchanged in the before and after situation. The site access, functionality, and circulation will remain unchanged. Additionally, similar industrial properties in the subject market area with transmission line easement areas typically utilized for storage of trailers, semi-trucks and other

equipment. The average height of a semi-truck is 13.6 feet which is well below the minimum height of the proposed transmission line wires of 50 feet.

Additionally, as previously discussed, the appraisers surveyed industrial zoned and developed properties in the area and gathered the following property characteristics data:

Ideal Improvement				
Address	**Parcel Size (Acres)**	**Building Footprint (SF)**	**Site Coverage**	**Distance from Building to Nearest Property Line (ft)**
315 Yates Ln	14.73	24,500	4%	45
S/O 79588 Rippee Rd	63.53	671,260	24%	35
W/O 452 Laurel Ln	5.00	7,200	3%	61
79588 Rippee Rd	18.00	228,254	29%	50
71320 Columbia Blvd	17.22	148,975	20%	63
N/O 71320 Columbia Blvd	48.32	81,457	4%	130
650 Columbia Ave NE	29.95	246,985	19%	150
600 Columbia Ave NE	24.02	345,866	33%	90
730 Columbia Ave	20.55	444,312	50%	80
72600 Lewis and Clark Dr	25.03	108,464	10%	190
71449 Rail Loop Dr	18.60	194,713	24%	100
Minimum	5.00	7,200	3%	35
Maximum	63.53	671,260	50%	190
Average	25.90	227,453	20%	90
Median	20.55	194,713	20%	80

In the subject after situation, the proposed acquisition area as well as the existing BPA transmission line will account for roughly 31 percent of site area. The maximum site coverage exhibited by competing industrial properties was 50 percent, with an average of 20 percent. Both are substantially less than the 69 percent of buildable area remaining on the subject property.

In summary, there is no supportable basis for damages to the subject remaining land.

53. Explanation of Increase of Value to the Remainder Property:
There are no benefits that will specifically enhance the fair market value of the subject remainder. Thus, there are no special benefits.

54. Cost to Cure Alternatives:
As previously discussed, the project will not be impacting any site improvements. Thus, a cost-to-cure alternative is not necessary.

ALLOCATION SHEET

TOTAL VALUE OF THE TAKING IS ALLOCATED AS FOLLOWS:

LAND:

Parcel	LAND CLASSIFICATION	AREA	UNIT PRICE	COMPENSATION
1.	Eas. for Transmission or Electric Power	113,799 SF	Calculation	$14,538
57. TOTAL FOR LAND:				**$14,538**
58. IMPROVEMENTS IN TAKING:				
TOTAL FOR IMPROVEMENTS:		See Section 36		None
59. Value of Take (Land & Improvements)				**$14,538**
60. DAMAGES TO REMAINDER: LAND AND IMPROVEMENTS:				
INCURABLE: None				----
TOTAL INCURABLE DAMAGES:				----
CURABLE (Cost to Cure Estimates):				----
TOTAL COST TO CURE:				----
TOTAL DAMAGES TO REMAINDER (Curable Plus Incurable):				----
61. SPECIAL BENEFITS:				----
62. NET DAMAGES (Total Damages Minus Special Benefits):				**None**
63. FAIR MARKET VALUE:				**$14,538**
ROUNDED:				**$14,600**

65. HAZARDOUS WASTE ALLOWANCE INVESTIGATION STATEMENT: Not Appropriate **X**

If appropriate describe:

An inspection of the subject property did not reveal the existence of any apparent adverse environmental characteristics. **It is specifically assumed that there are no adverse soil or geological conditions; the existence of any toxic waste materials has not been determined by professional inspection of the property and, as such, the appraiser makes no representations as to the existence, or lack thereof, of any such materials. Should it be determined that any adverse conditions exist, the value conclusion stated herein immediately becomes null and void.**

Certification of Appraisal

The undersigned certify that, to the best of our knowledge and belief:

The statements of fact contained in this report are true and correct.

David E. Balfour, MAI and Sam A. Karpeles have inspected the subject property and viewed all of the comparables cited herein from adjoining rights-of-way.

The undersigned performed an appraisal assignment for the subject property in an appraisal report dated March 13, 2020, January 8, January 11 and April 2, 2021 (the purpose of appraisals are for updated project information). The undersigned have not performed any other services, as an appraiser or in any other capacity, regarding the property that is the subject of this report within the three-year period immediately preceding acceptance of this assignment.

The reported analyses, opinions, and conclusions are limited only by the reported assumptions and limiting conditions and are our personal, impartial, and unbiased professional analyses, opinions, and conclusions.

The undersigned has no present or prospective interest in the property that is the subject of this report and no personal interest with respect to the parties involved.

The undersigned has no bias with respect to the property that is the subject of this report or to the parties involved with this assignment. The engagement in this assignment was not contingent upon developing or reporting predetermined results.

Compensation for completing this assignment is not contingent upon the development or reporting of a predetermined value or direction in value that favors the cause of the client, the amount of the value opinion, the attainment of a stipulated result, or the occurrence of a subsequent event directly related to the intended use of this appraisal.

The analyses, opinions, and conclusions were developed, and this report has been prepared, in conformity with the Uniform Standards of Professional Appraisal Practice.

The reported analyses, opinions, and conclusions were developed, and this report has been prepared, in conformity with the Code of Professional Ethics and Standards of Professional Appraisal Practice of the Appraisal Institute.

The use of this report is subject to the requirements of the Appraisal Institute relating to review by its duly authorized representatives.

As of the date of this report, David E. Balfour, MAI has completed the requirements of the continuing education program as a Designated Member of the Appraisal Institute.

As of the date of this report, Sam A. Karpeles is taking education courses to become a Designation Member of the Appraisal Institute.

David E. Balfour, MAI
President, Oregon Valuation Group Inc.
Oregon Certified Appraiser C001256
Expiration Date: October 31, 2021
Date of Report: June 2, 2021

Sam A. Karpeles
Senior Appraiser, Oregon Valuation Group Inc.
Oregon Certified Appraiser C001420
Expiration Date: February 28, 2022
Date of Report: June 2, 2021

Certification of Appraiser

I (David E. Balfour, MAI) hereby certify that on February 13, 2020* I personally made a field inspection of the property herein appraised and have afforded the property owner or his personally designated representative the opportunity to accompany me at the time of inspection. I have also personally made a field inspection of the comparable sales relied upon in making said appraisal. The subject and the comparable sales relied upon in making said appraisal were as represented in said appraisal. That, to the best of my knowledge and belief, the statements contained in the appraisal herein set forth are true, and the information upon which the opinions expressed herein are based is correct; subject to the limiting conditions herein set forth.

I did not however inspect the subject on January 6, 2021. The proposed acquisition areas of this report were inspected on February 11, 2020 and exhibit similar condition.

That I understand that such appraisal may be used in connection with the acquisition of property for a project to be constructed by the State of Oregon with the assistance of Federal-aid highway funds or other Federal Funds.

That such appraisal has been made in conformity with the appropriate State law, regulations, and purposes; and that, to the best of my knowledge, no portion of the value assigned to such property consists of items which are non-compensable under the established law of said State.

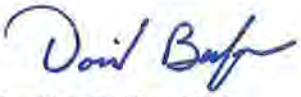
That neither my employment nor my compensation for making this appraisal and report are in any way contingent upon the value(s) reported herein.

That I have no direct or indirect present or contemplated future personal interest in such property or in any benefit from the acquisition of such property appraised.

That I have not revealed the findings and results of such appraisal to anyone other than the proper officials of the client and acquiring agency, and I will not do so until so authorized by said officials, or until I am required to do so by due process of law. It is clearly understood by me that this appraisal has been requested by said officials for the purposes of negotiations or contemplated or pending litigation to acquire the property evaluated herein; that I will provide such additional appraisal services as may be requested by said officials in the valuation of this property; and, if called upon to do so, I will defend this appraisal in court.

That any decrease or increase in the fair market value of the real property herein appraised, prior to the date of valuation, which decrease or increase, was caused by the public improvement for which the property is being acquired, or by the likelihood that the property would be acquired for such improvement, has been disregarded in determining the compensation for the property.

Based upon my previous inspection and a review of the inspection photographs of Sam A. Karpeles taken on January 6, 2021, my opinion of fair market value for the acquisition, including damages, if any, to the remaining property, as of January 6, 2021,** is **$14,600.00***** based upon my independent appraisal and the exercise of my professional judgment, and that the conclusion set forth in this appraisal was reached without collaboration or direction as to value.



June 2, 2021
Date of Report
* Date(s) subject was inspected
** Date of valuation
***Value of property to be acquired

David E. Balfour, MAI
President, Oregon Valuation Group Inc.
Oregon Certified Appraiser C001256
Expiration Date: October 31, 2021
ODOT Approved Appraiser

Certification of Appraiser

I (Sam A. Karpeles) hereby certify that on January 6, 2021* I personally made a field inspection of the property herein appraised and have afforded the property owner or his personally designated representative the opportunity to accompany me at the time of inspection. I have also personally made a field inspection of the comparable sales relied upon in making said appraisal. The subject and the comparable sales relied upon in making said appraisal were as represented in said appraisal. That, to the best of my knowledge and belief, the statements contained in the appraisal herein set forth are true, and the information upon which the opinions expressed herein are based is correct; subject to the limiting conditions herein set forth.

That I understand that such appraisal may be used in connection with the acquisition of property for a project to be constructed by the State of Oregon with the assistance of Federal-aid highway funds or other Federal Funds.

That such appraisal has been made in conformity with the appropriate State law, regulations, and purposes; and that, to the best of my knowledge, no portion of the value assigned to such property consists of items which are non-compensable under the established law of said State.

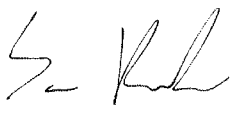
That neither my employment nor my compensation for making this appraisal and report are in any way contingent upon the value(s) reported herein.

That I have no direct or indirect present or contemplated future personal interest in such property or in any benefit from the acquisition of such property appraised.

That I have not revealed the findings and results of such appraisal to anyone other than the proper officials of the client and acquiring agency, and I will not do so until so authorized by said officials, or until I am required to do so by due process of law. It is clearly understood by me that this appraisal has been requested by said officials for the purposes of negotiations or contemplated or pending litigation to acquire the property evaluated herein; that I will provide such additional appraisal services as may be requested by said officials in the valuation of this property; and, if called upon to do so, I will defend this appraisal in court.

That any decrease or increase in the fair market value of the real property herein appraised, prior to the date of valuation, which decrease or increase, was caused by the public improvement for which the property is being acquired, or by the likelihood that the property would be acquired for such improvement, has been disregarded in determining the compensation for the property.

That my opinion of fair market value for the acquisition, including damages, if any, to the remaining property, as of January 6, 2021,** is **$14,600.00***** based upon my independent appraisal and the exercise of my professional judgment, and that the conclusion set forth in this appraisal was reached without collaboration or direction as to value.



June 2, 2021
Date of Report
* Date(s) subject was inspected
** Date of valuation
***Value of property to be acquired

Sam A. Karpeles
Senior Appraiser, Oregon Valuation Group Inc.
Oregon Certified Appraiser C001420
Expiration Date: February 28, 2022

Limiting Conditions and Assumptions

General Assumptions

This appraisal is based on the following general assumptions, except as otherwise noted in the report.

- The title is marketable and free and clear of all liens, encumbrances, encroachments, easements and restrictions. The property is under responsible ownership and competent management and can be utilized at its highest and best economic use.
- There are no existing judgments or pending or threatened litigation that could affect the value of the property.
- There are no hidden or undisclosed conditions of the land or of the improvements that would render the property more or less valuable. Furthermore, there are no environmental regulation violations or actionable conditions.
- The property is in compliance with all applicable building, environmental, zoning, and other federal, state and local laws, regulations and codes.
- All information furnished by others, including proprietary third-party resources, is believed to be reliable, but no warranty is given for its accuracy.

Limiting Conditions

This appraisal is subject to the following limiting conditions, except as otherwise noted in the report.

- The appraiser and client agree that the following mutual limitation of liability is agreed to in consideration of the fees to be charged and the nature of appraiser's services. The appraiser and client agree that to the fullest extent permitted by applicable law, each party's and its personnel's maximum aggregate and joint liability to the other party for claims and causes of action relating the appraiser's services shall be limited to the higher of $25,000 or the total of fees and costs charged by appraiser(s) for the services that are the subject of the claim(s) or cause(s) of action. This limitation of liability extends to all types of claims or causes of action, whether in breach of contract or tort, including without limitation claims/causes of action for negligence, professional negligence or negligent misrepresentation on the part of either party or its personnel, but excluding claims/causes of action for intentionally fraudulent conduct, criminal conduct or intentionally caused injury. The personnel of each party are intended third-party beneficiaries of this limitation of liability. "Personnel," as used in this paragraph, means the respective party's staff, employees, contractors, members, partners and shareholders. Appraiser(s) and client agree that they have each been free to negotiate different terms than stated above or contract with other parties.
- Client shall defend, indemnify and hold harmless, Portland Valuation Group Inc., its agents, officers and employees from and against any and all claims, demands and judgments (including attorney fees) made or recovered against them arising out of or resulting from Client's (including its employees, agents and subcontractors) negligent act

Limiting Conditions and Assumptions, Cont'd.

or willful misconduct as to this assignment and obligations imposed upon the Client by this relationship. Additionally, Client agrees to defend, indemnify and hold harmless Portland Valuation Group Inc. from any third party claims regardless of any negligent act by Client.

- The conclusions stated in our appraisal apply only as of the effective date of the appraisal, and no representation is made as to the effect of subsequent events.
- No changes in any federal, state or local laws, regulations or codes are anticipated.
- No environmental impact or hazardous material studies were either requested or made in conjunction with this appraisal, and we reserve the right to revise or rescind any of the value opinions based upon any subsequent environmental impact studies.
- We accept no responsibility for considerations requiring expertise in other fields. Such considerations include, but are not limited to, legal descriptions and other legal matters such as legal title, geologic considerations such as soils and seismic stability, and civil, mechanical, electrical, structural and other engineering and environmental matters.
- The appraisal report shall be considered only in its entirety. No part of the appraisal report shall be utilized separately or out of context.
- Neither all nor any part of the contents of this report (especially any conclusions as to value, the identity of the appraiser, or any reference to the Appraisal Institute) shall be disseminated through advertising media, public relations media, news media or any other means of communication (including without limitation prospectuses, private offering memoranda and other offering material provided to prospective investors) without the prior written consent of the person signing the report.
- Information, estimates and opinions contained in the report and obtained from third party sources are assumed to be reliable and have not been independently verified.
- If applicable to the assignment, any income and expense estimates contained in the appraisal report are used only for the purpose of estimating value as defined in the appraisal and do not constitute predictions of future operating results.
- No consideration has been given to personal property located on the premises or to the cost of moving or relocating such personal property; only the real property has been considered.
- We have assumed that no extreme fluctuations in economic cycles will occur subsequent to the valuation date.
- The Americans with Disabilities Act (ADA) became effective January 26, 1992. We have not made a specific survey or analysis of the property to determine whether the physical aspects of the improvements meet the ADA accessibility guidelines. We claim no expertise in ADA issues, and render no opinion regarding compliance of the subject with ADA regulations. Inasmuch as compliance matches each owner's financial ability with the cost

to cure the non-conforming physical characteristics of a property, a specific study of both the owner's financial ability and the cost to cure any deficiencies would be needed for the Department of Justice to determine compliance.

- Publicly available flood maps noted in the appraisal report have been relied upon as to the subject property being located in an identified Special Flood Hazard Area. However, we are not qualified to detect such areas and therefore do not guarantee such determinations. The presence of flood plain areas and/or wetlands may affect the value of the property, and the value conclusion is predicated on the assumption that wetlands are non-existent or minimal.

- The appraiser is not a building or environmental inspector. The appraiser does not guarantee that the subject property is free of defects or environmental problems. Mold may be present in the subject property and a professional inspection is recommended.

- Portland Valuation Group Inc., an independently owned and operated company, has prepared the appraisal for the specific purpose stated in the report. The intended use of the appraisal is stated in the Description of Scope of Work section of the report. The use of the appraisal report by anyone other than the Client is prohibited except as otherwise provided.

- The Bylaws and Regulations of the Appraisal Institute require each Member and Candidate to control the use and distribution of each appraisal report signed by such Member or Candidate; except as hereinafter provided, the client may distribute copies of this appraisal report in its entirety to such third parties as they may elect; however, selected portions of this appraisal report shall not be given to third parties without the prior written consent of the signatories of this appraisal report. Neither all nor any part of this appraisal report shall be disseminated to the general public by the use of advertising media, public relations, news, sales or other media for public communication without the prior written consent of the appraiser.

- The appraiser(s) may not divulge the material (evaluation) contents of the report, analytical findings or conclusions, or give a copy of the report to anyone other than the client or his designee as specified in writing, except as may be required by the Appraisal Institute as they may request in confidence for ethics enforcement, or by a court of law or body with the power of subpoena.

- The appraisal is based on the premise that there is full compliance with all applicable federal, state and local environmental regulations and laws unless otherwise stated in the report; further, that all applicable zoning, building, and use regulations and restrictions of all types have been complied with unless otherwise stated in the report. Further, it is assumed that all required licenses, consents, permits or other legislative or administrative authority, local, state, federal and/or private entity or organization have been, or can be, obtained or renewed for any use considered in the value estimate.

Limiting Conditions and Assumptions, Cont'd.

- The distribution of the total valuation in this report between land and improvements applies only under the existing program of utilization. The separate valuations for land and building must not be used in conjunction with any other appraisal and are invalid if so used.
- The fair market value estimated, and the costs used, are as of the date of value estimate. All dollar amounts are based on the purchasing power and price of the dollar as of the date of the value estimate.

Addenda

Exhibit A: Appraiser Qualifications

Exhibit B: Comparable Sale Data Sheets

Exhibit C: 15-Day Notification Letter

Exhibit D: Preliminary Title Report

Exhibit E: Draft Conveyance Document

Exhibit A



DAVID E. BALFOUR, MAI
Oregon Valuation Group
Real Estate Valuation Services
Dave@OregonValue.com
503-330-8697

David E. Balfour, MAI is a Certified General Appraiser and owner of Oregon Valuation Group (a subsidiary of Portland Valuation Group Inc.). Since 2012 Mr. Balfour has focused his appraisal practice primarily upon public acquisition and eminent domain work. Mr. Balfour is a licensed appraiser in both Oregon and Washington while being experienced as an expert witness. Mr. Balfour has gained competence in a variety of appraisal assignments such as public acquisitions, eminent domain, federal land acquisitions (Yellow Book), estate planning, litigation support and testimony across multiple property types.

PROFESSIONAL DESIGNATIONS & CREDENTIALS

State of Oregon
Certified General Real Estate Appraiser (Cert. No. C001256)
Oregon Department of Transportation (ODOT) Qualified Appraiser
Oregon Real Estate Broker Pre-License Training

State of Washington
Certified General Real Estate Appraiser (Cert. No. 1102402)
Washington Department of Transportation (WSDOT) Qualified Appraiser

The Appraisal Institute – Chicago, Illinois
Member of the Appraisal Institute – 2018

The MAI professional membership designation is held by appraisers who are experienced in the valuation of commercial industrial, residential and other property types. Fewer than 15% of all licensed or certified appraisers have earned the right to be called an Appraisal Institute Member. Membership requirements exceed state and federal requirements in terms of education, experience, code of ethics, and standards of professional appraisal practice.

International Right of Way Association – Gardena, California – 2017

The International Right of Way Association is a professional member organization comprised of global infrastructure real estate practitioners. Since its inception as a not-for-profit association in 1934, IRWA has served professionals who acquire, manage and transfer the land rights needed for building and maintaining energy and transportation infrastructure.

EDUCATION

Linfield College – McMinnville, Oregon – *Bachelor of Science in Finance* – 2012

PROFESSIONAL SERVICES

Appraisal
Market Research/Development Land Site Analysis
Condemnation Valuation/Offer Evaluation
Expert Witness Testimony/Litigation Support

PROFESSIONAL CONTRIBUTIONS

Greater Oregon Chapter of the Appraisal Institute: Outstanding Candidate Award – 2016
IRWA Chapter 3 Vice President – 2018 to Present
IRWA Chapter 3 Professional of the Year Award - 2019
Seminar Group – 2019 Faculty for the Oregon Eminent Domain Seminar

Appraiser Certification and Licensure Board

State Certified General Appraiser

28 hours of continuing education required

License No.: C001256

Issue Date: November 01, 2019

Expiration Date: October 31, 2021

DAVID E BALFOUR
PORTLAND VALUATION GROUP INC.
4805 SW OLESON RD
PORTLAND, OR 97225

Gae Lynne Cooper

Gae Lynne Cooper, Administrator



SAM A. KARPELES
Oregon Valuation Group Inc.
Real Estate Valuation Services
Sam@oregonvalue.com
971-235-6263

Sam A. Karpeles is a Certified General Appraiser and employee of Oregon Valuation Group (A subsidiary of Portland Valuation Group Inc). Since April 2017 he has gained experience in a variety of assignments such as charitable remainders, estate planning, public acquisitions, federal land acquisitions (Yellow Book), shopping centers, office, retail and industrial buildings, vacant land, special purpose properties, single-family residences, multifamily properties, and residential subdivisions.

PROFESSIONAL CREDENTIALS

State of Oregon
Certified General Real Estate Appraiser (License No.: C001420)

International Right of Way Association – Gardena, California – 2019

The International Right of Way Association is a professional member organization comprised of global infrastructure real estate practitioners. Since its inception as a not-for-profit association in 1934, IRWA has served professionals who acquire, manage and transfer the land rights needed for building and maintaining energy and transportation infrastructure.

EDUCATION

Oregon State University – Corvallis, Oregon (2008-2013)

- Bachelor of Science – Kinesiology
- Naval Reserve Officer Training Corps Scholarship Recipient

PROFESSIONAL SERVICES

Appraisal
Market Research/Development Land Site Analysis
Condemnation Valuation/Offer Evaluation
Uniform Appraisal Standards for Federal Land Acquisitions ("Yellow Book")

KEY ASSIGNMENT EXPERIENCE

A partial listing of key assignments that have been conducted for private parties, public agencies and federal lending institutions are summarized as follows. References are available upon request.

Appraiser Certification and Licensure Board

State Certified General Appraiser

28 hours of continuing education required

License No.: C001420

Issue Date: July 22, 2020

Expiration Date: February 28, 2022

SAM A KARPELES
PORTLAND VALUATION GROUP, INC.
4805 SW OLESON RD
PORTLAND, OR 97225

Chad Koch, Administrator

Exhibit B

Comparable 1



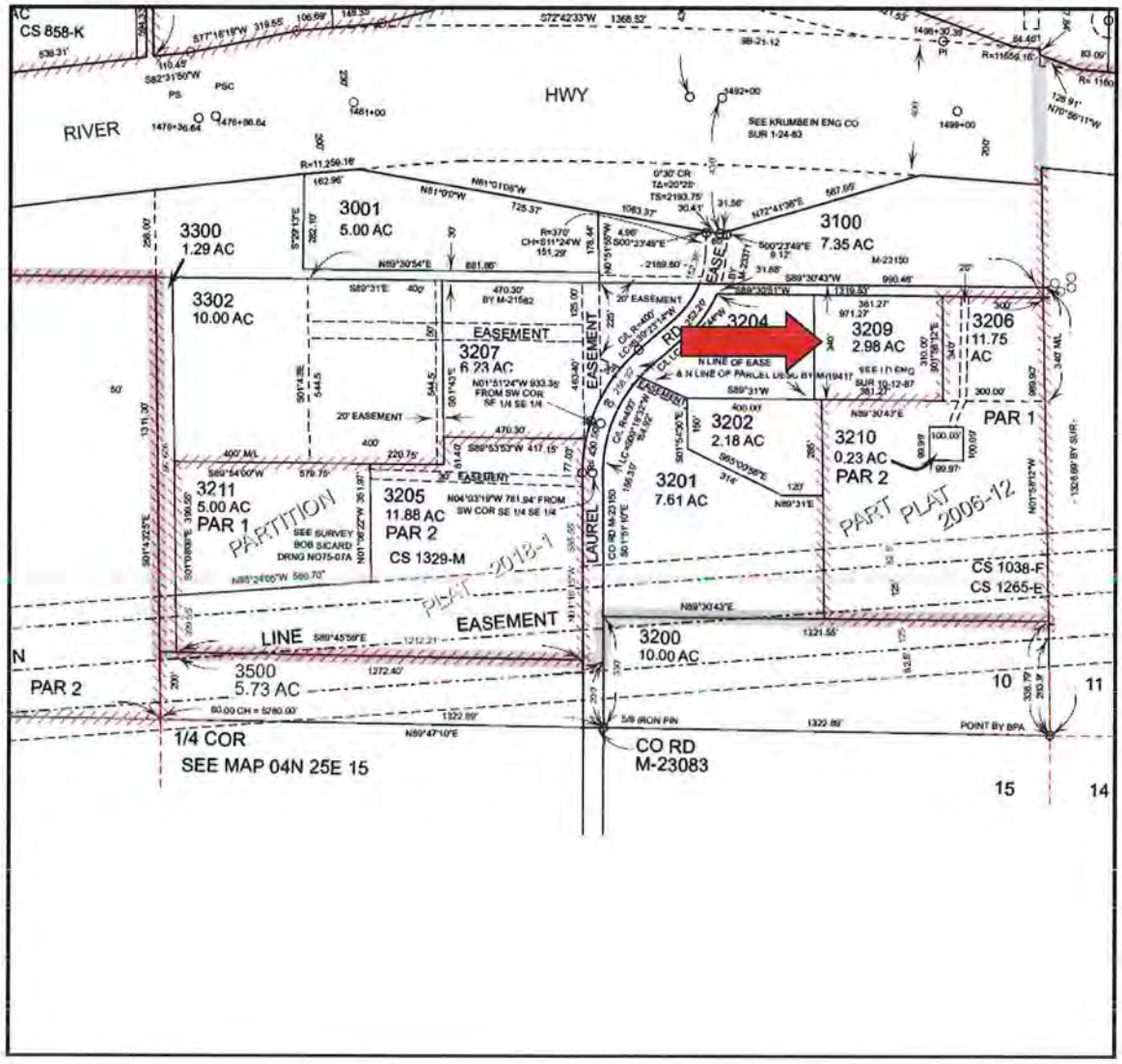


Comparable 1 is a 2.98-acre site that is zoned LI; Light Industrial located along Yates Lane one block south of Interstate 84. It is located within the City of Boardman city limits with Highway 730 situated roughly 2.3 miles east, Interstate 82 roughly 14 miles east and the City of Hermiston located roughly 20 miles east. Furthermore, the location is small industrial pocket of Boardman with proximate access to Interstate 84 and the Port of Morrow Boardman Industrial Park located one (1) block north. The site exhibits level topography with all utility infrastructure available and contiguous. The property was acquired in February 2018 for a negotiated price of $65,000, or $0.50/SF. The transaction closed on a cash-to-seller basis and was considered market in all respects. The purchaser (Walo, LLC) had already purchased the adjoining 11.75 acres (Comparable 4) for $0.73/SF in November 2017 and is currently constructing an industrial warehouse on the front portion of the property with the rear being used as yard storage. Mr. Hobbs confirmed that the purchase price of $0.50/SF was favorable due to the land being separated from its original owners by Mr. Hobbs's (purchaser) 2017 land acquisition which led the seller to be motivated to sell the parcel. It should be noted that the blended rate for this comparable and the Comparable 4 sale equates to $0.69/SF.

Comparable Data Summary			
Comparable	**1**	Usable Area AC	2.98
APN	9766	Usable Area SF	129,809
Location	Yates Lane Boardman, OR	Seller	Taylor
		Buyer	Walo LLC
Use	Vacant	Document	2018-041720
Zoning	LI; Light Industrial	Date	February 2018
Access	Paved Public	Market Exposure	Private Solicitation
Exposure	Local	Purchase Motivation	Industrial Development
Utilities	Available	Price	$65,000
Shape	Rectangular	Site Costs	$0
Topography	Mostly Level	**Effective Sale Price/SF**	**$0.50**
Functionality	Competitive	Source	Fletcher Hobbs Purchaser 541-377-3349
Site Improvements	None		
Gross Area AC	2.98		

David E. Balfour, MAI
Oregon Certified Appraiser C001256
Date Inspected: February 13, 2020

Sam A. Karpeles
Oregon Certified Appraiser C001420
Date Inspected: February 13, 2020


CS 858-K
RIVER
HWY
3300
1.29 AC
3001
5.00 AC
3100
7.35 AC
3302
10.00 AC
3207
6.23 AC
3204
3209
2.98 AC
3206
11.75
AC
3202
2.18 AC
3210
0.23 AC
PAR 2
PAR 1
3211
5.00 AC
PAR 1
3205
11.88 AC
PAR 2
CS 1329-M
3201
7.61 AC
PARTITION PLAT 2013-1
PART PLAT 2006-12
CS 1038-F
CS 1265-E
3200
10.00 AC
3500
5.73 AC
PAR 2
EASEMENT
LINE
1/4 COR
SEE MAP 04N 25E 15
CO RD
M-23083
POINT BY BPA
10
11
15
14

Comparable 2



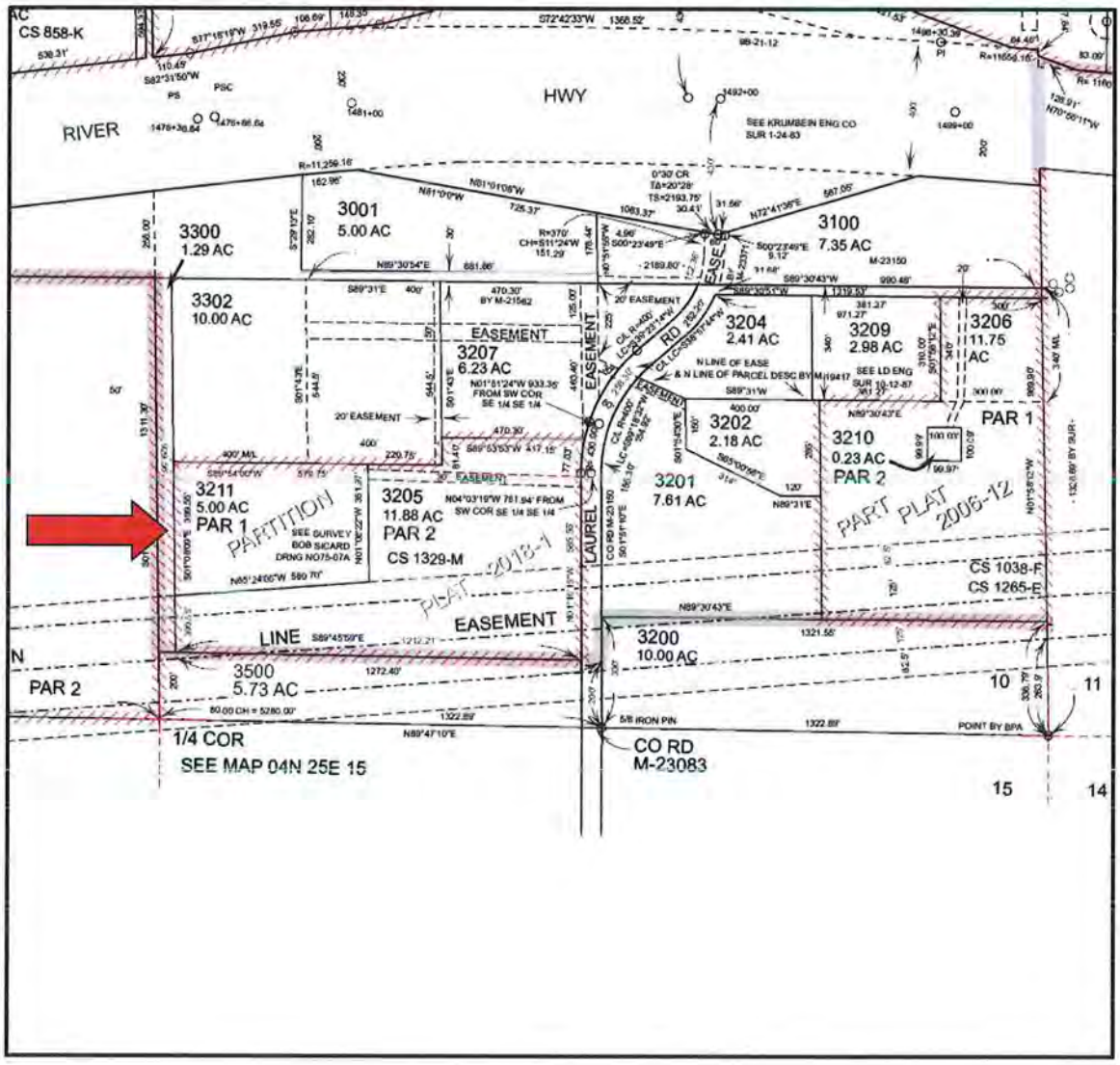


Comparable 2 is the sale of the recently partitioned 5-acre site from the subject property. The property was acquired in March 2018 for a negotiated price of $122,200. An interview with the purchaser representative revealed that the site was ready for development with only minimal additional costs of roughly $10,000 for due diligence and access road improvements. This results in an effective sale price of $0.61/SF. The transaction closed on a cash-to-seller basis and was considered market in all respects. Upon purchase, the County improved the site with gravel surfacing and a 6-foot chain-link fence with barbed wire. The purchasers plan on constructing a new public works building and covered storage areas on the site. The comparable site was the result of a partition from the adjoining properties by the Tallman Family. The southerly property boundary borders an existing BPA line.

Comparable Data Summary			
Comparable	**2**	Usable Area AC	5.00
APN	12347	Usable Area SF	217,800
Location	Laurel Lane Boardman, OR	Seller	Tallman
		Buyer	Morrow County
Use	Vacant	Document	2018-041882
Zoning	LI; Light Industrial	Date	March 2018
Access	Easement	Market Exposure	Private Solicitation
Exposure	Local	Purchase Motivation	Public Works Building
Utilities	Available	Price	$122,200
Shape	Mostly Rectangular	Site Costs	$10,000
Topography	Mostly Level	**Effective Sale Price/SF**	**$0.61**
Functionality	Competitive	Source	Darrell Green Purchaser Rep. 541-676-2529
Site Improvements	None		
Gross Area AC	5.00		

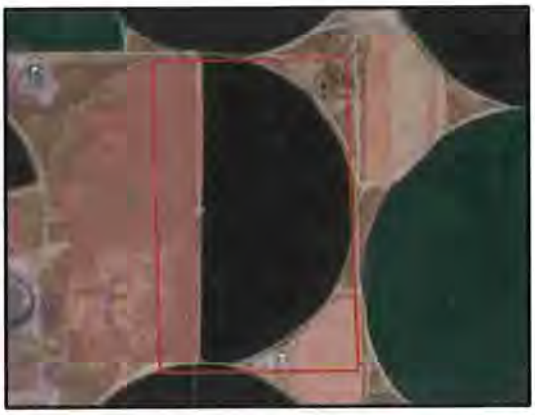
David E. Balfour, MAI
Oregon Certified Appraiser C001256
Date Inspected: February 13, 2020

Sam A. Karpeles
Oregon Certified Appraiser C001420
Date Inspected: February 13, 2020


CS 858-K
RIVER
HWY
3300
1.29 AC
3001
5.00 AC
3100
7.35 AC
3302
10.00 AC
EASEMENT
3207
6.23 AC
3204
2.41 AC
3209
2.98 AC
3206
11.75
AC
3202
2.18 AC
3210
0.23 AC
PAR 2
PAR 1
3211
5.00 AC
PAR 1
PARTITION PLAT 2018-1
3205
11.88 AC
PAR 2
CS 1329-M
3201
7.61 AC
PART PLAT 2006-12
CS 1038-F
CS 1265-E
LAUREL
EASEMENT
LINE
3200
10.00 AC
3500
5.73 AC
PAR 2
1/4 COR
SEE MAP 04N 25E 15
CO RD
M-23083
10
11
15
14

Comparable 3



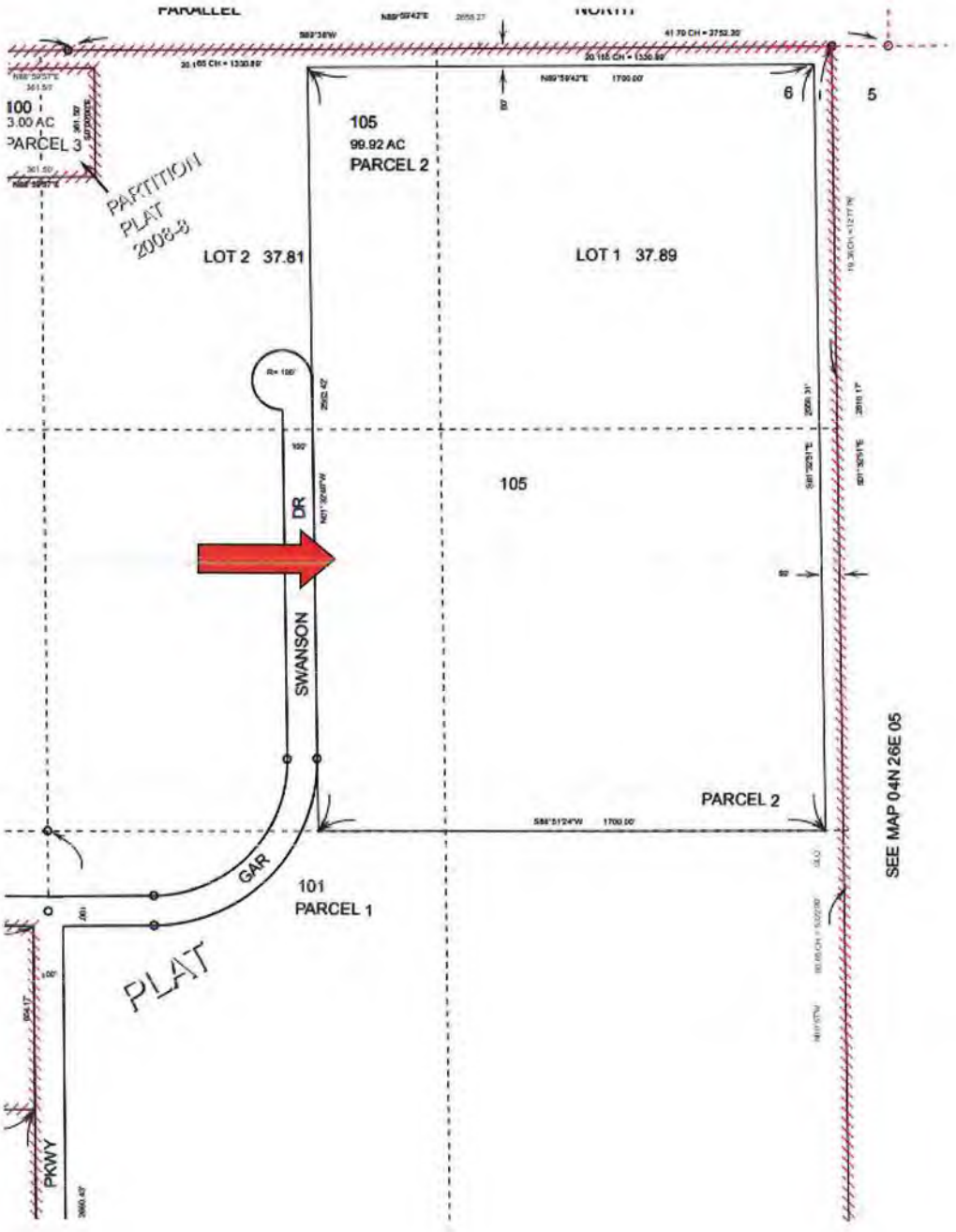


Comparable 3 is a 99.92-acre site located along in unincorporated Morrow County along a recently constructed local road. The site is zoned PI; Port Industrial and has historically been utilized as farmland. The site was acquired by the Amazon Data Services in June 2020 for $2,976,000, or $0.68/SF. The site was purchased from the Port of Morrow in a market transaction. The buyer has been purchasing large land tracts in the area and constructing large, server warehouses on the sites, which, according to the Port of Morrow, will be constructed on this site as well. This sale price is consistent with the Port of Morrow asking price of $0.69/SF for various industrial sites in the area. The price was determined by an appraisal and analysis of fair market value. The appraisers were asked to provide appraisal services for the purchase in the spring of 2020 and while the assignment was not accepted, details were confirmed with the seller party.

Comparable	**3**	Usable Area AC	99.92
APN	12611	Usable Area SF	4,352,515
Location	75240 Gar Swason Rd Boardman, OR	Seller	Port of Morrow
		Buyer	Amazon Data Services
Use	Vacant	Document	2020-46580
Zoning	PI; Port Industrial	Date	June 2020
Access	Paved Public	Market Exposure	Private Solicitation
Exposure	Local	Purchase Motivation	Industrial Development
Utilities	Available	Price	$2,976,000
Shape	Rectangular	Site Costs	$0
Topography	Mostly Level	**Effective Sale Price/SF**	**$0.68**
Functionality	Competitive	Source	Lisa Mittelsdorf Seller Representative 541-567-6173
Site Improvements	None		
Gross Area AC	99.92		

David E. Balfour, MAI
Oregon Certified Appraiser C001256
Date Inspected: February 13, 2020

Sam A. Karpeles
Oregon Certified Appraiser C001420
Date Inspected: Feb 13, 2020 / January 6, 2021


100
3.00 AC
PARCEL 3
PARTITION
PLAT
2008-8
105
99.92 AC
PARCEL 2
LOT 2 37.81
LOT 1 37.89
6
5
105
DR
SWANSON
PARCEL 2
SEE MAP 04N 26E 05
GAR
101
PARCEL 1
PLAT
PKWY

Comparable 4



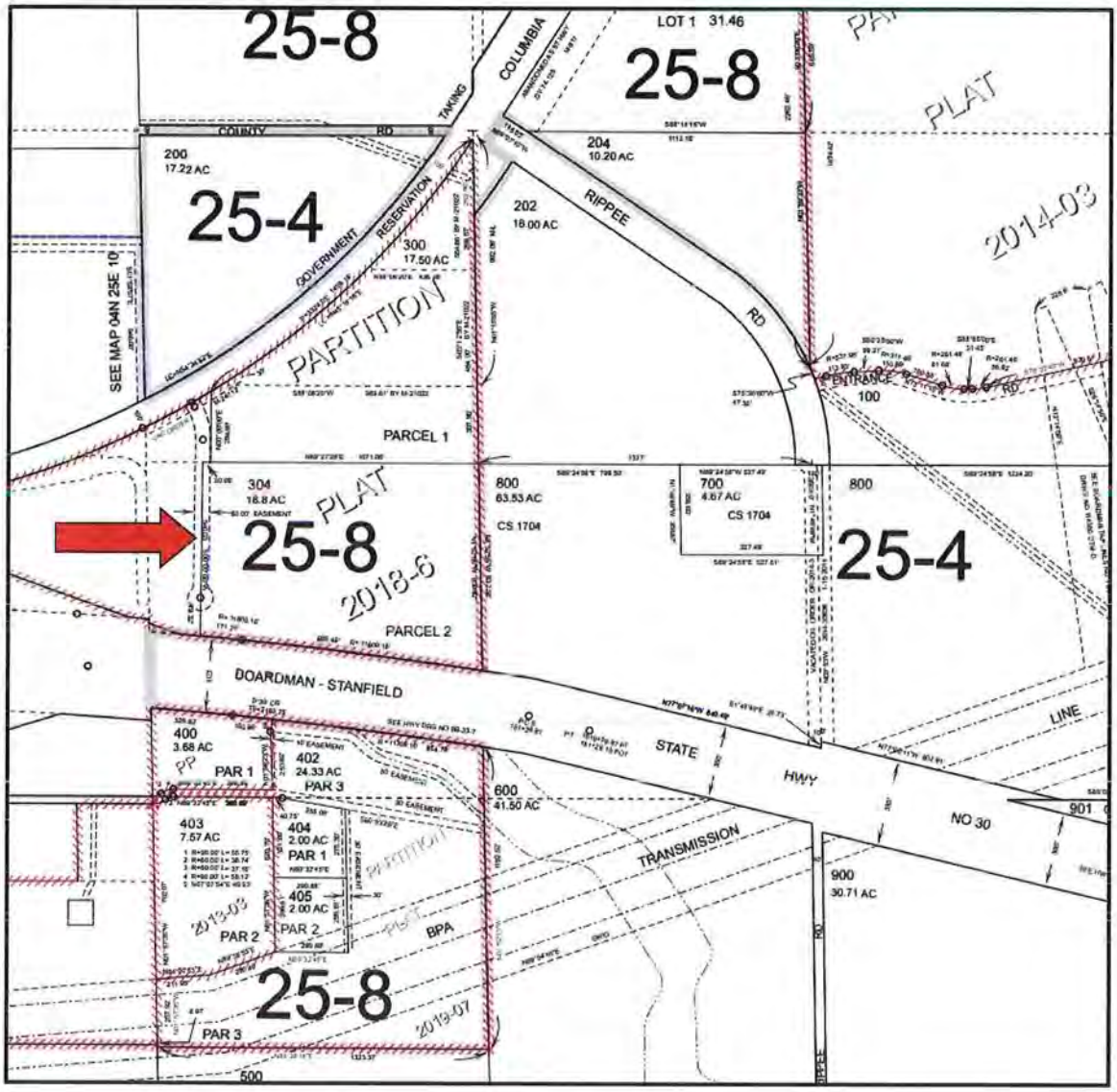


Comparable 4 is an 18.8-acre site located along the northerly right-of-way of Interstate 84. It is located within the Port of Morrow Boardman Industrial Park across Interstate 84 from the subject. The site has level topography with access accommodated from Columbia Boulevard. The site was acquired by the Port of Morrow in June 2017 for $580,000, or $0.71/SF. The acquisition was the result of the Port of Morrow attempting to condemn the property but the final sale price was openly negotiated between the buyer and seller and represents a market transaction. The site was improved with a significantly depreciated gravel parking and surface storage lot that did not reportedly contribute value to the sale transaction. The Port of Morrow was motivated to acquire the property and own a site with "gateway" frontage to I-84. The buyer plans to improve the property with industrial buildings and lease the property to multiple tenants.

Comparable	4	Usable Area AC	18.80
APN	4360	Usable Area SF	818,928
Location	Columbia Boulevard Boardman, OR	Seller	Umatilla Ready Mix, Inc.
		Buyer	Port of Morrow
Use	Vacant	Document	2017-40389
Zoning	GI; General Industrial	Date	June 2017
Access	Easement	Market Exposure	Private Solicitation / Eminent Domain
Exposure	Interstate 84	Purchase Motivation	Investment
Utilities	Available	Price	$580,000
Shape	Mostly Rectangular	Site Costs	$0
Topography	Mostly Level	**Effective Sale Price/SF**	**$0.71**
Functionality	Competitive	Source	Lisa Mittelsdorf Seller Representative 541-567-6173
Site Improvements	Ashpalt - No Value		
Gross Area AC	18.80		

David E. Balfour, MAI
Oregon Certified Appraiser C001256
Date Inspected: February 13, 2020

Sam A. Karpeles
Oregon Certified Appraiser C001420
Date Inspected: February 13, 2020


25-8
COLUMBIA
TAKING
COUNTY RD
LOT 1 31.46
25-8
PLAT
200
17.22 AC
25-4
204
10.20 AC
202
18.00 AC
RIPPEE
RD
2014-03
GOVERNMENT RESERVATION
300
17.50 AC
SEE MAP 04N 25E 10
PARTITION
ENTRANCE
100
RD
PARCEL 1
304
18.8 AC
800
63.53 AC
CS 1704
700
4.67 AC
CS 1704
800
25-8
PLAT
2018-6
25-4
PARCEL 2
BOARDMAN - STANFIELD
STATE
HWY
NO 30
LINE
400
3.68 AC
PAR 1
402
24.33 AC
PAR 3
600
41.50 AC
403
7.57 AC
404
2.00 AC
PAR 1
405
2.00 AC
PAR 2
TRANSMISSION
900
30.71 AC
BPA
2019-03
25-8
2019-07
PAR 3
500

Comparable 5



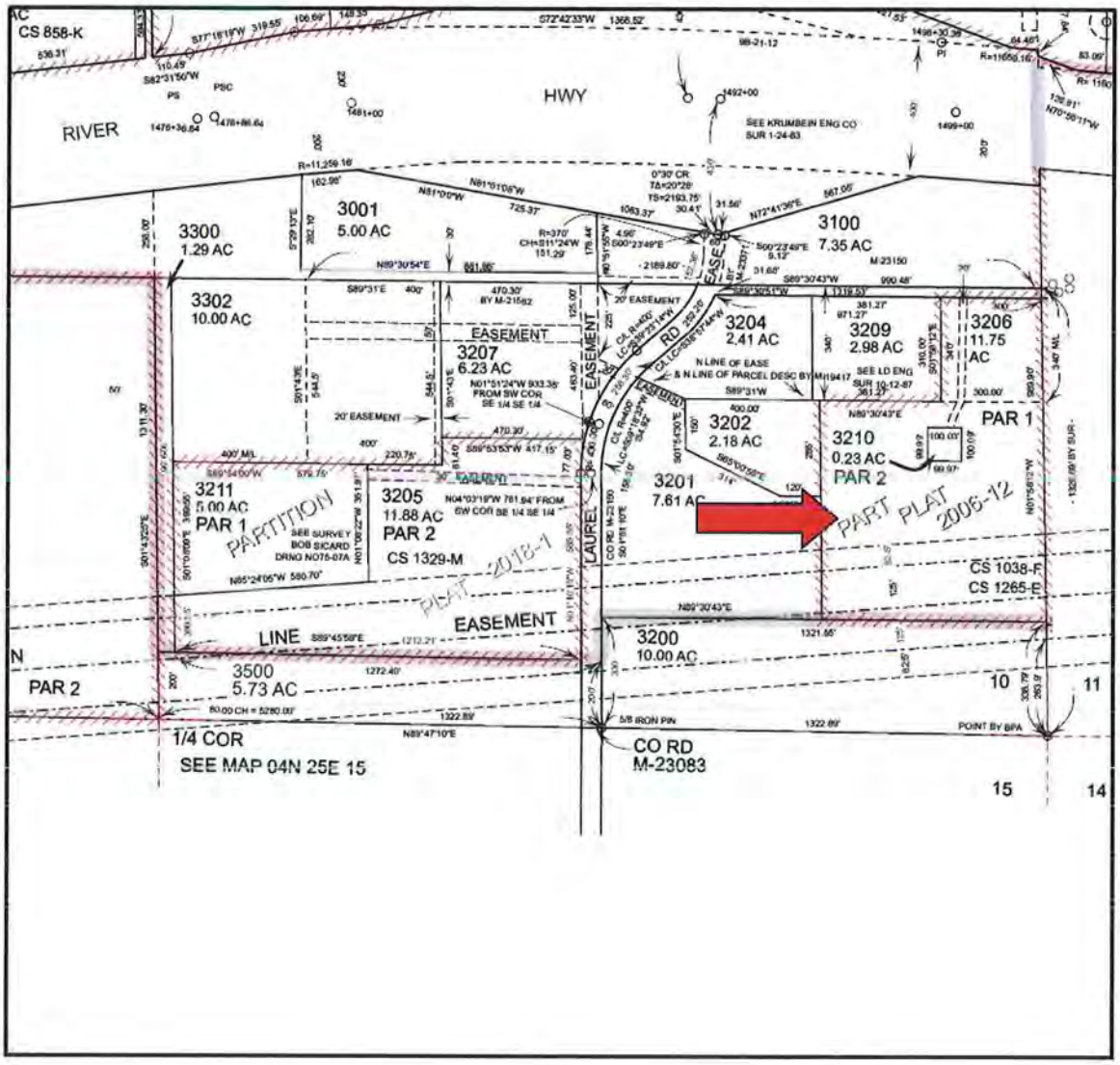


Comparable 5 is an 11.75-acre site that is zoned LI; Light Industrial located along Yates Lane one block south of Interstate 84. It is located within the City of Boardman city limits with Highway 730 situated roughly 2.3 miles east, Interstate 82 roughly 14 miles east and the City of Hermiston located roughly 20 miles east. The site exhibits level topography with all utility infrastructure available and contiguous. The property was acquired in November 2017 for a negotiated price of $375,000, or $0.73/SF. The transaction closed on a cash-to-seller basis and was considered market in all respects. The purchaser (Walo, LLC) also purchased the adjoining 2.98 acres (Comparable 1) for $0.50/SF and is currently constructing an industrial warehouse on the front portion of the property with the rear being used as yard storage. Mr. Hobbs confirmed that he was motivated to acquire the site due to the lack of industrial land adjoining I-84 with this level of transportation connectivity. It should be noted that the blended rate for this comparable and the Comparable 1 sale equates to $0.69/SF.

Comparable	**5**	Usable Area AC	11.75
APN	62185	Usable Area SF	511,830
Location	Yates Lane Boardman, OR	Seller	Taylor
		Buyer	Walo LLC
Use	Warehouse	Document	2017-041260
Zoning	LI; Light Industrial	Date	November 2017
Access	Paved Public	Market Exposure	Private Solicitation
Exposure	Local	Purchase Motivation	Industrial Development
Utilities	Available	Price	$375,000
Shape	Mostly Rectangular	Site Costs	$0
Topography	Mostly Level	**Effective Sale Price/SF**	**$0.73**
Functionality	Competitive	Source	Fletcher Hobbs Purchaser 541-377-3349
Site Improvements	None		
Gross Area AC	11.75		

David E. Balfour, MAI
Oregon Certified Appraiser C001256
Date Inspected: February 13, 2020

Sam A. Karpeles
Oregon Certified Appraiser C001420
Date Inspected: February 13, 2020


CS 858-K
RIVER
HWY
3300
1.29 AC
3001
5.00 AC
3100
7.35 AC
3302
10.00 AC
3207
6.23 AC
3204
2.41 AC
3209
2.98 AC
3206
11.75
AC
3202
2.18 AC
3210
0.23 AC
PAR 2
PAR 1
3201
7.61 AC
3211
5.00 AC
PAR 1
3205
11.88 AC
PAR 2
CS 1329-M
PARTITION PLAT 2018-1
PART PLAT 2006-12
CS 1038-F
CS 1265-F
3200
10.00 AC
3500
5.73 AC
PAR 2
1/4 COR
SEE MAP 04N 25E 15
CO RD
M-23083
EASEMENT
LINE
LAUREL
15
14
10
11

Comparable 6





Comparable 6 is a 30.9-acre site that is zoned MG; General Industrial. It had frontage to both Highway 730 and Interstate 84 roughly 11 miles west of Interstate 82 and 18 miles southwest of the City of Hermiston. The site was never publicly marketed with the purchaser approaching the seller once learning they were interested in potentially depositing the property. The comparable site was acquired in August 2019 for a negotiated price of $1,340,500 or $1.00/SF. The transaction was reportedly open market and closed on a cash-to-seller basis. The site was purchased by Umatilla Electric Cooperative with the motivation of developing a new electrical transmission line switchyard. The seller performed all clean-up and demolition prior to selling the site, thus, there were no additional development costs required by the buyer. UEC is currently in the process of acquiring an adjoining 3.5 acres to the north in order to obtain additional legal access to the comparable site. The purchase price of that site was not disclosed and did not affect the purchase price for Comparable 5.

Comparable	**6**	Usable Area AC	30.90
APN	8479 / 8525	Usable Area SF	1,346,004
Location	Hwy 730 and I-84 Boardman, OR	Seller	Chastagner
		Buyer	Umatilla Electric Coop
Use	Storage	Document	2019-044759
Zoning	MG; Industrial	Date	August 2019
Access	Paved Public	Market Exposure	Private Solicitation
Exposure	Interstate 84 / Highway 730	Purchase Motivation	Electric Substation
Utilities	Available	Price	$1,340,500
Shape	Irregular	Site Costs	$0
Topography	Level	**Effective Sale Price/SF**	**$1.00**
Functionality	Competitive	Source	Wendy Neal Purchaser Rep. 541-289-1522
Site Improvements	None		
Gross Area AC	30.90		

David E. Balfour, MAI
Oregon Certified Appraiser C001256
Date Inspected: February 13, 2020

Sam A. Karpeles
Oregon Certified Appraiser C001420
Date Inspected: February 13, 2020


BPA
SEE MAP
04N 26E 07
SE
04N
COLUMBIA
U.S. HWY NO. 730
4703
30.90 AC
564'
500'
436'
949.80'
40.46 CH = 2670.30'
S89°10'W
3408
177.36 AC
42.20
2753.41'
103.19'
77.54'
190.37'
2055.08'
500'
300'
4700
80.25 AC
2
42.95
80.86 CH = 5336.76'
S89°57'51"E
610.21'
133.03'
3415
1610.89 AC
L=1655.03'
467.51'
N89°57'51"W
18
N21°08'56"W
1013.29'
1. 408.15'
2. 278.28'
3. 381.80'
4. 388.37'
SEE DETAIL MAP 2 PARCEL 3406
SEE DETAIL MAP 1 PARCEL 3405 & 3407
1872.98'
1419.93'
3
43.33
3419
1897.99 AC
4
42.33
1669.44'
N29°09'26"E
PARCEL 2
20.19 CH = 1332.54'
N00°48'W
80.25 CH = 5296.50'
1
S69°06'23"E
N30°50'59"W
542.31'
40.38 CH = 2665.08'
PARCEL 3416
1. N89°00'23"E 57.90'

Exhibit C

PORTLAND VALUATION GROUP

4805 SW Oleson Road
Portland, Oregon 97225

Voice: (503) 330-8697 *Dave@pdxvaluation.com*

Terry & Cheryl Tallman
706 SW Mt. Hood Avenue
Boardman, Oregon 97818-9719

January 21, 2020

Re: 15-Day Notice of Appraisal Inspection

To Whom It May Concern:

Portland Valuation Group, Inc. has been engaged to conduct real estate valuation services by the following client(s) relative to the identified public improvement project for the property(s) that appear to be in your ownership based upon a review of county assessor records:

Client	Umatilla Electric Cooperative
Project Name	PDX90 230kV Project
County	Morrow
Assessor Account	8080

State law requires that a 15-day advance written notice be given prior to conducting a physical inspection of the property. The purpose of this letter is to provide this notice as well as offer you the opportunity to accompany me at the time of inspection. You also have the right to waive the 15-day waiting period if an earlier inspection is convenient and/or authorize me to conduct the inspection without your accompaniment.

If you would like to inspect the property with me, please email me at Dave@pdxvaluation.com within the 15-day notification period. Unless a specific appointment is made, I will inspect your property from the adjoining right-of-way in the following weeks.

Sincerely,

David E. Balfour, MAI
Oregon Certified Appraiser C001256
PVG File Number 20006-3

Please check appropriate box and fill in information:

☐ I hereby waive my 15-day notification right and decline co-inspection with the appraiser; or

☐ Please contact me at _____(phone/email) to schedule a co-inspection.

Owner/Representative _____ **Date:** _____

Printed Name _____

OREGON VALUATION GROUP
4805 SW Oleson Road
Portland, Oregon 97225
Voice: (503) 330-8697 *Dave@oregonvalue.com*

Terry & Cheryl Tallman
706 SW Mt. Hood Avenue
Boardman, Oregon 97818-9719

December 11, 2020

Re: 15-Day Notice of Appraisal Inspection

Dear Terry and Cheryl:

Oregon Valuation Group has been engaged to conduct real estate valuation services by the following client(s) relative to the identified public improvement project for the property(s) that appear to be in your ownership based upon a review of county assessor records:

Client	Umatilla Electric Cooperative
Project Name	PDX90 230kV Project
County	Morrow
Assessor Account	8080

State law requires that a 15-day advance written notice be given prior to conducting a physical inspection of the property. The purpose of this letter is to provide this notice as well as offer you the opportunity to accompany me at the time of inspection. You also have the right to waive the 15-day waiting period if an earlier inspection is convenient and/or authorize me to conduct the inspection without your accompaniment.

If you would like to inspect the property with me, please email me at Dave@oregonvalue.com within the 15-day notification period. Unless a specific appointment is made, I will inspect your property from the adjoining right-of-way in the following weeks.

Sincerely,

David E. Balfour, MAI
Oregon Certified Appraiser C001256
OVG File Number 20078

Please check appropriate box and fill in information:

☐ I hereby waive my 15-day notification right and decline co-inspection with the appraiser; or

☐ Please contact me at _____(phone/email) to schedule a co-inspection.

Exhibit D

Mid-Columbia Title Company
205 E. BOARDMAN AVE. / P.O. BOX 290 • BOARDMAN, OR 97818
(541) 481-2280 • FAX (541) 481-3280

TITLE REPORT

Toth &Associates
Rick Salvador
rsalvador@tothassociates.com
Gopala Borchelt
gborchelt@tothassociates.com

1. **DATE:** April 25, 2019 **FILE NUMBER: 10752**

2. **POLICY OR POLICIES TO BE ISSUED:**
NONE

The Liability in connection with this report is expressly limited to the sum paid therefore, and the issuing company will not otherwise be responsible for errors and omissions therein. The charge for this service will not include supplemental reports.

MID-COLUMBIA TITLE COMPANY has found that as of March 12, 2019 at 8:00 A.M., title to the property described herein is vested in:

TERRY K. TALLMAN and CHERYL TALLMAN, as tenants by the entirety---

4. The land referred to in this title report is described as follows:

Parcel 2 of PARTITION PLAT 2018-1, in the County of Morrow and State of Oregon---

MID-COLUMBIA TITLE COMPANY

By: **RENEE J. GRACE**

EXCEPTIONS:

1. Taxes or assessments which are not shown as existing liens by the records of any taxing authority that levies taxes or assessments on real property or by the public records; proceedings by a public agency which may result in taxes or assessments, or notices of such proceedings, whether or not shown by the records of such agency or by the public records.
2. Facts, rights, interests or claims which are not shown by the public records but which could be ascertained by an inspection of the land or by making inquiry of persons in possession thereof.
3. Easements, or claims of easement, not shown by the public records; reservations or exceptions in patents or in Acts authorizing the issuance thereof; water rights, claims or title to water.
4. Any encroachment (of existing improvements located on the subject land onto adjoining land or of existing improvements located on adjoining land onto the subject land), encumbrance, violation, variation, or adverse circumstance affecting the title that would be disclosed by an accurate and complete land survey of the subject land.
5. Any lien or right to a lien, for services, labor, material, equipment rental, or workers compensation heretofore or hereafter furnished, imposed by law and not shown by the public records.
6. Unpatented mining claims whether or not shown by the Public Records.
7. Water rights, claims to water or title to water, whether or not such rights are a matter of public record.

8. The assessment roll and the tax roll disclose that the within described premises were specially assessed as Farm Use Land. If the land has become disqualified for the special assessment under the statute, an additional tax, interest and penalties thereon may be levied for the years in which the land was subject to the special land use assessment.
9. The rights of the public in roads and highways.
10. The premises are within the boundaries of the West Extension Irrigation District, and are subject to the levies, assessments and easements thereof, if any.
11. Reservations and Easements, including the terms and provisions thereof, as contained in Patent to Ethel B. McKenzie et al., recorded November 16, 1972 as M-5213 Morrow County Microfilm Records.
12. Easement for Underground Irrigation Pipeline, including the terms and provisions thereof, in favor of Arnold Braat et ux., recorded May 22, 1978 as M-13347 Morrow County Microfilm Records.
13. Right of Way for Electric Transmission and Distributing Lines, including the terms and provisions thereof, in favor of Umatilla Electric Cooperative Association, recorded January 27, 1989 as M-32446 Morrow County Microfilm Records.
14. Memorandum of Lease, including the terms and provisions thereof, by and between Terry K. Tallman, Cheryl Tallman, Timmy Tallman, Lois Tallman, Keith Tallman, and Wilma Tallman, as Landlord, and Oregon RSA No.2 Limited Partnership, an Oregon limited partnership, doing business as U.S. Cellular, as Tenant, dated December 31, 2000, recorded October 29, 2002, as Microfilm No. 2002-5875, Morrow County Microfilm Records.
15. Memorandum of Lease, including the terms and provisions thereof, by and between Terry K. Tallman, Cheryl Tallman, Timmy Tallman, Lois Tallman, Keith Tallman, as successor in interest to Terry K. Tallman, Cheryl Tallman, Timmy Tallman, Lois Tallman, Keith Tallman, Wilma Tallman (Deceased), as Landlord, and Oregon RSA No. 2, an Oregon corporation as successor in interest to Oregon RSA No. 2 limited partnership, an Oregon limited partnership, doing business as U.S. Cellular, as Tenant, dated July 12, 2010, recorded August 2, 2010, as Microfilm No. 2010-26614, Morrow County Microfilm Records.
16. Easement Agreement, including the terms and provisions thereof, in favor of Lightspeed Networks, Inc. dba LSN an Oregon Corporation, recorded November 12, 2013, as Microfilm No. 2013-33358, Morrow County Microfilm Records.
17. Access and Utility Easements as shown on the recorded PARTITION PLAT 2018-1.

NOTE: Taxes for 2018-19 — $2,054.09 Paid in Full
(Account No. 4N-25-10 / 3205)
(Reference No. 8080)

NOTE: We have been advised that the address of said premises is:

452 Laurel Road, Boardman, OR 97818

NOTE: Any map or sketch enclosed or attached hereto is furnished for information purposes only to assist in property location. No representation is made as to accuracy of the map and Mid-Columbia Title Company assumes no liability for any loss occurring by reason of reliance thereon.

2002 - 3196

BARGAIN AND SALE DEED

KNOW ALL MEN BY THESE PRESENTS THAT, KEITH TALLMAN, WILMA TALLMAN, TIMMY D. TALLMAN AND LOIS TALLMAN, *Grantors for and in consideration of the sum of* NO DOLLARS AND 00/100 *Dollars to it paid by the grantees herein, do hereby grant, bargain, sell and convey unto* TERRY K. TALLMAN AND CHERYL TALLMAN, husband and wife, *Grantees, the following described tract of land in the County of Morrow, and State of Oregon, more particularly described as follows:*

SEE EXHIBIT "A" ATTACHED HERETO---

MCTC 43167

TO HAVE AND TO HOLD the granted premises unto the said Grantees, their heirs and assigns forever.

WITNESS our Hand and Seal this 16 *day of , 2002.*

This instrument will not allow use of the property described in this instrument in violation of applicable land use laws and regulations. Before signing or accepting this instrument, the person acquiring fee title to the property should check with the appropriate city or county planning department to verify approved uses and to determine any limits on lawsuits against Farming or Forest practices as defined in ORS 30.930.

Keith Tallman

Wilma Tallman

Timmy D. Tallman

Lois J. Tallman

STATE OF OREGON
COUNTY OF Malheur

BE IT REMEMBERED, *that on this* 16th *day of , 2002, before me, the undersigned, a Notary Public in and for said County and State, personally appeared the within named KEITH TALLMAN AND WILMA TALLMAN, to me known to be the individuals described in and who executed the within and foregoing instrument and acknowledged to me that they executed the same as their free and voluntary act and deed for the uses and purposes therein mentioned.*

Gloria J. Roberts

Notary Public for the State of OREGON
My Commission Expires: 8-14-02

OFFICIAL SEAL
GLORIA J. ROBERTS
NOTARY PUBLIC-OREGON
COMMISSION NO. 314271
MY COMMISSION EXPIRES AUG. 14, 2002

Until a change is requested all tax statements should be sent to the following address:
TERRY K. TALLMAN

After Recording Please Return to:
MID-COLUMBIA TITLE COMPANY

* Vesting Deed

State of Oregon
County of Morrow

BE IT REMEMBERED, *that on this 18 day of, 2002, before me, the undersigned, a Notary Public in and for said County and State, personally appeared the within named TIMMY D. TALLMAN AND LOIS TALLMAN, to me known to be the individuals described in and who executed the within and foregoing instrument and acknowledged to me that they executed the same as their free and voluntary act and deed for the uses and purposes therein mentioned.*

Notary Public for Oregon
My Commission expires: June 7, 2002

OFFICIAL SEAL
KRISTA A PRICE
NOTARY PUBLIC - OREGON
COMMISSION NO. A312204
MY COMMISSION EXPIRES JUNE 7, 2002

EXHIBIT "A"

PARCEL I:

Beginning at the Northeast corner of the Southwest Quarter of the Southeast Quarter of Section 10, Township 4 North, Range 25, East of the Willamette Meridian, Morrow County, Oregon; thence South along the East boundary of said Southwest Quarter of the Southeast Quarter 463.1 feet to the true point of beginning; thence South 89 degrees 31' West 470.3 feet; thence South 1 degree 43' East 81.4 feet; thence South 89 degrees 31' West 800 feet to a point 50 feet East of the West boundary of the South Half of the Southeast Quarter of said Section 10; thence South and parallel with said West boundary 566.8 feet to a point 200 feet North of the South boundary of said Section 10; thence East and parallel with said South boundary 1,272.4 feet to the East boundary of said Southwest Quarter of the Southeast Quarter of Section 10; thence North along said East boundary 649.6 feet to the true point of beginning.

EXCEPTING THEREFROM that portion conveyed to Morrow County by Roadway Dedication Deed Recorded April 20, 1984 as Microfilm No. M-23150, Morrow County Microfilm Records.

PARCEL II:

Beginning at the Northeast corner of the Southwest Quarter of the Southeast Quarter of Section 10, Township 4 North, Range 25 East of the Willamette Meridian, Morrow County, Oregon; thence West along the North boundary of said Southwest Quarter of the Southeast Quarter 470.3 feet to the true point of beginning; thence South 1 degree 43' East 544.5 feet; thence South 89 degrees 31' West 800 feet to the West line of Southwest Quarter of the Southeast Quarter; thence North 1 degree 43' West 544.5 feet to the Northwest corner of Southwest Quarter of the Southeast Quarter, thence North 89 degrees 31' East 800 feet along the North line of Southwest Quarter of Southeast Quarter to the Point of beginning.

EXCEPTING THEREFROM the West 50 feet.

PARCEL III:

A tract of land located in Section 10, Township 4 North, Range 25 East of the Willamette Meridian, in the County of Morrow and State of Oregon, described as follows:

All of the Southeast Quarter of the Southeast Quarter of said Section 10 lying North and West of Laurel Lane; and the North 463.10 feet of the East 470.30 feet of the Southwest Quarter of the Southeast Quarter.

EXCEPTING THEREFROM that portion conveyed to Morrow County by Roadway Dedication Deed recorded April 20, 1984 as M-23150 Morrow County Microfilm Records.

STATE OF OREGON } ss
County of Morrow }

I certify that this instrument was received and recorded in the book of records of said county.

BARBARA BLOODSWORTH
Morrow County Clerk

by: _____ Deputy.

Doc#: 2002-3196
Rcpt: 21581 $ 36.00
01/18/2002 3:15 pm

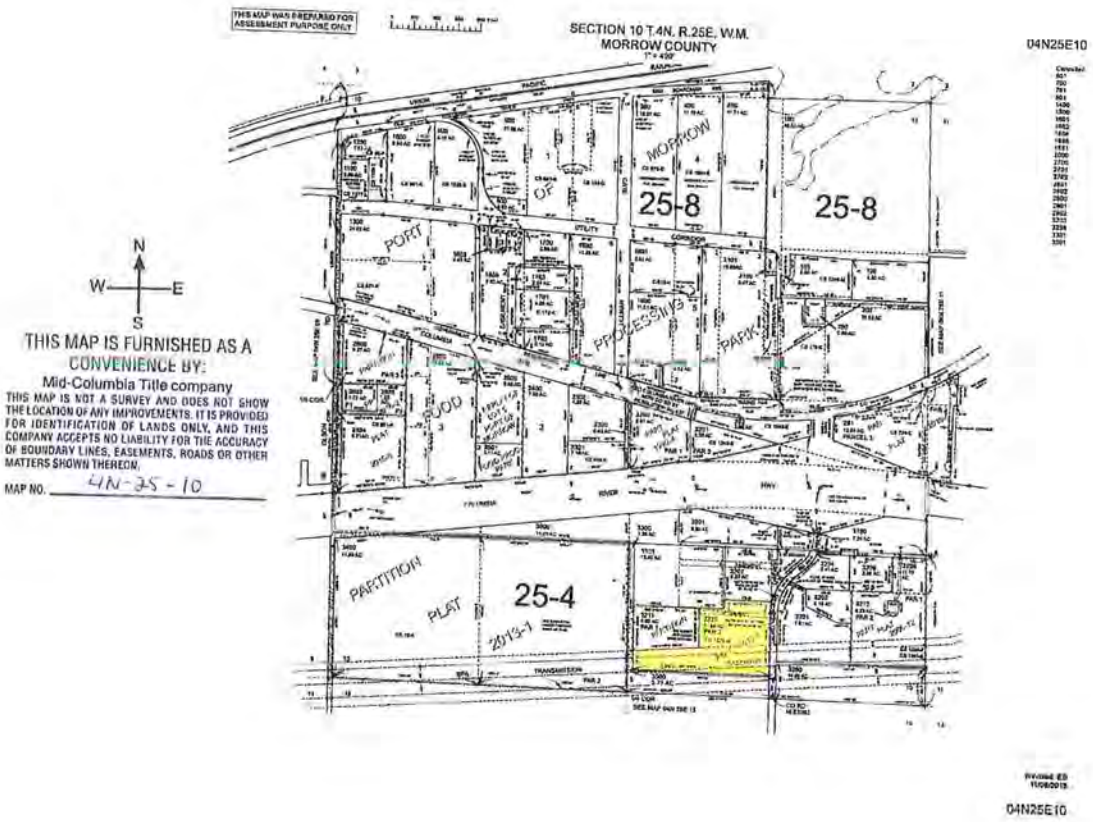

THIS MAP WAS PREPARED FOR ASSESSMENT PURPOSE ONLY
SECTION 10 T.4N, R.25E, W.M.
MORROW COUNTY
1" = 400'
04N25E10
25-8
25-8
25-4
MORROW
PORT
PROJECT SW3
PAPKY
PARTITION
PLAT
2013-1
N
W
E
S
THIS MAP IS FURNISHED AS A
CONVENIENCE BY:
Mid-Columbia Title company
THIS MAP IS NOT A SURVEY AND DOES NOT SHOW THE LOCATION OF ANY IMPROVEMENTS. IT IS PROVIDED FOR IDENTIFICATION OF LANDS ONLY, AND THIS COMPANY ACCEPTS NO LIABILITY FOR THE ACCURACY OF BOUNDARY LINES, EASEMENTS, ROADS OR OTHER MATTERS SHOWN THEREON.
MAP NO. 4N-25-10
04N25E10

Exhibit E

AFTER RECORDING, RETURN TO:

Umatilla Electric Cooperative
P.O. Box 1148
Hermiston, Oregon 97838
UEC REF: Tax Lots 3205, 3302

ELECTRIC UTILITY EASEMENT

Terry K. Tallman and Cheryl Tallman (collectively, "Grantor"), for good and valuable consideration, receipt of which is hereby acknowledged, grant to Umatilla Electric Cooperative, an Oregon cooperative corporation ("Grantee"), and its licensees, successors and assigns, a perpetual and non-exclusive electric utility easement ("Easement") on, across, over, and under a strip of land described in Exhibits A-1 and A-2 and depicted in Exhibits B-1 and B-2 ("Easement Area"), for the purposes of constructing, operating, maintaining, repairing, and replacing electric utility lines, including lines for the transmission and distribution of electrical power and communication lines reasonably necessary for the operation of Grantee's electrical system, and associated service facilities (collectively, the "Facilities").

Grantee shall have the right to enter upon and use the Easement Area for the purposes described above, which also includes the right to inspect and make repairs, changes, alterations, improvements, removals from, and substitutions to the Facilities, and to make additions to the overhead Facilities in the Easement Area. With the exception of up to three (3) electric utility poles in the approximate locations depicted on Exhibit C attached, and related guy wires, Grantee shall not install any Facilities on the ground surface of the Easement Area. After the completion of construction, Grantee shall not have the right to increase the number of poles or related guy wires occupying the ground surface of the Easement Area, or change their location, without Grantor's written consent, which shall not be unreasonably withheld.

In compliance with applicable law, Grantee also shall have the right to cut, trim, and control the growth, by reasonable chemical means, machinery or otherwise, of trees, shrubbery and vegetation located within the Easement Area that may interfere with the safe operation of Grantee's electrical system. Grantee shall not be responsible, however, for the maintenance of any landscaping in the Easement Area.

Grantor shall not construct, place, or otherwise locate any building, structure, or other obstruction in, upon, or under the Easement Area.

Grantor shall have the right to use the Easement Area, provided said use is not inconsistent with and does not unreasonably interfere with the purpose of the Easement or the use of the Easement Area by Grantee.

Grantee shall repair damage to the Easement Area caused by Grantee and shall restore the Easement Area, as near as reasonably practicable, to the same or like-kind condition as existed prior to Grantee's use of the Easement Area.

All Facilities installed on, across, over, or under the Easement Area at Grantee's expense shall remain the property of Grantee and removable at the option of Grantee.

Made and dated this _____ day of _____, 2021 (the "**Effective Date**").

GRANTOR:

_____
Terry K. Tallman

_____
Cheryl Tallman

ACKNOWLEDGEMENT

State of _____)
) SS.
County of _____)

This certifies that on this _____ day of _____, 2021, before me the undersigned personally appeared the above-named **Terry K. Tallman**, an individual, known to me to be the person who executed the foregoing instrument and acknowledged to me that he executed the same.

_____

My Commission Expires _____

ACKNOWLEDGEMENT

State of _____)
) SS.
County of _____)

This certifies that on this _____ day of _____, 2021, before me the undersigned personally appeared the above-named **Cheryl Tallman**, an individual, known to me to be the person who executed the foregoing instrument and acknowledged to me that he executed the same.

_____

My Commission Expires _____

ACCEPTANCE

GRANTEE:

_____ Date: _____
By:
Title:

Form **W-9**
(Rev. October 2018)
Department of the Treasury
Internal Revenue Service

Request for Taxpayer Identification Number and Certification

▶ **Go to *www.irs.gov/FormW9* for instructions and the latest information.**

Give Form to the requester. Do not send to the IRS.

Print or type. See **Specific Instructions** on page 3.

1 Name (as shown on your income tax return). Name is required on this line; do not leave this line blank.

2 Business name/disregarded entity name, if different from above

3 Check appropriate box for federal tax classification of the person whose name is entered on line 1. Check only **one** of the following seven boxes.

☐ Individual/sole proprietor or single-member LLC ☐ C Corporation ☐ S Corporation ☐ Partnership ☐ Trust/estate

☐ Limited liability company. Enter the tax classification (C=C corporation, S=S corporation, P=Partnership) ▶ _____

Note: Check the appropriate box in the line above for the tax classification of the single-member owner. Do not check LLC if the LLC is classified as a single-member LLC that is disregarded from the owner unless the owner of the LLC is another LLC that is **not** disregarded from the owner for U.S. federal tax purposes. Otherwise, a single-member LLC that is disregarded from the owner should check the appropriate box for the tax classification of its owner.

☐ Other (see instructions) ▶

4 Exemptions (codes apply only to certain entities, not individuals; see instructions on page 3):

Exempt payee code (if any) _____

Exemption from FATCA reporting code (if any) _____

(Applies to accounts maintained outside the U.S.)

5 Address (number, street, and apt. or suite no.) See instructions.

Requester's name and address (optional)

6 City, state, and ZIP code

7 List account number(s) here (optional)

Part I Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. The TIN provided must match the name given on line 1 to avoid backup withholding. For individuals, this is generally your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the instructions for Part I, later. For other entities, it is your employer identification number (EIN). If you do not have a number, see *How to get a TIN*, later.

Note: If the account is in more than one name, see the instructions for line 1. Also see *What Name and Number To Give the Requester* for guidelines on whose number to enter.

Social security number

☐☐☐ – ☐☐ – ☐☐☐☐

or

Employer identification number

☐☐ – ☐☐☐☐☐☐☐

Part II Certification

Under penalties of perjury, I certify that:

1. The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me); and
2. I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding; and
3. I am a U.S. citizen or other U.S. person (defined below); and
4. The FATCA code(s) entered on this form (if any) indicating that I am exempt from FATCA reporting is correct.

Certification instructions. You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the certification, but you must provide your correct TIN. See the instructions for Part II, later.

Sign Here **Signature of U.S. person** ▶ **Date** ▶

General Instructions

Section references are to the Internal Revenue Code unless otherwise noted.

Future developments. For the latest information about developments related to Form W-9 and its instructions, such as legislation enacted after they were published, go to *www.irs.gov/FormW9*.

Purpose of Form

An individual or entity (Form W-9 requester) who is required to file an information return with the IRS must obtain your correct taxpayer identification number (TIN) which may be your social security number (SSN), individual taxpayer identification number (ITIN), adoption taxpayer identification number (ATIN), or employer identification number (EIN), to report on an information return the amount paid to you, or other amount reportable on an information return. Examples of information returns include, but are not limited to, the following.

- Form 1099-INT (interest earned or paid)
- Form 1099-DIV (dividends, including those from stocks or mutual funds)
- Form 1099-MISC (various types of income, prizes, awards, or gross proceeds)
- Form 1099-B (stock or mutual fund sales and certain other transactions by brokers)
- Form 1099-S (proceeds from real estate transactions)
- Form 1099-K (merchant card and third party network transactions)
- Form 1098 (home mortgage interest), 1098-E (student loan interest), 1098-T (tuition)
- Form 1099-C (canceled debt)
- Form 1099-A (acquisition or abandonment of secured property)

Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN.

If you do not return Form W-9 to the requester with a TIN, you might be subject to backup withholding. See What is backup withholding, *later.*

By signing the filled-out form, you:

1. Certify that the TIN you are giving is correct (or you are waiting for a number to be issued),

2. Certify that you are not subject to backup withholding, or

3. Claim exemption from backup withholding if you are a U.S. exempt payee. If applicable, you are also certifying that as a U.S. person, your allocable share of any partnership income from a U.S. trade or business is not subject to the withholding tax on foreign partners' share of effectively connected income, and

4. Certify that FATCA code(s) entered on this form (if any) indicating that you are exempt from the FATCA reporting, is correct. See *What is FATCA reporting,* later, for further information.

Note: If you are a U.S. person and a requester gives you a form other than Form W-9 to request your TIN, you must use the requester's form if it is substantially similar to this Form W-9.

Definition of a U.S. person. For federal tax purposes, you are considered a U.S. person if you are:

- An individual who is a U.S. citizen or U.S. resident alien;
- A partnership, corporation, company, or association created or organized in the United States or under the laws of the United States;
- An estate (other than a foreign estate); or
- A domestic trust (as defined in Regulations section 301.7701-7).

Special rules for partnerships. Partnerships that conduct a trade or business in the United States are generally required to pay a withholding tax under section 1446 on any foreign partners' share of effectively connected taxable income from such business. Further, in certain cases where a Form W-9 has not been received, the rules under section 1446 require a partnership to presume that a partner is a foreign person, and pay the section 1446 withholding tax. Therefore, if you are a U.S. person that is a partner in a partnership conducting a trade or business in the United States, provide Form W-9 to the partnership to establish your U.S. status and avoid section 1446 withholding on your share of partnership income.

In the cases below, the following person must give Form W-9 to the partnership for purposes of establishing its U.S. status and avoiding withholding on its allocable share of net income from the partnership conducting a trade or business in the United States.

- In the case of a disregarded entity with a U.S. owner, the U.S. owner of the disregarded entity and not the entity;
- In the case of a grantor trust with a U.S. grantor or other U.S. owner, generally, the U.S. grantor or other U.S. owner of the grantor trust and not the trust; and
- In the case of a U.S. trust (other than a grantor trust), the U.S. trust (other than a grantor trust) and not the beneficiaries of the trust.

Foreign person. If you are a foreign person or the U.S. branch of a foreign bank that has elected to be treated as a U.S. person, do not use Form W-9. Instead, use the appropriate Form W-8 or Form 8233 (see Pub. 515, Withholding of Tax on Nonresident Aliens and Foreign Entities).

Nonresident alien who becomes a resident alien. Generally, only a nonresident alien individual may use the terms of a tax treaty to reduce or eliminate U.S. tax on certain types of income. However, most tax treaties contain a provision known as a "saving clause." Exceptions specified in the saving clause may permit an exemption from tax to continue for certain types of income even after the payee has otherwise become a U.S. resident alien for tax purposes.

If you are a U.S. resident alien who is relying on an exception contained in the saving clause of a tax treaty to claim an exemption from U.S. tax on certain types of income, you must attach a statement to Form W-9 that specifies the following five items.

1. The treaty country. Generally, this must be the same treaty under which you claimed exemption from tax as a nonresident alien.

2. The treaty article addressing the income.

3. The article number (or location) in the tax treaty that contains the saving clause and its exceptions.

4. The type and amount of income that qualifies for the exemption from tax.

5. Sufficient facts to justify the exemption from tax under the terms of the treaty article.

Example. Article 20 of the U.S.-China income tax treaty allows an exemption from tax for scholarship income received by a Chinese student temporarily present in the United States. Under U.S. law, this student will become a resident alien for tax purposes if his or her stay in the United States exceeds 5 calendar years. However, paragraph 2 of the first Protocol to the U.S.-China treaty (dated April 30, 1984) allows the provisions of Article 20 to continue to apply even after the Chinese student becomes a resident alien of the United States. A Chinese student who qualifies for this exception (under paragraph 2 of the first protocol) and is relying on this exception to claim an exemption from tax on his or her scholarship or fellowship income would attach to Form W-9 a statement that includes the information described above to support that exemption.

If you are a nonresident alien or a foreign entity, give the requester the appropriate completed Form W-8 or Form 8233.

Backup Withholding

What is backup withholding? Persons making certain payments to you must under certain conditions withhold and pay to the IRS 24% of such payments. This is called "backup withholding." Payments that may be subject to backup withholding include interest, tax-exempt interest, dividends, broker and barter exchange transactions, rents, royalties, nonemployee pay, payments made in settlement of payment card and third party network transactions, and certain payments from fishing boat operators. Real estate transactions are not subject to backup withholding.

You will not be subject to backup withholding on payments you receive if you give the requester your correct TIN, make the proper certifications, and report all your taxable interest and dividends on your tax return.

Payments you receive will be subject to backup withholding if:

1. You do not furnish your TIN to the requester,

2. You do not certify your TIN when required (see the instructions for Part II for details),

3. The IRS tells the requester that you furnished an incorrect TIN,

4. The IRS tells you that you are subject to backup withholding because you did not report all your interest and dividends on your tax return (for reportable interest and dividends only), or

5. You do not certify to the requester that you are not subject to backup withholding under 4 above (for reportable interest and dividend accounts opened after 1983 only).

Certain payees and payments are exempt from backup withholding. See *Exempt payee code,* later, and the separate Instructions for the Requester of Form W-9 for more information.

Also see *Special rules for partnerships,* earlier.

What is FATCA Reporting?

The Foreign Account Tax Compliance Act (FATCA) requires a participating foreign financial institution to report all United States account holders that are specified United States persons. Certain payees are exempt from FATCA reporting. See *Exemption from FATCA reporting code,* later, and the Instructions for the Requester of Form W-9 for more information.

Updating Your Information

You must provide updated information to any person to whom you claimed to be an exempt payee if you are no longer an exempt payee and anticipate receiving reportable payments in the future from this person. For example, you may need to provide updated information if you are a C corporation that elects to be an S corporation, or if you no longer are tax exempt. In addition, you must furnish a new Form W-9 if the name or TIN changes for the account; for example, if the grantor of a grantor trust dies.

Penalties

Failure to furnish TIN. If you fail to furnish your correct TIN to a requester, you are subject to a penalty of $50 for each such failure unless your failure is due to reasonable cause and not to willful neglect.

Civil penalty for false information with respect to withholding. If you make a false statement with no reasonable basis that results in no backup withholding, you are subject to a $500 penalty.

Criminal penalty for falsifying information. Willfully falsifying certifications or affirmations may subject you to criminal penalties including fines and/or imprisonment.

Misuse of TINs. If the requester discloses or uses TINs in violation of federal law, the requester may be subject to civil and criminal penalties.

Specific Instructions

Line 1

You must enter one of the following on this line; **do not** leave this line blank. The name should match the name on your tax return.

If this Form W-9 is for a joint account (other than an account maintained by a foreign financial institution (FFI)), list first, and then circle, the name of the person or entity whose number you entered in Part I of Form W-9. If you are providing Form W-9 to an FFI to document a joint account, each holder of the account that is a U.S. person must provide a Form W-9.

a. **Individual.** Generally, enter the name shown on your tax return. If you have changed your last name without informing the Social Security Administration (SSA) of the name change, enter your first name, the last name as shown on your social security card, and your new last name.

Note: ITIN applicant: Enter your individual name as it was entered on your Form W-7 application, line 1a. This should also be the same as the name you entered on the Form 1040/1040A/1040EZ you filed with your application.

b. **Sole proprietor or single-member LLC.** Enter your individual name as shown on your 1040/1040A/1040EZ on line 1. You may enter your business, trade, or "doing business as" (DBA) name on line 2.

c. **Partnership, LLC that is not a single-member LLC, C corporation, or S corporation.** Enter the entity's name as shown on the entity's tax return on line 1 and any business, trade, or DBA name on line 2.

d. **Other entities.** Enter your name as shown on required U.S. federal tax documents on line 1. This name should match the name shown on the charter or other legal document creating the entity. You may enter any business, trade, or DBA name on line 2.

e. **Disregarded entity.** For U.S. federal tax purposes, an entity that is disregarded as an entity separate from its owner is treated as a "disregarded entity." See Regulations section 301.7701-2(c)(2)(iii). Enter the owner's name on line 1. The name of the entity entered on line 1 should never be a disregarded entity. The name on line 1 should be the name shown on the income tax return on which the income should be reported. For example, if a foreign LLC that is treated as a disregarded entity for U.S. federal tax purposes has a single owner that is a U.S. person, the U.S. owner's name is required to be provided on line 1. If the direct owner of the entity is also a disregarded entity, enter the first owner that is not disregarded for federal tax purposes. Enter the disregarded entity's name on line 2, "Business name/disregarded entity name." If the owner of the disregarded entity is a foreign person, the owner must complete an appropriate Form W-8 instead of a Form W-9. This is the case even if the foreign person has a U.S. TIN.

Line 2

If you have a business name, trade name, DBA name, or disregarded entity name, you may enter it on line 2.

Line 3

Check the appropriate box on line 3 for the U.S. federal tax classification of the person whose name is entered on line 1. Check only one box on line 3.

IF the entity/person on line 1 is a(n) . . .	THEN check the box for . . .
• Corporation	Corporation
• Individual • Sole proprietorship, or • Single-member limited liability company (LLC) owned by an individual and disregarded for U.S. federal tax purposes.	Individual/sole proprietor or single-member LLC
• LLC treated as a partnership for U.S. federal tax purposes, • LLC that has filed Form 8832 or 2553 to be taxed as a corporation, or • LLC that is disregarded as an entity separate from its owner but the owner is another LLC that is not disregarded for U.S. federal tax purposes.	Limited liability company and enter the appropriate tax classification. (P= Partnership; C= C corporation; or S= S corporation)
• Partnership	Partnership
• Trust/estate	Trust/estate

Line 4, Exemptions

If you are exempt from backup withholding and/or FATCA reporting, enter in the appropriate space on line 4 any code(s) that may apply to you.

Exempt payee code.

- Generally, individuals (including sole proprietors) are not exempt from backup withholding.
- Except as provided below, corporations are exempt from backup withholding for certain payments, including interest and dividends.
- Corporations are not exempt from backup withholding for payments made in settlement of payment card or third party network transactions.
- Corporations are not exempt from backup withholding with respect to attorneys' fees or gross proceeds paid to attorneys, and corporations that provide medical or health care services are not exempt with respect to payments reportable on Form 1099-MISC.

The following codes identify payees that are exempt from backup withholding. Enter the appropriate code in the space in line 4.

1—An organization exempt from tax under section 501(a), any IRA, or a custodial account under section 403(b)(7) if the account satisfies the requirements of section 401(f)(2)

2—The United States or any of its agencies or instrumentalities

3—A state, the District of Columbia, a U.S. commonwealth or possession, or any of their political subdivisions or instrumentalities

4—A foreign government or any of its political subdivisions, agencies, or instrumentalities

5—A corporation

6—A dealer in securities or commodities required to register in the United States, the District of Columbia, or a U.S. commonwealth or possession

7—A futures commission merchant registered with the Commodity Futures Trading Commission

8—A real estate investment trust

9—An entity registered at all times during the tax year under the Investment Company Act of 1940

10—A common trust fund operated by a bank under section 584(a)

11—A financial institution

12—A middleman known in the investment community as a nominee or custodian

13—A trust exempt from tax under section 664 or described in section 4947

The following chart shows types of payments that may be exempt from backup withholding. The chart applies to the exempt payees listed above, 1 through 13.

IF the payment is for . . .	THEN the payment is exempt for . . .
Interest and dividend payments	All exempt payees except for 7
Broker transactions	Exempt payees 1 through 4 and 6 through 11 and all C corporations. S corporations must not enter an exempt payee code because they are exempt only for sales of noncovered securities acquired prior to 2012.
Barter exchange transactions and patronage dividends	Exempt payees 1 through 4
Payments over $600 required to be reported and direct sales over $5,000[1]	Generally, exempt payees 1 through 5[2]
Payments made in settlement of payment card or third party network transactions	Exempt payees 1 through 4

[1] See Form 1099-MISC, Miscellaneous Income, and its instructions.

[2] However, the following payments made to a corporation and reportable on Form 1099-MISC are not exempt from backup withholding: medical and health care payments, attorneys' fees, gross proceeds paid to an attorney reportable under section 6045(f), and payments for services paid by a federal executive agency.

Exemption from FATCA reporting code. The following codes identify payees that are exempt from reporting under FATCA. These codes apply to persons submitting this form for accounts maintained outside of the United States by certain foreign financial institutions. Therefore, if you are only submitting this form for an account you hold in the United States, you may leave this field blank. Consult with the person requesting this form if you are uncertain if the financial institution is subject to these requirements. A requester may indicate that a code is not required by providing you with a Form W-9 with "Not Applicable" (or any similar indication) written or printed on the line for a FATCA exemption code.

A—An organization exempt from tax under section 501(a) or any individual retirement plan as defined in section 7701(a)(37)

B—The United States or any of its agencies or instrumentalities

C—A state, the District of Columbia, a U.S. commonwealth or possession, or any of their political subdivisions or instrumentalities

D—A corporation the stock of which is regularly traded on one or more established securities markets, as described in Regulations section 1.1472-1(c)(1)(i)

E—A corporation that is a member of the same expanded affiliated group as a corporation described in Regulations section 1.1472-1(c)(1)(i)

F—A dealer in securities, commodities, or derivative financial instruments (including notional principal contracts, futures, forwards, and options) that is registered as such under the laws of the United States or any state

G—A real estate investment trust

H—A regulated investment company as defined in section 851 or an entity registered at all times during the tax year under the Investment Company Act of 1940

I—A common trust fund as defined in section 584(a)

J—A bank as defined in section 581

K—A broker

L—A trust exempt from tax under section 664 or described in section 4947(a)(1)

M—A tax exempt trust under a section 403(b) plan or section 457(g) plan

Note: You may wish to consult with the financial institution requesting this form to determine whether the FATCA code and/or exempt payee code should be completed.

Line 5

Enter your address (number, street, and apartment or suite number). This is where the requester of this Form W-9 will mail your information returns. If this address differs from the one the requester already has on file, write NEW at the top. If a new address is provided, there is still a chance the old address will be used until the payor changes your address in their records.

Line 6

Enter your city, state, and ZIP code.

Part I. Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. If you are a resident alien and you do not have and are not eligible to get an SSN, your TIN is your IRS individual taxpayer identification number (ITIN). Enter it in the social security number box. If you do not have an ITIN, see *How to get a TIN* below.

If you are a sole proprietor and you have an EIN, you may enter either your SSN or EIN.

If you are a single-member LLC that is disregarded as an entity separate from its owner, enter the owner's SSN (or EIN, if the owner has one). Do not enter the disregarded entity's EIN. If the LLC is classified as a corporation or partnership, enter the entity's EIN.

Note: See *What Name and Number To Give the Requester,* later, for further clarification of name and TIN combinations.

How to get a TIN. If you do not have a TIN, apply for one immediately. To apply for an SSN, get Form SS-5, Application for a Social Security Card, from your local SSA office or get this form online at *www.SSA.gov*. You may also get this form by calling 1-800-772-1213. Use Form W-7, Application for IRS Individual Taxpayer Identification Number, to apply for an ITIN, or Form SS-4, Application for Employer Identification Number, to apply for an EIN. You can apply for an EIN online by accessing the IRS website at *www.irs.gov/Businesses* and clicking on Employer Identification Number (EIN) under Starting a Business. Go to *www.irs.gov/Forms* to view, download, or print Form W-7 and/or Form SS-4. Or, you can go to *www.irs.gov/OrderForms* to place an order and have Form W-7 and/or SS-4 mailed to you within 10 business days.

If you are asked to complete Form W-9 but do not have a TIN, apply for a TIN and write "Applied For" in the space for the TIN, sign and date the form, and give it to the requester. For interest and dividend payments, and certain payments made with respect to readily tradable instruments, generally you will have 60 days to get a TIN and give it to the requester before you are subject to backup withholding on payments. The 60-day rule does not apply to other types of payments. You will be subject to backup withholding on all such payments until you provide your TIN to the requester.

Note: Entering "Applied For" means that you have already applied for a TIN or that you intend to apply for one soon.

Caution: A disregarded U.S. entity that has a foreign owner must use the appropriate Form W-8.

Part II. Certification

To establish to the withholding agent that you are a U.S. person, or resident alien, sign Form W-9. You may be requested to sign by the withholding agent even if item 1, 4, or 5 below indicates otherwise.

For a joint account, only the person whose TIN is shown in Part I should sign (when required). In the case of a disregarded entity, the person identified on line 1 must sign. Exempt payees, see *Exempt payee code,* earlier.

Signature requirements. Complete the certification as indicated in items 1 through 5 below.

1. Interest, dividend, and barter exchange accounts opened before 1984 and broker accounts considered active during 1983. You must give your correct TIN, but you do not have to sign the certification.

2. Interest, dividend, broker, and barter exchange accounts opened after 1983 and broker accounts considered inactive during 1983. You must sign the certification or backup withholding will apply. If you are subject to backup withholding and you are merely providing your correct TIN to the requester, you must cross out item 2 in the certification before signing the form.

3. Real estate transactions. You must sign the certification. You may cross out item 2 of the certification.

4. Other payments. You must give your correct TIN, but you do not have to sign the certification unless you have been notified that you have previously given an incorrect TIN. "Other payments" include payments made in the course of the requester's trade or business for rents, royalties, goods (other than bills for merchandise), medical and health care services (including payments to corporations), payments to a nonemployee for services, payments made in settlement of payment card and third party network transactions, payments to certain fishing boat crew members and fishermen, and gross proceeds paid to attorneys (including payments to corporations).

5. Mortgage interest paid by you, acquisition or abandonment of secured property, cancellation of debt, qualified tuition program payments (under section 529), ABLE accounts (under section 529A), IRA, Coverdell ESA, Archer MSA or HSA contributions or distributions, and pension distributions. You must give your correct TIN, but you do not have to sign the certification.

What Name and Number To Give the Requester

For this type of account:	Give name and SSN of:
1. Individual	The individual
2. Two or more individuals (joint account) other than an account maintained by an FFI	The actual owner of the account or, if combined funds, the first individual on the account[1]
3. Two or more U.S. persons (joint account maintained by an FFI)	Each holder of the account
4. Custodial account of a minor (Uniform Gift to Minors Act)	The minor[2]
5. a. The usual revocable savings trust (grantor is also trustee)	The grantor-trustee[1]
b. So-called trust account that is not a legal or valid trust under state law	The actual owner[1]
6. Sole proprietorship or disregarded entity owned by an individual	The owner[3]
7. Grantor trust filing under Optional Form 1099 Filing Method 1 (see Regulations section 1.671-4(b)(2)(i)(A))	The grantor*
For this type of account:	**Give name and EIN of:**
8. Disregarded entity not owned by an individual	The owner
9. A valid trust, estate, or pension trust	Legal entity[4]
10. Corporation or LLC electing corporate status on Form 8832 or Form 2553	The corporation
11. Association, club, religious, charitable, educational, or other tax-exempt organization	The organization
12. Partnership or multi-member LLC	The partnership
13. A broker or registered nominee	The broker or nominee
14. Account with the Department of Agriculture in the name of a public entity (such as a state or local government, school district, or prison) that receives agricultural program payments	The public entity
15. Grantor trust filing under the Form 1041 Filing Method or the Optional Form 1099 Filing Method 2 (see Regulations section 1.671-4(b)(2)(i)(B))	The trust

[1] List first and circle the name of the person whose number you furnish. If only one person on a joint account has an SSN, that person's number must be furnished.

[2] Circle the minor's name and furnish the minor's SSN.

[3] You must show your individual name and you may also enter your business or DBA name on the "Business name/disregarded entity" name line. You may use either your SSN or EIN (if you have one), but the IRS encourages you to use your SSN.

[4] List first and circle the name of the trust, estate, or pension trust. (Do not furnish the TIN of the personal representative or trustee unless the legal entity itself is not designated in the account title.) Also see *Special rules for partnerships,* earlier.

***Note:** The grantor also must provide a Form W-9 to trustee of trust.

Note: If no name is circled when more than one name is listed, the number will be considered to be that of the first name listed.

Secure Your Tax Records From Identity Theft

Identity theft occurs when someone uses your personal information such as your name, SSN, or other identifying information, without your permission, to commit fraud or other crimes. An identity thief may use your SSN to get a job or may file a tax return using your SSN to receive a refund.

To reduce your risk:

- Protect your SSN,
- Ensure your employer is protecting your SSN, and
- Be careful when choosing a tax preparer.

If your tax records are affected by identity theft and you receive a notice from the IRS, respond right away to the name and phone number printed on the IRS notice or letter.

If your tax records are not currently affected by identity theft but you think you are at risk due to a lost or stolen purse or wallet, questionable credit card activity or credit report, contact the IRS Identity Theft Hotline at 1-800-908-4490 or submit Form 14039.

For more information, see Pub. 5027, Identity Theft Information for Taxpayers.

Victims of identity theft who are experiencing economic harm or a systemic problem, or are seeking help in resolving tax problems that have not been resolved through normal channels, may be eligible for Taxpayer Advocate Service (TAS) assistance. You can reach TAS by calling the TAS toll-free case intake line at 1-877-777-4778 or TTY/TDD 1-800-829-4059.

Protect yourself from suspicious emails or phishing schemes. Phishing is the creation and use of email and websites designed to mimic legitimate business emails and websites. The most common act is sending an email to a user falsely claiming to be an established legitimate enterprise in an attempt to scam the user into surrendering private information that will be used for identity theft.

The IRS does not initiate contacts with taxpayers via emails. Also, the IRS does not request personal detailed information through email or ask taxpayers for the PIN numbers, passwords, or similar secret access information for their credit card, bank, or other financial accounts.

If you receive an unsolicited email claiming to be from the IRS, forward this message to *phishing@irs.gov*. You may also report misuse of the IRS name, logo, or other IRS property to the Treasury Inspector General for Tax Administration (TIGTA) at 1-800-366-4484. You can forward suspicious emails to the Federal Trade Commission at *spam@uce.gov* or report them at *www.ftc.gov/complaint*. You can contact the FTC at *www.ftc.gov/idtheft* or 877-IDTHEFT (877-438-4338). If you have been the victim of identity theft, see *www.IdentityTheft.gov* and Pub. 5027.

Visit *www.irs.gov/IdentityTheft* to learn more about identity theft and how to reduce your risk.

Privacy Act Notice

Section 6109 of the Internal Revenue Code requires you to provide your correct TIN to persons (including federal agencies) who are required to file information returns with the IRS to report interest, dividends, or certain other income paid to you; mortgage interest you paid; the acquisition or abandonment of secured property; the cancellation of debt; or contributions you made to an IRA, Archer MSA, or HSA. The person collecting this form uses the information on the form to file information returns with the IRS, reporting the above information. Routine uses of this information include giving it to the Department of Justice for civil and criminal litigation and to cities, states, the District of Columbia, and U.S. commonwealths and possessions for use in administering their laws. The information also may be disclosed to other countries under a treaty, to federal and state agencies to enforce civil and criminal laws, or to federal law enforcement and intelligence agencies to combat terrorism. You must provide your TIN whether or not you are required to file a tax return. Under section 3406, payers must generally withhold a percentage of taxable interest, dividend, and certain other payments to a payee who does not give a TIN to the payer. Certain penalties may also apply for providing false or fraudulent information.

Filed for record at the request of/
After recording, return to:
Todd Mitchell
Buchalter
1331 NW Lovejoy St., Suite 900
Portland, OR 97209

Grantors:
Terry K. Tallman and Cheryl Tallman
706 SW Mt. Hood Avenue
Boardman, OR 97818

Grantee:
1st John 2:17, LLC
706 SW Mt. Hood Avenue
Boardman, OR 97818

Until a change is requested, send tax statements to:
1st John 2:17, LLC
706 SW Mt. Hood Avenue
Boardman, OR 97818

MORROW COUNTY, OREGON **2021-49037**
D-WD
Cnt=1 Stn=23 TC **06/18/2021 01:03:06 PM**
$20.00 $11.00 $10.00 $60.00 **$101.00**

I, Bobbi Childers, County Clerk for Morrow County, Oregon, certify that the instrument identified herein was recorded in the Clerk records.

Bobbi Childers - County Clerk

APNs: R08224, R08081, R08080

For Clerk's Use Only

STATUTORY WARRANTY DEED

Terry K. Tallman and Cheryl Tallman, husband and wife, GRANTORS, convey and warrant to **1st John 2:17, LLC, an Oregon limited liability company,** GRANTEE, the following described real property located in the County of Morrow, State of Oregon, and more fully described on **Exhibit A** attached hereto and incorporated herein by this reference.

Subject to: covenants, conditions, restrictions and/or easements, if any, affecting title, which may appear in the public record, including those shown on any recorded plat or survey.

THE TRUE CONSIDERATION FOR THIS CONVEYANCE IS $1,265,000.

Dated this 16th day of June, 2021.

BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON TRANSFERRING FEE TITLE SHOULD INQUIRE ABOUT THE PERSON'S RIGHTS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010. THIS INSTRUMENT DOES NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY THAT THE UNIT OF LAND BEING TRANSFERRED IS A LAWFULLY ESTABLISHED LOT OR PARCEL, AS DEFINED IN ORS 92.010 OR 215.010, TO VERIFY THE APPROVED USES OF THE LOT OR PARCEL, TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES, AS DEFINED IN ORS 30.930, AND TO INQUIRE ABOUT THE RIGHTS OF NEIGHBORING PROPERTY OWNERS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010.

[SIGNATURE PAGE FOLLOWS]

GRANTORS:

Terry K. Tallman

Cheryl Tallman

OFFICIAL STAMP
LORI ANN MOSS
NOTARY PUBLIC-OREGON
COMMISSION NO. 981780
MY COMMISSION EXPIRES DECEMBER 17, 2022

STATE OF OREGON)
) ss.
COUNTY OF MORROW)

This instrument was acknowledged before me on the 16th day of June, 2021, by Terry K. Tallman and Cheryl Tallman, husband and wife, Grantors.

Notary Public for Oregon
My commission expires: December 17, 2022

EXHIBIT A

Legal Description

PARCEL I:

Beginning at the Northeast corner of the Southwest Quarter of the Southeast Quarter of Section 10, Township 4 North, Range 25, East of the Willamette Meridian, Morrow County, Oregon; thence South along the East boundary of said Southwest Quarter of the Southeast Quarter 463.1 feet to the true point of beginning; thence South 89 degrees 31' West 470.3 feet; thence South I degree 43' East 81.4 feet; thence South 89 degrees 31' West 800 feet to a point 50 feet East of the West boundary of the South Half of the Southeast Quarter of said Section 10; thence South and parallel with said West boundary 566.8 feet to a point 200 feet North of the South boundary of said Section 10; thence East and parallel with said South boundary 1,272.4 feet to the East boundary of said Southwest Quarter of the Southeast Quarter of Section 10; thence North along said East boundary 649.6 feet to the true point of beginning.

EXCEPTING THEREFROM that portion conveyed to Morrow County by Roadway Dedication Deed Recorded April 20, 1984 as Microfilm No. M-23150, Morrow County Microfilm Records.

PARCEL II:

Beginning at the Northeast corner of the Southwest Quarter of the Southeast Quarter of Section 10, Township 4 North, Range 25 East of the Willamette Meridian, Morrow County, Oregon; thence West along the North boundary of said Southwest Quarter of the Southeast Quarter 470.3 feet to the true point of beginning; thence South 1 degree 43' East 544.5 feet; thence South 89 degrees 31' West 800 feet to the West line of Southwest Quarter of the Southeast Quarter; thence North 1 degree 43' West 544.5 feet to the Northwest corner of Southwest Quarter of the Southeast Quarter, thence North 89 degrees 31' East 800 feet along the North line of Southwest Quarter of Southeast Quarter to the Point of beginning.

EXCEPTING THEREFROM the West 50 feet.

PARCEL III:

A tract of land located in Section 10, Township 4 North, Range 25 East of the Willamette Meridian, in the County of Morrow and State of Oregon, described as follows:

All of the Southeast Quarter of the Southeast Quarter of said Section 10 lying North and West of Laurel Lane; and the North 463.10 feet of the East 470.30 feet of the Southwest Quarter of the Southeast Quarter.

EXCEPTING THEREFROM that portion conveyed to Morrow County by Roadway Dedication Deed recorded April 20, 1984 as M-23150 Morrow County Microfilm Records.

DocuSign Envelope ID: DCD5E121-AF8D-452E-B97B-E804B9B3A019

FILED: MAY 24, 2021
OREGON SECRETARY OF STATE
182757998-22219465
1ST JOHN 2:17, LLC NEWORG

ARTICLES OF ORGANIZATION
OF
1ST JOHN 2:17, LLC

In accordance with the Oregon Limited Liability Company Act (the "Act"), Jonathan Tallman, being the undersigned individual of the age of eighteen years or more, being the Manager and Organizer of the limited liability company, hereby adopts the following articles of organization:

ARTICLE I
NAME

The name of the limited liability company is 1st John 2:17, LLC (the "Company").

ARTICLE II
DURATION

The duration of the Company is perpetual.

ARTICLE III
PRINCIPAL PLACE OF BUSINESS ADDRESS

The principal place of business address of the Company is 706 Mt. Hood Avenue SW, Boardman, Oregon 97818.

ARTICLE IV
REGISTERED AGENT

The name of the initial registered agent of the Company is Unisearch, Inc.

ARTICLE V
ADDRESS OF REGISTERED AGENT AND FOR NOTICES

The address of the initial registered office of the Company is 698 12th Street SE, Suite 200, Salem, Oregon 97301. The Corporation Division may mail notices to c/o Buchalter, 1331 NW Lovejoy Street, Suite 900, Portland, Oregon 97209.

ARTICLE VI
MANAGEMENT

The Company will be managed by one or more managers.

ARTICLE VII
NAME AND ADDRESS OF ORGANIZER

The name and address of the Manager and Organizer are Jonathan Tallman, 706 Mt. Hood Avenue SW, Boardman, Oregon 97818.

DocuSign Envelope ID: DCD5E121-AF8D-452E-B97B-E804B9B3A019

ARTICLE VIII
NAME AND ADDRESS OF MANAGER WITH KNOWLEDGE

The name and address of the Manager that has direct knowledge of the operations and business activities of the Company is Jonathan Tallman, 706 Mt. Hood Avenue SW, Boardman, Oregon 97818.

Dated: 5/20/2021.

I declare as an authorized signer, under penalty of perjury, that this document does not fraudulently conceal, fraudulently obscure, fraudulently alter or otherwise misrepresent the identity of the person or any members, managers, employees or agents of the limited liability company. This filing has been examined by me and is, to the best of my knowledge and belief, true, correct, and complete. Making false statements in this document is against the law and may be penalized by fines, imprisonment or both.

DocuSigned by:
TALL
F87FA9136708409...
Jonathan Tallman, Manager and Organizer

Person to Contact about this Filing:
Joy Aikin
503.226.1191

CERTIFICATE OF SERVICE

I hereby certify that I served the foregoing **DECLARATION OF ROBERT ECHENRODE IN SUPPORT OF PLAINTIFF'S MOTION FOR ADVANCE OCCUPANCY AND RESPONSE IN OPPOSITION TO DEFENDANT'S MOTION TO DISMISS** on:

Charles F. Hudson
hudsonc@lanepowell.com
Bruce H. Cahn
cahnb@lanepowell.com
LANE POWELL PC
601 SW Second Avenue, Suite 2100
Portland, OR 97204-3158
Telephone: (503) 778.2100

Attorneys for Defendant
1ST John 2:17, LLC

by the following indicated method or methods:

[✓] by **MAILING** a full, true and correct copy thereof in a sealed, postage-paid envelope, addressed as shown above, and deposited with the U.S. Postal Service at Portland, Oregon, on the date set forth below.

[✓] by notice of **ELECTRONIC FILING** by using the Odyssey File & Serve at the party's email address as recorded on the date of service in the eFiling system (UTCR 21.100(4)).

[✓] by causing a full, true and correct copy thereof by **ELECTRONIC MEANS** to the party, at the party's last known email address listed above on the date set forth below.

DATED: August 9, 2021.

CABLE HUSTON LLP

s/ Nicole M. Swift
Nicole M. Swift, OSB No. 141419
nswift@cablehuston.com
1455 SW Broadway, Suite 1500
Portland, OR 97201-3412
Telephone: (503) 224-3092

Attorneys for Plaintiff Umatilla Electric Cooperative

CERTIFICATE OF SERVICE

I hereby certify that I served the foregoing **DECLARATION OF BRIAN S. EPLEY IN SUPPORT OF PLAINTIFF'S MOTION FOR PARTIAL SUMMARY JUDGMENT** on:

Charles F. Hudson
hudsonc@lanepowell.com
Bruce H. Cahn
cahnb@lanepowell.com
LANE POWELL PC
601 SW Second Avenue, Suite 2100
Portland, OR 97204-3158
Telephone: (503) 778-2100

Attorneys for Defendant
1st John 2:17, LLC

by the following indicated method or methods:

[ ] by **MAILING** a full, true and correct copy thereof in a sealed, postage-paid envelope, addressed as shown above, and deposited with the U.S. Postal Service at Portland, Oregon, on the date set forth below.

[✓] by notice of **ELECTRONIC FILING** by using the Odyssey File & Serve at the party's email address as recorded on the date of service in the eFiling system (UTCR 21.100(4)), if applicable.

[✓] by causing a full, true and correct copy thereof by **ELECTRONIC MEANS** to the party, at the party's last known email address listed above on the date set forth below.

DATED: January 11, 2024.

CABLE HUSTON LLP

s/ Brian S. Epley
Brian S. Epley, OSB No. 204790
bepley@cablehuston.com

Attorneys for Plaintiff Umatilla Electric Cooperative

CABLE HUSTON LLP
1455 SW BROADWAY, SUITE 1500
PORTLAND, OREGON 97201-3412
TELEPHONE (503) 224-3092, FACSIMILE (503) 224-3176

IN THE CIRCUIT COURT OF THE STATE OF OREGON

FOR THE COUNTY OF MORROW

UMATILLA ELECTRIC COOPERATIVE, an Oregon cooperative corporation,

Plaintiff,

vs.

1ST JOHN 2:17, LLC, an Oregon limited liability company, successor-in-interest to Terry Tallman and Cheryl Tallman, as tenants by the entirety,

Defendant.

Case No. 21CV28343

VIDEOCONFERENCE DEPOSITION OF
ROBERT ECHENRODE

Taken on behalf of Defendant

* * *

BE IT REMEMBERED THAT, pursuant to the Oregon Rules of Civil Procedure, the deposition of ROBERT ECHENRODE was taken before KIM NERHEIM, a Certified Shorthand Reporter for Oregon and a Certified Court Reporter for Washington, on Tuesday, February 13, 2024, commencing at the hour of 9:00 a.m.; the witness responding to questions by videoconference; the questions being propounded and proceedings reported remotely via videoconference.

APPEARANCES:

CABLE HUSTON LLP
BY MR. BRIAN S. EPLEY
1455 S.W. Broadway, Suite 1500
Portland, Oregon 97201
503-224-3092
bepley@cablehuston.com
Attorney for Plaintiff
Appearing by videoconference.

LANE POWELL, PC
BY MR. BRUCE H. CAHN
601 S.W. 2nd Avenue, Suite 2100
Portland, Oregon 97204
503-778-2100
cahnb@lanepowell.com
Attorney for Defendant
Appearing by videoconference.

ALSO PRESENT: Jonathan Tallman
Kamille Simons

* * *

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EXHIBIT INDEX

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(Exhibits delivered with transcripts.)

* * *

(Defendant's Deposition Exhibits were previously marked for identification.)

THE REPORTER: Good morning. This deposition is being conducted by videoconference. It is being recorded on the Zoom cloud platform as an additional backup of the record and for disaster preparedness purposes only. The recording is the work product of LNS Court Reporting and will not be distributed to counsel, any party, or any other person.

I am an Oregon Certified Shorthand Reporter, Certificate Number 90-0138, which authorizes me to administer the oath remotely.

ROBERT ECHENRODE
having first been sworn by the Certified Shorthand Reporter, testified under oath as follows:

EXAMINATION

BY MR. CAHN:

Q Good morning, Mr. Echenrode. My name is Bruce Cahn. I'm an attorney representing 1st John 2:17, LLC. I believe you're aware of a lawsuit that Umatilla Electric Co-op has filed against 1st John, LLC. Is that correct?

A Yes.
Q Okay. And we are here today in a deposition in that lawsuit that UEC brought against 1st John. Is that your understanding?
A That's my understanding.
Q Okay. And just a little bit of background for yourself.
Have you had your deposition taken before?
A I have.
Q On how many occasions have you had your deposition taken?
A Probably about a half dozen to a dozen, maybe.
Q And were many of those in the context of a condemnation case?
A There were probably three or four in condemnation; others in liability issues; and several were on testimony before a regulatory agency.
Q Right. And, yes, and you've testified before regulatory agencies, as well, in your capacity, correct, professional capacity?
A I have, yes.
Q And that testimony in front of regulatory agencies is also under penalty of perjury, similar oath that you took a moment ago at the start of this deposition?
A I believe so.

"uh-huh" or "huh-uh," because it's very difficult for the court reporter to differentiate between those two.
Do you understand that?
A I do.
Q And it's also extremely important in this environment that you wait for me to complete my question before you begin answering and, likewise, I will extend the courtesy to you of trying to let you finish your answer before I begin my next question. That way, the court reporter will write down only what one person is saying at a time, rather than trying to write down overlapping statements.
Do you get that?
A Yes.
Q Okay. If you do not understand a question that I pose to you, please ask me to rephrase it. If you do not ask me to rephrase it and you answer the question, I, a judge, a jury, and anyone else who looks at this transcript is going to understand that you understood the question – or, actually, I should say, anyone who reads the transcript will assume that you understood the question at the time that you answered it.
Do you understand that?
A Yes.
Q Okay. Finally, the oath that you took is the same oath as if you were testifying live in a court of law and

Q Okay. And although you have had a lot of experience as a deponent, I do want to go over some ground rules at the beginning, so that we're on the same page, especially since this is remote.
And I didn't ask, but have you done a remote deposition before, as opposed to everyone in the same room type of deposition?
A Just – just one.
Q Okay. How recently was that?
A Two years, maybe.
Q Okay.
A Two years ago.
Q Right. So, obviously, as you may remember from that experience, the remote deposition is a little bit more challenging, and so it does require a little bit more focus on our part to make sure that we're keeping a clean record.
So, first and foremost, even though this is being recorded for the purposes of aiding in the transcription, it is not a video deposition, so I need you to answer verbally and audibly with your responses. That means no shaking of the head, no nodding the head to state your affirmance to a question.
It also means I need you to say "yes," if the answer is yes, "no," if the answer is no, rather than

has the same force and effect with respect to an oath in court as it would for your testimony today.
Do you understand that?
A Yes.
Q Okay. So a little bit of background for you. As I understand it, you have a bachelor's in electrical engineering from Ohio State. Is that correct?
A Yes.
Q And when did you receive that degree?
A 1985.
Q Okay. And you also have, as I understand it, a Master's of Business Administration from Oklahoma State University. Is that correct?
A Yes.
Q And when did you get your MBA from Oklahoma State?
A I plead 1992.
Q Between 1985 and 1992, just generally, what were you doing for professional work?
A I – I held two positions. The first with Schindler Elevators in Lucerne, Switzerland; and with Indian Electric Cooperative in Cleveland, Oklahoma, before returning to school.
Q What was the last one, again?
A Indian Electric Cooperative.
Q Okay. So Schindler Elevator was, obviously, an

elevator company; and Indian Electric sounds like it was a utility. Is that correct?
A That's correct.
Q And is that your first foray into the professional world of electrical utilities?
A Yes.
Q And how long were you with Indian Electric?
A I believe until 1990 -- I started in, I think, 1988 and I went to school, worked part time, and I believe I left in about 1993.
Q Okay. And you have been at Umatilla Electric Co-op for how long?
A Since 2016.
Q And you've been the --
What is the current role with UEC?
A My current role is general manager/CEO.
Q And when did you become the general manager/CEO of UEC?
A In 2016.
Q So 20 years into your tenure?
A I don't understand.
Q I'm sorry. Maybe I've gotten the dates wrong.
When did you start at UEC again?
A Maybe I -- I gave it wrong. 2013 is when I started at UEC --

Q How do you spell that, please?
A C-a-r-r-o-l-l.
Q Oh, Carroll.
A Carroll, right.
Q Sorry. Go ahead.
I'm sorry. Carroll, what was it?
A Electric Cooperative.
Q Okay. And how long were you with Carroll?
A I believe until 2006.
Q And where did you go in 2006?
A I went to Northeast Oklahoma Electric Cooperative from 2006 to 2011.
Q And then where were you between 2011 and 2013, when you started with UEC?
A I was with Oklahoma State Bank.
Q I'm sorry. Oklahoma State Bank?
A Correct.
Q Okay. And what was your position with Oklahoma State Bank?
A I was the COO.
Q And what were your responsibilities as COO of Oklahoma State Bank?
A I was responsible for the employees and the teller line; compliance with the various banking rules and regulations.

Q Okay.
A -- and I became the CEO in 2016.
Q Okay. Thank you. That's --
A Me or you, I apologize.
Q Not a problem. It's early. Okay.
And what was your initial position with UEC?
A I was the manager of engineering for the first three years.
Q Okay. And in your position as manager of engineering, were you responsible for land acquisition?
A That was one of my responsibilities, yes.
Q And what type of land acquisition were you involved in beginning in 2013?
A I would have been responsible for overseeing distribution, transmission, and acquisition -- easement acquisitions, as well as real property acquisitions per the cooperative.
Q Okay. Let me back up now a little bit.
After you got your MBA and left Indian Electric, from 1993 to 2013, that's about a 20-year period. Briefly, can you tell me what positions or what companies you worked for and what positions you had?
A Leaving Indian Electric, I became the manager of engineering services at Carroll Electric Cooperative in Berryville, Arkansas.

Q Did you do any underwriting or loan evaluation --
A No.
Q -- in that capacity?
A No.
Q So you didn't do anything where you were looking at value of property that might be considered as collateral for loans that the bank would be making?
A That's correct. I did not do any of that type of work.
Q Okay. In your time with Carroll Electric, did you do land acquisition?
A It was my responsibility to acquire distribution, transmissions, and real property for substations.
Q Okay. And what about your position with Northeast Oklahoma Electric Cooperative? What exactly was your position there?
A At Northeast, I was the general manager.
Q And as general manager, was one of your responsibilities land acquisition for utility lines that were part of the network?
A Not directly, but it was an overall responsibility, yes.
Q Okay. With respect to your position with Carroll and the land acquisition that you were involved with with Carroll Electric, did you work with the appraisers

directly with respect to valuing properties that Carroll Electric wished to acquire?
A Yes.
Q Okay. Did you have any classes in your MBA program on land valuation, appraisal, and anything associated with determining the value of property?
A No, I did not.
Q Okay. Have you ever had any professional courses in land valuation, appraisal methodology, or anything related to the land acquisition process?
A Not on valuation, no.
Q What have you had in connection with the land val -- land acquisition process with respect to formal training?
A I've had a class on negotiation in my graduate degree.
Q Negotiation of -- generally, or negotiating real property purchase agreements?
A In general.
Q Okay. And was there a day or a week that you talked about negotiating real property values?
A No, sir.
Q Okay. So that wasn't a focus in class, how do you value property?
A Correct. It was not.
Q Okay. So the experiences that you've had in terms of land acquisition are all in the field in your professional services position; correct?
A I generally don't value property. But I have no formal training, it is all in the field, as we would say.
Q Working with others who are the ones who are trained.
A Correct.
Q Okay. Do you, as a general practice, read the appraisal reports that are provided to you for the land acquisition -- for the land that you seek to acquire for the various entities that you work with?
A Yes.
Q Okay. And do you look at the comparable properties that are being considered and whether or not they are truly comparable?
A I review the appraisal forms and note the comparables, yes.
Q Okay. Do you -- particularly with respected to Umatilla Electric, have you looked at the case law or the legal principles that apply in condemnation cases to determining what works as a comp -- or, what is a valid comparable or not?
A I can't say that I have looked at the case law, no.
Q Okay. And have you taken business law or any legal classes?
A I have not.
Q So with respect to the controlling legal principles in condemnation and in property valuation, you would rely on lawyers?
A I'm sorry. I didn't understand.
Q So with respect to your understanding of the legal principles concerning condemnation and land valuation in Oregon, you would rely on the advice of lawyers, rather than your own experience; is that correct?
MR. EPLEY: Object to form.
Q BY MR. CAHN: You can answer.
A All right. I rely on professionals, be it legal or land use; and technical consultants, engineering consultants, for example.
Q Right. Right. So for all of the things that are associated with the land acquisition process, you rely on others to provide you with the standards, principles, legal guidelines, and the like, with respect to those issues?
A Yes.
Q And you had mentioned earlier that you had testified in three to four different condemnation cases. Were those all in the state of Oregon?
A None were in the state of Oregon.
Q Okay. Those were in -- condemnation actions involving your prior positions with Carroll Electric or Northeast Oklahoma Electric Co-op?
A Yes.
Q Okay. And those were -- in what state were those condemnation actions initiated?
A Arkansas, for Carroll Electric. And I don't recall -- I don't recall if I did one in Oklahoma with Northeast.
Q Okay. How many properties have you participated in the acquisition of through eminent domain?
A Bringing to court, or the filing of the -- filing of eminent domain?
Q I'll start with -- first, with the last question. How many cases have been filed on your behalf that you've been involved in -- if I say "your behalf," in your professional capacity with either Carroll, Northeast Oklahoma, or UEC?
A To -- bringing to trial, or just --
Q No. Just --
A Oh --
Q -- filing cases.
A Very good. Filing. Perhaps eight. Probably no more than a dozen.
Q And you mentioned earlier that there were a few that were brought in Arkansas when you worked for Carroll; correct?

A Yes.
Q How many do you think were filed in Arkansas?
A Probably six.
Q And I think you mentioned that you didn't remember if you testified when you worked for Northeast Oklahoma Electric Cooperative, but did you have any condemnation actions filed there?
A I don't recall, Mr. Cahn.
Q Okay. So that would be how many, then, have been filed since you took on your initial position with UEC?
A Three or four have been filed.
Q Okay. And then you raised a good point a moment ago. How many of those cases have gone to trial?
A Prior to this case -- I guess, have gone to trial, or have been resolved at trial?
Q Well, did trial start?
A Gotcha.
I believe three of them went to trial.
Q Were those the ones in -- via UEC, or did that include the cases that were brought in Arkansas?
A They were all brought in Arkansas.
Q Okay. So all the -- so six cases that you can recall being filed in Arkansas, and three of them went to trial?
A That's -- that sounds appropriate.
Q Okay. And of the three to four that you filed in Oregon on behalf of UEC, how many of those, besides this case, have gotten as far as trial?
A None have gotten to trial, not counting this particular case.
Q Did all of those cases reach resolution through either a mediation or a negotiated settlement?
A Yes.
Q Okay. And in those negotiated settlements, did UEC pay more than its initial appraisal for the properties?
A I don't recall.
MR. EPLEY: Object to form.
You can answer.
A I don't recall, Mr. Cahn.
Q BY MR. CAHN: "Cahn." Thank you.
A "Cahn." Sorry.
Q Not a worry.
And did any of those cases resolve for less than the appraised value that UEC provided?
A At UEC, I don't recall. At Carroll Electric, I believe they all settled for less than the appraised value. I know one in particular was.
Q Whose appraised value, Carroll Electric's appraised value or the property owner's appraised value?
A Carroll Electric's appraised value.
Q Was that because of some circumstance that arose that reduced the value?
A I don't believe a circumstance arose. I think, in the case that I recall, it was a declaration or decision by a judge, and he ruled for less than the landowner requested and I believe paid -- or ruled for the appraised value deposited with the courts.
Q Okay. So it was consistent with the appraisal that Carroll Electric had provided --
A Yes.
Q -- less than the property owner. Gotcha, okay.
In the cases that you've been deposed related to condemnation, did you provide an opinion of value or what you thought the property was worth?
A I have not.
Q Okay. Have you reached a conclusion or an opinion of value on your own, independent of the appraiser hired in this instance, as to the value of the 1st John property that you're seeking to acquire?
MR. EPLEY: And I will interject and object on privileged grounds.
To the extent the answer will rely on any information provided by Cable Huston or any attorneys, I would advise you not to provide that information in response to the question.
But to the extent that you have other knowledge, you can answer.
A I am not a professional appraisal -- appraiser of property. I rely on others to, you know, provide me valuations. I do negotiate on prices in order to reach a settlement.
Q BY MR. CAHN: And just as a general instruction, I should have mentioned this at the beginning. I am not asking you for anything that came from counsel. And what Counsel just stated should be true of any answer you give for me. I do not wish to invade any communications you've had with counsel.
To the degree I'm asking you a question, I only want your independent knowledge and not anything that you would have learned or gleaned from a conversation with counsel.
Do you understand that?
A Yes.
Q Okay. On the three to four condemnation cases that UEC has brought since you've been involved with UEC, has Cable Huston been the law firm that has represented UEC in those matters?
A Yes, I believe so.
Q And in each of those matters, did UEC or Cable Huston engage the appraiser to appraise the property?
A An appraiser was engaged. I don't know who engaged

the appraiser.
Q Okay. And the appraiser was Oregon Valuation Group, in the instance of the Tallmans; is that correct?
A In the case of Mr. Tallman, yes.
Q And that that -- the appraiser was Mr. Balfour; correct?
A Yes, as I recall, yes.
Q Have you met with Mr. Balfour?
A I don't believe I've ever met him, nor spoken on the phone.
Q Has Mr. Balfour -- was Mr. Balfour the appraiser on the other cases that UEC filed for condemnation action?
A I believe so.
Q Okay. So has Mr. Balfour been primarily the appraiser that has been hired for condemnation purposes by UEC in connection with land acquisition?
A For the few filings for condemnation and appraisals, Mr. Balfour, I believe, has done -- done them, yes.
Q Did you select Mr. Balfour as the appraiser for these condemnation actions?
A I supported his hiring.
Q Did you do any independent investigation as to Mr. Balfour's experience before you supported his hiring?
A I reviewed his CV and his past experience.
Q Did you consider any additional or other appraisers

A That is correct.
Q And let me ask, going back to personal, just so that I can orient myself, where do you reside? Where is your -- what city do you live in?
A I live in Hermiston.
Q You live in Hermiston. How far from Hermiston is Boardman?
A 20 miles.
Q Okay. How often do you come to Boardman and have -- how often do you come to Boardman on a regular basis?
A Once a month, perhaps. It tends to come in waves if there's meetings or not, but -- I would say once a month, but not once a week.
Q Okay. And UEC has an office in Boardman; correct?
A Yes, we do.
Q And you have an office, obviously, in Hermiston, I would imagine.
A Yes.
Q And elsewhere in the region, the service territory that's covered by UEC?
A I don't -- I don't understand -- understand the question.
Q Do you have other offices in the service territory covered by UEC?
A Yes. Or we rent or lease other facilities for office

for these engagements?
A I believe I would have. It's been six or seven years, I think, that Mr. Balfour has provided these services.
Q Was the first engagement with Mr. Balfour the Tallmans, or somebody else?
A For a previous project.
Q Okay. So going back to the Tallmans more specifically --
Oh, let me ask you this. Were you aware of the loop road that is planned for the Laurel Lane -- I don't want to call it area, but where the off-ramp is at Exit 165, are you aware of the existence of the City of Boardman, Morrow County, and ODOT's plan for a loop road in that area?
A I'm aware --
MR. EPLEY: Object to form.
Go ahead.
A I am aware of a planned road, and I believe part of it has been constructed. Whether it's been to the -- the plan or not, that, I can't speak to.
Q BY MR. CAHN: Okay. And the area that's been constructed, that's to the east of Laurel Lane; correct?
A That would be my understanding, yes.
Q And the Tallman property is to the west; correct?

space.
Q Okay. And as I understand it, UEC covers Morrow County, Umatilla County, and parts of Union County; correct?
A Portions of Morrow County; many parts of Umatilla County; and a small fraction of Union County, small portion of Union County.
Q Okay. And so, you're aware of the loop road. And when you come to Boardman, do you drive around and sort of have an orientation or an understanding of changes in construction and development that's occurring in the area?
MR. EPLEY: Object to form. Vague and ambiguous.
Q BY MR. CAHN: It is a little vague. I'm trying to get a sense of what your knowledge of Boardman is and the development that's occurring in Boardman.
A I'm familiar with the interchange at Laurel Lane and I have exited there and have traversed Laurel Lane on a half dozen occasions.
Q Okay. And my understanding is that UEC has been experiencing some significant growth in the last five or so years. Was that a fair statement?
A UEC has experienced load growth.
Q When you say "load growth," what do you mean?
A Kilowatt hours; new customers; facility improvements

and expansion.
Q And it's been significantly high in the last few years; correct?
MR. EPLEY: Object to form. Vague and ambiguous.
Q BY MR. CAHN: Well, for example, it took about 77 years for UEC to sell its first billion kilowatt hours; is that correct?
A I believe that's -- approximately seven decades, yes.
Q Okay. But in 2019, you provided almost 3 billion kilowatt hours just in the year 2019; correct?
A I can't speak to how much in 2019, but I -- the growth has been in -- to that order of magnitude.
Q Okay. What's driving the growth within the UEC service area?
A It comes from our industrial and irrigation account holders.
Q And when you say "industrial," is there any specific industries or entities that are driving that growth?
A They're just industrial, be it fruit processing and commercial, you know, investments.
Q Well, I don't know what a commercial investment is in the context of industries that are driving growth.
A Well, there's -- yeah. So there's fruit processing or further processing, and then there's commercial

based, but, generally, predominantly, it was from the individual ratepayers who request the capacity.
Q Okay. I want to break that down a second.
So, rates. Are there different rates for commercial versus residential users?
A There are. Yes.
Q Okay. And do you charge the commercial users a higher rate than the residential users?
A On a kilowatt-hour basis, the commercial industrial rates are generally lower on a per-kilowatt basis than residential.
Q Is there a basis under which the commercial rates are higher or that the commercial ratepayer pays more?
A There are occasions, if the commercial -- or any ratepayer inefficiently uses their energy or their connection, it could be, on a per-unit basis, higher than a residential account. They could be connected to a large service and not utilize it; it could be down for maintenance or employment or seasonal issues.
And so, in that regard, one could argue that they -- they have a higher per-unit cost.
Q But, barring those circumstances, the commercial user gets a lower -- generally, a lower kilowatt-hour cost than a residential user?
A Per unit kilowatt hour, yes.

investments or industrial investments in the ports and in other areas.
Q So, as I understand it, looking at the 2008 annual report, UEC reported that industrial customers made up 24.7 percent of its revenue; and in 2018, that number was up to 64.2 percent. Is that consistent with your understanding of the trajectory of growth relative to UEC's customers?
MR. EPLEY: Object to form. Compound.
Q BY MR. CAHN: You can answer.
A I believe it -- I believe our growth has demonstrated a percentage increase in the industrial-rate category.
Q When you say "percentage increase," you mean a significant growth in that particular area?
A An increase as you reported, yes.
Q So from 24 percent to 60-something percent?
A That would be fair, yes.
Q Okay. And this growth requires an increase in your infrastructure; is that correct?
A Yes, it does.
Q And who is paying for the increase in the infrastructure costs that are being expended to meet this growth?
A Generally, the -- those who create the demand or the load growth pay for the cost of it. Some of it is rate

Q Is that a volume discount because the commercial user is then utilizing significantly more energy, so it's ultimately paying more in terms of gross dollars?
A Our rates are determined from a cost-of-service study that evaluates the impact of those classes to the overall costs for the utility and attempts to recover the return necessary to pay those bills.
There's more infrastructure for the larger customers, generally, and so, therefore, the volume per unit does make up for a higher bill that helps compensate for that.
Q So what I'm trying to understand is, if the commercial user is paying a lower kilowatt-hour rate, how are they compensating UEC for the cost of the infrastructure through rates to get the transmission line to their facility?
MR. EPLEY: Object to form. Asked and answered.
Q BY MR. CAHN: Please answer.
A There are two general components to the infrastructure. One is the initial cost, which is requested from the developer to make that contribution, and then through rates or ongoing costs for maintenance and other bearing costs not covered from the infrastructure charge.

Q Okay. So -- and you had mentioned it, but the -- that it's paid for through rates and it's paid for through direct payments. How are the -- how are direct payments -- strike that.

With respect to this project involving the Tallman property, is any industrial user paying for the cost of the infrastructure improvements necessary to expand the line for their ability to receive electrical -- electricity through UEC?

A The project -- the infrastructure costs were -- were and are paid by the customers requesting the service.

Q And who was the customer requesting the service?

A Amazon Data Services.

Q Okay. So AWS, or Amazon World Service, requested the expansion; is that correct?

MR. EPLEY: Object. I believe that misstates testimony.

Q BY MR. CAHN: You can tell me if I'm incorrect. Did AWS request the expansion of the line?

A Amazon Data Services made a request for service. And as part of UEC's bylaws and policies, they're responsible for the infrastructure cost to make the connection.

Q Okay. So that includes the poles, the lines, the engineering, everything associated with this expansion is a direct cost that'll be passed along to the customer,

A I don't know. I assume the manager of engineering or the engineer would have done so.

Q Who was the manager of engineering for UEC on this project?

A Josh Lankford would have been the engineering manager.

Q Okay. Would you expect land acquisition costs to be included within the overall budget for the project?

A I think that would be reasonable. Yes.

Q And so, if it were and ADS approved it, that is something that ADS would be responsible for paying; correct?

MR. EPLEY: Object. Calls for a legal conclusion.

Q BY MR. CAHN: You can answer.

A We would have -- we would have expected the requester to reimburse Umatilla Electric for the cost to acquire -- reasonable land use costs.

Q Okay. And did the proposed budget that was approved by ADS include either contingencies or line items that were not definitive but that they would be responsible for regardless of what the cost would be?

A I believe they were offered a not-to-exceed agreement.

Q And do you know what the not-to-exceed amount was?

Amazon Data Services?

A I don't know about everything, but they are given a proposal of which they can accept or not accept, and that includes providing the service that they requested, very -- very much like for any residential, commercial, or irrigation account.

Q Were you -- did they -- were -- strike that.

Did UEC give Amazon Data Services, or ADS, a proposal for the cost of the infrastructure improvements that include the line that's going to go through the Tallman property?

A I believe they did.

Q And did they approve -- did that include a cost budget for the infrastructure improvements?

A Yes.

Q And did they approve the cost budget?

A Yes.

Q Did the cost budget include land acquisition costs?

A I don't know if it did or not. I just know the overall...

Q Did you review the budget proposal that was provided to Amazon Data Services?

A I did not.

Q Who prepared the budget proposal that was provided to ADS?

A I don't recall.

Q Do you recall seeing it?

A I -- yes, I would have -- I would have seen it upon execution.

Q And is that something that Mr. Lankford would have been responsible for?

A He would have put -- put the business terms together. I believe I would have executed it.

Q Okay.

MR. CAHN: And, Brian, just as a note for the court reporter and you, we're going to request a copy of the project proposal that was provided to ADS and executed by Mr. Echenrode. We have not received that in discovery.

MR. EPLEY: Well, you're welcome to make that request, and we can talk about it off record.

MR. CAHN: The request is made, and we can talk about it.

Q BY MR. CAHN: Okay. So that is helpful.

Has UEC engaged ADS in any conversations relating to the acquisition of the Tallman property?

A Not that I'm aware of. We would have reported the status whether the easements were acquired or not during the course of construction.

Q Okay. You haven't said to them, "Hey, we're in a

lawsuit and we've offered X and the Tallmans are requesting Y and we want your input on how to resolve this" –

A No.

Q -- "given that you're going to be the one -- you're going to be the one paying for the cost"?

MR. EPLEY: Object to form.

Q BY MR. CAHN: You've not had that conversation?

A No.

Q Okay. Scan down a second. UEC is going to – hold on a second. Sorry. The computer is slow when –

Let's look at – we're going to share screen and put on Exhibit 202.

(Deposition Exhibit No. 202 was presented.)

Q BY MR. CAHN: Okay. Mr. Echenrode, do you – sorry. Mr. Echenrode, do you recognize Exhibit 202?

A I do.

Q This is the easement that is being sought in this lawsuit; correct?

MR. CAHN: Kamille, keep it on. Thank you.

A Yes. That represents what I believe is to be the easement request from the Tallmans.

Q BY MR. CAHN: Okay. And I note that it does – Mr. Epley aptly described it yesterday as a stair step; it comes down, it makes a right turn, and then it makes another right turn, and yet a third right turn before it continues on to the right side of the page; is that correct?

MR. EPLEY: Object to form.

A There was a lot of right turns there, Mr. Cahn, so – I don't know if that's correct, but –

Q BY MR. CAHN: Okay. So, from top to bottom, starting at the top of the page, the transmission line appears to go down what looks to be a street. Is that correct?

A It heads south on property owned by Port of Morrow. It is not a street, to my knowledge.

Q Okay. But it's on Port of Morrow property. And then it makes a turn – going from north to south, it then makes a turn to the east, a right-angle turn to the east; correct?

A Yes.

Q And then, as it transverses the Tallman property, it then makes another right turn from the east to the south; correct?

A Yes.

Q And then it makes another right turn from the south back to the east; correct?

A I believe it's a left turn, but a right-angle turn.

Q Right-angle turn, correct. And that is a right angle, that is what I meant. Thank you.

And that means that there's one, two, three right-angle turns in this configuration of the easement; is that correct?

MR. EPLEY: Object to the form. Vague and ambiguous as to "the easement."

Q BY MR. CAHN: Within the easement area, which is the shaded area that covers the portion of the line that we've just been describing, there are two right turns – or two right-angle turns; and just outside of the easement area on the Port of Morrow property, there's a third right-angle turn; is that correct?

A There are – there are three poles on the easement, the Tallman easement, and there is a pole on – to the west of the Tallman property on the Port of Morrow.

Q Okay. And each of those right-angle turns, is there a different cost associated with a right-angle turn than lines that are running at a straight line, poles that are carrying the line straight versus making turns?

A Generally, angled structures cost more than what we call tangent structures or in-line structures.

Q Sorry, taking a note.

And what is the price difference, if you know, between a tangent or an in-line structure and an angled structure?

MR. EPLEY: Object to form. Vague and ambiguous.

Q BY MR. CAHN: What's the cost difference?

A It depends on the construction and materials, the size of the line. But, generally, it would be a mult- – a factor for a angled structure, depending on the degree of the angle, but it could be anywhere from two to multiple times the tangent structure.

Q Had the route continued south rather than making the right-angle turn that we see on Exhibit 202 and only made one right-angle turn on the southern side of the Morrow property, Morrow County property, would that have saved UEC money?

MR. EPLEY: Object to form.

A There are routes that cost more and less. That particular description, it would have reduced the cost by two angled structures and replaced it with a tangent structure cost.

Q BY MR. CAHN: Which would have been half to significantly less than the cost of the three – of the two additional angled structures; correct?

A Not necessarily –

MR. EPLEY: Object to form.

A Not necessarily. The Morrow County had proposed taller poles to accommodate their property, and so there would have been additional costs associated with your

analysis, Mr. Cahn.
Q BY MR. CAHN: Were you involved in conversations directly with Morrow County with respect to moving the line to the southern side of their property?
A I've had conversations with Morrow County commissioners regarding the ultimate route, but I don't recall conversations about moving the line.
Q Who did you speak with on the Morrow County board of commissioners with respect to the location of the line?
A I would have spoken with Jim Doherty, Don Russell, and Melissa Lindsay. They were the sitting county commissioners at the time.
Q And how many times did you speak with the county commissioners during the time that you were trying -- that you were setting up the route for the line expansion?
A There was just one conversation that I recall. Subsequent to the PUC filing, I -- I know Melissa Lindsay has reached out to me to seek a compromise of routing, and I recall a meeting that she had called to discuss that.
Q Okay. So let me break that down.
So, prior to the PUC filing, you had this larger meeting with the entire Morrow County board of commissioners?
MR. EPLEY: Objection.
A No.

MR. EPLEY: Misstates testimony.
A No. I -- I had individual telephone conversations --
Q BY MR. CAHN: Okay.
A -- with the three commissioners, separately, independently.
Q And what was your conversation with each of the commissioners?
A I --
MR. EPLEY: Objection. Vague.
Q BY MR. CAHN: Let me back up.
Why did you only -- why did you speak with them individually and not as a collective board?
A That was just what I chose to do. It was a -- I contacted them as representatives of the County to get their feedback and opinions of the routes and their use for the property.
Q And what did they tell you with respect to their opinions of the route and their use of the property?
A Generally, they were supportive of the need for the line and they recognized the impact on the county, and they also recognized the impact on the joining landowners.
Q Well, what do you mean by they recognized the impact on the county and adjoining landowners? What did they tell you with respect to the route and the impacts?
A They all sought to find a compromise that was good for the community.
Q Did that include working with UEC to avoid the stair-step easement that we're looking at, Exhibit 2, and have a single right angle on the southern side of the Morrow County property?
A I don't know if it included it. Those were -- those were discussions with the Tallmans and Morrow County to find a viable path to complete the route of the line.
Q Did you have conversations with Morrow County about that alternative to this easement configuration?
A What do you mean by that configuration?
Q 202. Did you have conversations with Morrow County, yourself, with respect to a configuration that was different than what's on Exhibit 202?
A I inquired of the commissioners individually their comments on this route or a route that was bordering the southern part of the Morrow County property.
Q And what did they tell you in terms of a route that bordered the southern portion of the Morrow County property?
A They were willing to --
MR. EPLEY: Object to form.
Q BY MR. CAHN: Go ahead.
A I think that they recognized the challenges. It was going to impact one or the other or both landowners, and they relied on UEC to select a route to move forward with.
Q You started to say "they were willing." What were they willing to do?
A They would consider an easement and we negotiated with the County for such an easement, but it was never executed.
Q Why was it -- was it a --
Were you involved in those negotiations?
A Yes.
Q Was there a written easement that was presented to Morrow County?
A Yes.
Q And why was it not executed?
A I don't know.
Q Did you do a cost analysis between what the cost of the line going through the easement that we see as Exhibit 202 was versus the cost of the line going through an easement on the southern side of the Morrow County property?
A I did not, no.
Q Did Mr. Lankford prepare a budget analysis of the two alternatives?
A I don't believe so.
Q Did anyone at UEC prepare a budget analysis to determine if there was a cost savings or not?

A I don't believe so, no.
Q So you don't know if the cost of the two right-angled posts or structures on the Tallman property in Exhibit 202 would be offset by any requirements of Morrow County in connection with running the easement on the southern side of the property; correct?
MR. EPLEY: Object to form.
A Umatilla Electric was attempting to acquire an easement to construct the line. And either easement/both easements were necessary to construct the line.
Q BY MR. CAHN: Well, my question to you is, you don't know if the cost of running the line on the southern side of the Morrow County property would have been more or less than the cost of running the line as configured on Exhibit 202; correct?
MR. EPLEY: Object to form.
A No. I did not do a cost analysis, to answer that question.
Q BY MR. CAHN: Okay. I'm looking for something really fast. Hold on a second. The problem is that the preview of these notes is not as big as I was hoping.
Ah, there it is.
MR. CAHN: Can you pull up Exhibit 223, please.
(Deposition Exhibit No. 223 was presented.)

more -- cost more or cost less than the preferred route?
A I don't recall.
Q Okay. I'm looking for a specific document. Give me one second.
MS. SIMONS: 208?
MR. CAHN: Yeah. Is it 208? Yes, 208. Thank you.
(Deposition Exhibit No. 208 was presented.)
Q BY MR. CAHN: So Exhibit 208 is a cost analysis of the -- the preferred, alternate, and Alternate 2 routes; is that correct?
A Yes. It appears to be so, yes.
Q Do you recognize this document from Toth Engineering?
A Yes. It's a PUC filing exhibit, I believe.
Q Right. And so the cost of the preferred route was 12 million -- the total cost was $12,410,000; correct?
A Yes.
Q And the cost of the Alternate Route 2 that went on the southern side of the BPA transmission line was 12,100,000; correct?
A Yes.
Q A little over $300,000 less than the preferred route. Correct?
A Yes.
Q And going back to Exhibit -- the line --

MR. CAHN: Let's blow that up a little bit.
(Complied.)
Q BY MR. CAHN: So, Mr. Echenrode, you can see, this is a Umatilla Electric Cooperative Toth drawing of the routes for the electric line that is the project that we're talking about. Do you see that?
A I see it, yes.
Q And there are a couple of different routes, based upon color coding in the diagram; is that correct?
A I see three colors outlining various routes: a preferred route, an Alternate Route 1, and an Alternate Route 2.
Q Right. And the preferred route is the route that has the stair-step line through the Tallman property that we just looked at in Exhibit 202; is that correct?
A Yes.
Q And the Alternate Route 2 is a route that goes on the southern side of the BPA line, is that correct, the BPA easement for its transmission lines; correct?
A It -- the alternate route continues west from the preferred route along the south side of the BPA transmission line before crossing under and then to the north side of the transmission line.
Q And what is your understanding as to whether or not that preferred route -- or that the Alternate Route 2 was

MR. CAHN: The exhibit with the line --
MS. SIMONS: 223?
MR. CAHN: Yeah, 223.
(Deposition Exhibit No. 223 was presented.)
Q BY MR. CAHN: And the Alternative Route 2 has only what looks, at least from this page, to be one, two -- maybe three right-angle structures, while the preferred route has -- has eight right-angle structures? Is that about right?
A That appears to be about correct, yes.
Q Okay. So your preferred route cost more, had more engineering, and had more angled routes or angled structures than the cheaper Alternative Route Number 2; correct?
MR. EPLEY: Object to form.
A The costs demonstrated were estimates. But the preferred route had more turns or angled structures and the estimate was at a higher cost.
Q BY MR. CAHN: Okay. And those turns, as you mentioned earlier, are anywhere from two to many more times the cost of the tangent or in-line structures that are necessary or would have been necessary on Alternate Route 2; correct?
MR. EPLEY: Objection. Object to form.
Q BY MR. CAHN: You can answer.

A The angled structures do cost more than tangent structures.
Q Okay. And Alternate Route 2 would have avoided taking the easement in its present configuration from the Tallmans; correct?
A Alternate 2 -- I don't know if it crosses the Tallmans' property, but it would not have crossed the Tallman property as the preferred route indicates.
Q Right. And it would not have caused any of the damages that the Tallmans are alleging in this case to their property because of the location of the property line; correct? Because of the location of the easement.
A It would have created damage -- potential damages to other landowners, but I can't speak --
Q Right.
A -- the damages that the Tallmans are speaking to.
Q But it would have traversed the existing BPA transmission line, so it would have been adjacent to what was already a utility easement; correct?
A The Alternate Route 2 was adjacent to an existing BPA -- a series of BPA transmission lines or utility corridor, as was the preferred route except for where we could not obtain easements.
Q And had -- even looking at the preferred route in this exhibit, 223, had you worked out a transaction with Morrow County, you would have, again, saved the cost of the right-angled structures and avoided any potential impacts to the Tallman property if you had moved the line to the southern side of the Morrow County property; correct?
MR. EPLEY: Object to form.
Q BY MR. CAHN: You can answer.
A That's a complicated question. Could I ask you to restate it?
Q Yeah. It's a simple question. Had you moved the -- had you kept the preferred route but moved the easement -- the line to the southern side of the Morrow County property, you would have saved the cost of the two right-angled structures and avoided any potential impacts or damages to the Tallman property; is that correct?
MR. EPLEY: Object to form.
A That is not correct.
Q BY MR. CAHN: Why is that not correct?
A There was still an easement necessary from the Tallmans to get from Laurel Lane west to the Morrow County property, regardless --
Q Well, correct. But on the southern side, again, adjacent to the BPA transmission line, not along the border between the Tallmans and Morrow County; correct?
A I -- I can't speak to if there's any Tallman property on Alternate Route 2.
Q I'm not talking about Alternate Route 2, Mr. Echenrode. I'm talking about looking at the preferred route, where the stair step is, had the -- had UEC taken the line further down the road to the Port of Morrow property, to the southern side of the Morrow County property, you would have avoided the costs of the two right-angled structures that we talked about earlier and any potential impacts or damages to the Tallman property caused by the current location of the easement.
MR. EPLEY: Again, object to form.
A You would replace one angled structure with another angled structure, all right. And, again, I believe the way the question was stated, there would still be an easement required from the Tallmans. I don't think it would have necessarily eliminated any damages that they're proposing or claiming.
Q BY MR. CAHN: What do you understand the Tallmans' damages to be as a result of the current configuration of the easement that we looked at in Exhibit 202?
A I don't know what their damages are being claimed.
Q Have you asked them?
A I have not.
Q You had numerous conversations with the Tallmans and Jonathan Tallman in the 2020/2021 time frame; correct?
A Yes.
Q And in these conversations, did you discuss with them having the line go to the southern side of the Morrow County property?
A Initial discussions were to route the -- the preferred route straight west and then north along the southern portion of Morrow County property, yes.
Q And were the Tallmans in favor of you routing the line to the southern side of the Morrow County property and then going due west?
MR. EPLEY: Object to form. It's vague and ambiguous.
A I would say that there were a number of conversations trying to cross the Tallman property because of existing easements we had already secured, including crossing the property at an angle or in another route.
The majority of discussions were regarding the preferred route as shown here or a route that included an easement necessary from Morrow County.
Those were the essential limitations of the discussions.
Q BY MR. CAHN: And did they express to you a preference for having the UEC negotiate the easement with Morrow County versus the preferred route as it's listed here or noted here?

A Yes.
MR. EPLEY: Object to form.
Q BY MR. CAHN: And so they expressed a clear preference to putting the property -- the easement on the southern side of the Morrow County property and then connecting to an easement going east to west on their property where they -- where it's located on the preferred route; correct?
A No.
Q They did not express that?
A They expressed the route as shown as preferred route, in my discussions with Terry Tallman.
Q In your discussions with Terry Tallman, he said he did not want you to go on the southern side of Morrow County's property?
A He did not want to impact Morrow County and would prefer to go around.
Q Go around in what way?
A Go around as demonstrated in the preferred route with the stair step.
Q Did you have any conversation with Jonathan Tallman about this issue?
A No.
Q Okay. You never spoke with Jonathan Tallman about a preference to go around the Morrow County property and

board of commissioners. And those conversations were before the PUC filing; is that correct?
A Yes, I believe that's correct.
Q Okay. And then you said that there was one subsequent conversation that you had with Lindsay --
And I don't remember her last name.
A I believe it's Melissa Lindsay.
Q Melissa Lindsay, that's right.
-- with Ms. Lindsay subsequent to the filing; is that correct?
A Yes.
Q And when was the conversation -- the subsequent conversation with Ms. Lindsay?
A I don't -- I don't recall when that was, you know --
Q After --
A After the filing with the PUC.
Q After the filing with PUC.
Was it after your filing of the lawsuit against the Tallmans?
A No, I don't believe so.
Q Okay. Do you know when you filed the lawsuit against the Tallmans?
A I believe it was in 2021, perhaps.
Q Correct. Yes, it was in 2021.
So, before filing the lawsuit but after the

avoid the stair step?
A At the time, Jonathan Tallman was not a property owner. Terry and Cheryl Tallman were. And Mr. Tallman represented himself as the authority on this.
Q Did you have any written agreement with Mr. Tallman concerning the preferred route?
A I'm sorry. Did I have any written?
Q Yeah.
A No.
Q Okay. And, in fact, there are some emails or communications where Mr. Tallman -- sorry, Mr. Terry Tallman indicated that there were problems and complexities with respect to the preferred route that he wished to try to resolve with UEC; correct?
A I -- I don't recall. There could be.
MR. EPLEY: Bruce, we've been going for a little bit --
MR. CAHN: Oh, yeah. Let's take a break. It's been about an hour and 20 minutes, so let's take a comfort break. We can come back at 10:30.
MR. EPLEY: Okay.
(A recess was taken.)
Q BY MR. CAHN: So, Mr. Echenrode, before the break, you had mentioned that you had some conversations -- individual conversations with the various Morrow County

PUC filing, you had a conversation with Ms. Lindsay. And what did Ms. Lindsay say to you in that conversation?
A She asked if there was an opportunity to find a compromise with the routing across the Tallmans.
Q And did she express any particular alternative that she was suggesting?
A She invited the UEC, the Tallmans, and other general public members to a meeting that was held at the Port of Morrow to discuss alternatives.
I don't -- I would not characterize that she had a preferred alternative. I believe this was probably after the PUC certificate was issued, and so, therefore, the opportunities were rather limited to involve other people.
Q Did you engage -- did you have the meeting that you just described --
A Yes.
Q -- with the various stakeholders?
A Yes.
Q And was there any discussion in that meeting about modifying the route to go around the Tallman property, at least the stair-step portion of the Tallman property?
A Yes.
Q And was there a discussion of what it would entail to do, with respect to potentially modifying your filing with

the PUC?
A I believe it was more of a discussion of whether or not the County could offer an easement in an acceptable form to UEC that would reduce the impact to the Tallmans.
Q And from those discussions, was there a continuation of the negotiations of an easement that would be from Morrow County on the southern side of their property?
A Yes.
Q And is that the easement that we were talking about earlier that was negotiated and not signed?
A I --
MR. EPLEY: Object to form.
A I believe so. I believe Ms. -- Commissioner Lindsay asked if there was an opportunity for the Tallmans and UEC to consider crossing the County and would that be a benefit for the Tallmans and would UEC consider it, and both Mr. Tallman and UEC agreed to continue discussions, provided the County would execute an easement.
Q BY MR. CAHN: And which Mr. Tallman attended that meeting?
A Both Terry Tallman and his grandfather. Jonathan was not present.
Q Okay. So, in that meeting, Terry Tallman said he would consider or that he was in favor of a easement on the southern portion of the Morrow County property?

A I would not characterize it as that, Mr. Cahn. He was simply asked would they consider allowing the -- would he consider a solution that would be acceptable to cross the County while still impacting him that east/west portion, and he indicated he would consider that, as did UEC, and then we retired to a separate room to discuss what that would look like.
Q Okay. And was a written document the result of these conversations?
A I don't believe so.
Q Okay. Was there a written Morrow County easement that was presented to Morrow County to sign?
A I do believe Morrow County was presented an easement to cross their southern property and, as a result, you know, of these discussions.
MR. CAHN: Okay. I'm going to make a note for the record and for Mr. Epley that we will want a copy of the written easement that was presented to Morrow County and should have been provided to us in discovery.
Q BY MR. CAHN: Moving forward. And any modification of the route could have been presented through an amendment process with the PUC; is that correct?
MR. EPLEY: Objection. Calls for a legal conclusion.
Q BY MR. CAHN: Well, in your experience working with the PUC, the PUC will accept modifications to certificates after the fact; correct?
A I don't know.
Q Have you ever sought a modification of an existing PUC certificate?
A I have not.
Q Okay. Are you aware of the process for amending a PUC certificate?
A I am not.
Q Have you talked with -- actually, I can ask this. Have you talked with counsel about the potential for a modification of a PUC certificate or an amendment to process?
MR. EPLEY: Object. That calls for a privileged communication --
MR. CAHN: No, it doesn't. I can ask about the topics. I don't ask -- I cannot ask about the content. I am allowed, under Oregon law, to ask if he had a conversation with counsel about a process for amending a PUC certificate.
MR. EPLEY: You can ask that question.
But, Mr. Echenrode, I would advise you not to give anything in your answer that reveals legal advice provided by counsel.
Q BY MR. CAHN: And I do not want legal advice, I just want to know if you had the conversation.
A I don't recall having the conversation to modify the PUC certificate.
Q Okay. So as you sit here today as the general manager and CEO of Umatilla Electric Co-op, you do not know if there's a process available to amend PUC certificates after they've been issued?
A I do not.
Q Okay. And you didn't study what it would take to submit a modification request to go to change the route to avoid the stair step and to go around the Morrow County -- southern side of Morrow County property; correct?
A Did not --
MR. EPLEY: Object to form.
A I did not.
Q BY MR. CAHN: Okay. And did you follow up with Ms. Lindsay or anyone else at Morrow County about the easement that was submitted to them and where it was in the approval process?
A As I recall, that -- those discussions were handed off to, I believe, the district attorney or the county counsel, and I had one or more conversations with -- I believe it was Justin Nelson, but I could be wrong on the name.
Q Okay. And what were your conversations with

Mr. Nelson, or whomever it was who was the Morrow County counsel, concerning the easement?
A We were trying to discuss the business terms and the – of the easement so that it did not impact the County's use of the property.
Q Do you know what the County's use of the property is?
A I know they share and they intend to use it for, like, a – a yard, I guess, storing vehicles and such. I believe they wished to – and this was at the time – store gravel and other roadwork-type materials.
Q So, all things that could be done under the existing power lines if the easement went on the southern side of the property; correct?
MR. EPLEY: Object to form. Speculation.
A I don't know. There was discussions that they wanted to be able to use the property to its fullest intended purposes.
Q BY MR. CAHN: Right, for parking vehicles, for gravel storage as a yard; correct?
A Yes.
Q Okay. And they didn't share with you that they had any plans to develop improvements, structures on this property; correct?
A There were, as I recall, limitations to the lie, and I know UEC attempted to alleviate those concerns that he had. I believe it centered around stockpiling of graveling and road materials along the southern end of the property – southern edge or whatever of their property.
Q Right. Stockpiling road materials and gravel; not building a structure that was prohibited within the easement area.
A I don't recall anything regarding a structure.
Q Right. And in your once-a-month visits to Boardman and your six or so trips down Laurel Lane, have you ever seen any improvements on the Morrow County property?
A No.
Q No. It's still a vacant lot; right?
A To the best of my knowledge, yes.
Q Right. Okay. And so you had one to two conversations with Mr. Nelson, or somebody who was the county counsel, to discuss these deal points. And then where did it go? What happened?
A It's –
MR. EPLEY: Objection. I think that misstates prior testimony.
A It was not resolved.
Q BY MR. CAHN: Did you follow up with Mr. Nelson or Ms. Lindsay or anyone else with the County?
A My last conversations were with Mr. Nelson, and I don't recall where it went – I don't believe it ever went to the commissioners to discuss publicly to decide, so I don't know if they didn't or we didn't, but – I don't – I can't speak to their processes.
Q Who else at UEC was involved in the conversations with Morrow County about an easement on the southern edge of their property?
A At – during this time frame?
Q Yes.
A I believe there was just me.
Q Okay. So you didn't follow up and you didn't direct anyone else to follow up with the County to see what was going on with the easement after your last conversation with Mr. Nelson?
MR. EPLEY: Object to form. Misstates testimony.
A I can't say I didn't follow up. The conversation just never went further. The reason, whether you characterize it as a follow-up or not, I can't say, but I did not direct anyone else to have conversations with the County.
Q BY MR. CAHN: Okay. And Mr. Lankford and nobody else at UEC was involved in these meetings or conversations with the County concerning the potential change in the route?
A Across the County's property? No, I don't believe so.
Q Okay. Okay, let's shift gears for a quick – actually. I'm going to share screen with you. Hold on one second.
So, before the break, we were talking and you had mentioned some conversations or meetings that you had with Terry Tallman, and I asked if he ever expressed to you any complex – or concerns with the easement, in light of the complexities that it would have with respect to their use of the property.
Do you remember that scope of questioning right before the break?
A You asked if there was any damages, I believe. I don't recall anything about scope of – whatever you characterized.
Q Well, you mentioned that Mr. Tallman agreed that – with the property – with the easement going in the stair-step fashion. Do you remember saying that in your testimony?
A I remember Mr. Tallman sharing with me he would prefer to have it all on him than to impact the county.
Q And you're aware, though, that Mr. Tallman expressed to you concerns with the location of the easement with respect to the complexity that it would have with respect to the Laurel Lane loop road; correct?

MR. EPLEY: I'm going to interject and object to form. Particularly when we're talking about Mr. Tallman and we have Terry Tallman and Jonathan Tallman. I'm unclear on who we're talking about at this point.

MR. CAHN: That's a very fair point. Thank you, Mr. Epley.

Q BY MR. CAHN: Terry Tallman expressed to you concerns with the location coupled with the proposed loop road, did he not?

A I don't believe he expressed any concerns with the loop road. His inquiry to me was could they work together and not impact him with both a transmission easement and a road easement.

Q Right. That the loop road was already planned for the property, and he asked you to work your route so that it would not impact the existing loop road; correct?

MR. EPLEY: Object to form. Assumes facts.

A I don't believe the loop road was planned at this point. They were attempting to survey it, and nobody was -- nobody had put a plan for a loop road, it was a -- it was a concept or an idea for the IAMPs.

And it was UEC's surveying of the route and shared with the parties so that the road could align with the easement, to the best of my knowledge, was my understanding, Mr. Cahn.

Q BY MR. CAHN: Do you understand that the IAMP -- that under the IAMP, an ordinance was passed that set the route in its current location in 2011?

MR. EPLEY: Object to form.

A I'm not aware -- I'm not aware of setting it to a route. My understanding, it was an east and west wing of loop road, but I don't know that any resolution defined the exact location.

Q BY MR. CAHN: Have you had conversations with Morrow County and the City of Boardman with respect to the ordinance that set the loop road in its present location?

A No.

Q Okay. Were you part of the land use process when the IAMP was issued or effective relating to the location of the loop road?

A No.

Q Were you involved in any way with the 2011 ordinance with respect to the existence and location of the loop road?

A I was not employed by Umatilla Electric in 2011.

Q Correct. So --

A No.

Q Other than a conversation or an understanding that you have -- well, let me back up.

Where did you reach the understanding that there is no set location for the loop road?

A That would be my understanding based upon the -- those who were attempting to survey for the road were adjusting it.

This was a conversation, also, with landowners to the east of Morrow Road. It was a general concern that they didn't want to agree to a transmission route until they knew where the road was, and vice versa.

And those were all resolved, I believe, on the east side and, therefore, were respectively resolved by all parties, other than perhaps the Tallmans on the west side. But I can't speak to that. That's my understanding.

Q Okay. And your understanding comes from a conversation you had with some outside person?

A With Josh Lankford.

Q Okay. So Mr. Lankford told you that there's no set location for the loop road?

A I would not characterize it he said there was no set location; is that UEC was working with the -- the City and other agencies working to set the location so as to coordinate the routing of the road and the transmission line.

Q Okay. But you weren't part of any of those conversations, so you don't know if the conversation was as you just described or if the conversation was, "The loop road is here, you have to adjust your easement to go around it"; correct?

A I cannot speak to what was said at a meeting I wasn't -- I didn't attend or a conversation I didn't have.

Q Okay. So your knowledge is just second-, thirdhand.

A At best.

Q At best, okay.

A Regarding -- regarding loop road.

Q Okay. And Mr. Terry Tallman told you early on that these issues needed to be resolved before you locked in your easement; correct?

A I don't recall him saying it had to be resolved. I know it was a concern that was generally proposed, and Terry -- I don't recall a conversation where Terry was very specific about the road and placement, just that everybody work together and coordinate.

Q Okay. And work together and coordinate to make sure that the UEC line and the loop road did not negatively affect his property; correct?

A To minimize the impact --

Q Right.

A -- would be my characterization.

Q Okay. So let me ask you a couple of questions.

Initially, there was an offer for an option on the -- well, let me back up. Strike that.

UEC is placing a transmission line on property owned by the Tallmans; correct? Well, owned by 1st John, which is currently owned by Jonathan Tallman. Correct?

A UEC -- yeah -- could you -- could I ask you to repeat the question?

Q UEC is placing poles and a power line on property owned by 1st John 2:17, LLC, which is currently owned by Jonathan Tallman; correct?

A Yes. There are poles already on the property owned by 1st John.

Q Right. And three of those poles are --

Well, those three poles are affixed to the property; correct? They sit on the property.

A They -- they sit within the easement that we have requested, yes.

Q Well, yes. But on the property that is owned by 1st John.

A Yes.

Q Okay. And the power lines themselves run above the property that is owned by 1st John.

A Yes.

Q And 1st John is restricted in some things that it can do underneath those power lines; correct?

restrictions, yes.

Q Right. And the access is important. So if I did something that was valuable to me underneath those power lines but you needed to have access -- you, UEC, needed to have access in order to maintain or fix the line, it could go onto the easement and break, trample on, or impact what I'm doing underneath the line; right?

MR. EPLEY: Object to form.

Q BY MR. CAHN: You have priority over the uses, so that you can maintain and repair your line; correct?

MR. EPLEY: Again, object to form. Calls for a legal conclusion. Calls for speculation.

Q BY MR. CAHN: You can answer.

A I don't know who "you" are in your reference.

Q UEC.

A U -- an easement that we acquire, we generally outline the rights of clearing vegetation, fire hazards, restricting obstacles that would prevent us access to the line and maintaining the line, as well as ensuring that general safety rules are adhered to.

Q Right. So, underneath the line, if I planted very valuable apple trees and there was a need for UEC to come out and access the line and those apple trees were in the way, UEC could cut those apple trees down so it could access the line and repair it; correct?

A There are --

MR. EPLEY: Object to form. Calls for speculation.

Q BY MR. CAHN: You're aware of what can and cannot be done underneath power lines of UEC, that you're the general manager and CEO of; correct?

A I'm aware that we would seek to be able to use the easement as requested for the enjoyment of the line.

Q I'm not talking about easements or anything else, I'm talking about the line itself. Underneath your power line, if your power line is 30 feet up, I could not build a building to 29 feet, could I?

A No.

Q Right. So you've got three posts that take up, what, about a hundred square feet? More?

A I don't -- I don't know how much.

Q Okay. But they take up a significant amount of square footage.

MR. EPLEY: Object to form.

A They have a square-footage impact. I don't know to what level or whether it's significant or not.

Q BY MR. CAHN: And between those posts, there are restrictions on what a property owner can do underneath those power lines; correct?

A For safety purposes and access, there are

MR. EPLEY: Object to form.

A UEC would have the ability, under general terms of our easements, to remove any obstacle that prevented us from accessing the line or maintaining the line. Apple trees may not grow high enough to cause a problem and, therefore, may not be impacted.

The landowner other easement access might offer us an alternative path into the area that we were interested in.

Q BY MR. CAHN: But if they were in the way, you could remove them.

A I believe the easement rights would allow for that, yes.

Q And probably without having to pay damages; correct?

MR. EPLEY: Object to form. Calls for a legal conclusion. Calls for speculation.

Q BY MR. CAHN: Your understanding. You can answer.

A It's my understanding that if the easement was acquired and you planted the trees afterwards, you might not be compensated for that.

Q Right. So, in light of all that, why did UEC not acquire or attempt to acquire the property in fee simple?

A We generally do not acquire the property in fee simple. It is more economical and it affords us the necessary rights and privileges to construct the line and

utilize the line, yet still allow the landowner to utilize their property in the best way they see fit.
Q With the restrictions that you've just identified in terms of use; correct?
A That there would be restrictions as -- as negotiated in the easement, yes.
Q But if it's not negotiated and it's just being taken, it's whatever you put in the easement that you ask the court to assign.
A Yeah, I don't know, if it's taken through condemnation or eminent domain, what the restrictions might be. I think they would be as the court ordered.
Q And so, you choose to take property vis-a-vis an easement for your convenience, not because -- well, you choose to do so for your convenience at UEC; correct? That's a UEC choice.
A UEC acquires rights to construct the facilities necessary to serve our members and our members' loads. What we choose is probably no different or very -- very different than the access that BPA has across the Tallman property or other electrical infrastructure --
Q That's not the question, Mr. Echenrode. The question is --
MR. EPLEY: Mr. Cahn, can you please let Mr. Echenrode finish his answer.

property underneath its transmission line, including the property under the three posts that have no utility or usage to the property owner; correct?
MR. EPLEY: Object to form.
A We're offering fair compensation as determined by the courts for those rights.
Q BY MR. CAHN: So, again, that right includes three posts that the property owner has no ability to use that property of whatsoever; correct?
MR. EPLEY: Object to form.
A The poles are impacting the property, Mr. Cahn. I don't -- I don't understand your line of questioning.
Q BY MR. CAHN: I can't grow any crops on the ground underneath the poles, can I?
A Not to my knowledge, no.
Q I can't build a structure or an improvement under the poles, can I?
A I don't believe so.
Q Okay. And, yet, the property owner will pay the taxes on those poles; correct?
A The believe the landowner can file for an exemption because of those restrictions and has -- Mr. Terry Tallman has done so on other easements that have impacted his property.
Q And the property owner still pays taxes on the

Q BY MR. CAHN: So, as I was saying, Mr. Echenrode, UEC chose to acquire the easement, that's a UEC choice, versus fee simple property ownership for the transmission line route; correct?
A We elected to acquire easement rather than fee simple.
Q Okay. And that includes for the three footings that the property owner has no ability to use, because those poles are sitting on their property and there's nothing they can do with the area that the poles are sitting; correct?
A The easement allows us to set poles and other infrastructure under the terms of a negotiated easement.
Q And this is not a negotiated easement. This is a taken easement. So the taken easement, there's no negotiation and there's no use that can be made by the property owner on the property sitting underneath the poles; correct?
A I believe Umatilla Electric has attempted to negotiate with the landowner to take into consideration his needs and uses and offered fair compensation.
Q But that's -- regardless of whether you've attempted to or not, that's not what we're dealing with today. What we are dealing with today is UEC is filing a lawsuit to acquire an easement, not fee simple ownership, for the

portion of the line between the poles that are limited by your easement in terms of what uses can be accomplished or conducted under those power lines; correct?
MR. EPLEY: Object to form.
A The landowner has a right to identify to the County and for assessed values, which I believe are lower than the other uses, as Mr. Terry Tallman has done previously.
Q BY MR. CAHN: So, but let me be clear. UEC is not paying taxes -- property taxes for its easements over the Tallman property; correct?
A We are not paying property taxes for the easement across the Tallman property.
Q And UEC would pay property taxes if it acquired property in fee simple; correct?
MR. EPLEY: Object to form.
A I don't know, Mr. Cahn, whether or not UEC can acquire fee simple and provide the necessary land use requirements because of the parcels and such. I have -- I can't recall where I have acquired fee simple property for a transmission line.
Q BY MR. CAHN: You're aware that one of the challenges to the UEC transmission line that was submitted to the Land Use Board of Appeals was that the City of Boardman code required that only a property owner seek a permit for construction of improvements such as the transmission

line; correct?
A I know Mr. Tallman or the Tallmans objected to the UEC filing. I cannot speak to what the City's code does or does not allow.
Q Did you investigate the city code before you made the determination -- or, before you made the election to acquire an easement over the Tallman property, to determine whether the city code would allow UEC to seek a permit for its construction project?
A I did not research the city code, no, I did not.
Q Was that something Mr. Lankford was responsible for?
A I can't speak to that. I don't know.
Q Was there anybody that you tasked within UEC to investigate the city code to see what type of property ownership UEC required as part of its building permit application?
A I would have expected our attorneys would have reviewed the various land use requirements and advised us.
Q But nobody within UEC was the land use specialist who looked into that?
A Not to my knowledge, no.
Q Who else was involved in discussions and negotiations with the Tallmans, Terry Tallman, Jonathan Tallman, and 1st John, other than yourself?
A I don't know. I believe UEC used a consultant, initially. I was not brought into these, really, discussions until later; I think when the last four or five easements were not obtained.

So I don't know the individuals who participated through the chronological time frame of initial discussions and through -- up until I was involved.

Q So the original UEC consultant, who was that?
A I don't know. I know the design engineer was Toth & Associates, but I don't know if they were involved in the land use aspects.
Q What we call right-of-way acquisition. You don't know --

Is it "Toth" or "Toth"?

A It's "Toth." It's pronounced "Toth." It often is mispronounced as "Toth." We all have that challenge from time to time.
Q As you note, I called it "Toth" earlier, so I stand corrected.
A Understood.
Q So you don't recall if Toth was the right-of-way consultant who was tasked with acquiring properties along the line?
A I would assume so, but I can't say that I recall definitively.
Q Okay. But there were right-of-way consultants, either through Toth or somebody else, who was initially involved in land acquisition on behalf of UEC for this project; correct?
A Yes, I believe so.
Q Okay. And they may or may not have had conversations with the Tallmans; you're not sure if they did or who it was who might have had those conversations; correct?
A Correct.
Q Okay. And then you got involved when you were down to the last three or four easements that needed to be acquired?
A Yes, I would characterize it as the handful of easements remaining.
Q And how many were there that you got involved in?
A I believe there were four landowners and several of them owned multiple pieces of property impacted, such as the Tallmans. So I believe there's four landowners and five or six parcels.
Q Okay. And were you able to negotiate resolution of three of those landowners and all of the parcels that they owned?
A UEC was successful in negotiating with all the remaining landowners and across all the parcels, except for those impact -- the Tallmans --
Q Right.
A -- Terry and Cheryl; and ultimately, now, 1st John.
Q Okay. And so you got involved around what time frame with the Tallmans, Cheryl and Terry first?
A Probably in late '19, perhaps. Prior to the PUC filing.
Q Right. So in late 2019, and in fact -- I'm going to share screen for a quick second. Figure out how to do this.

(Deposition Exhibit No. 8 was presented.)

Q BY MR. CAHN: Okay, Mr. Echenrode, I believe, I'm hoping, I'm sharing screen on a document that was marked as Exhibit 8 yesterday in Jonathan Tallman's deposition, or the deposition of the 1st John 2:17 person most knowledgeable deposition yesterday.

And this is a letter from Terry Tallman -- Terry and Cheryl Tallman to you dated December 5, 2019. Do you see that?
A I can't see the exhibit mark or who signed it. I only see the top half of December 5th and --
Q Can you see the bottom?
A So I see Mr. Tallman's signature. I don't see the exhibit mark, if --
Q It isn't there, because Mr. Epley didn't have it marked in advance, we marked them as we went.

A All right. But I do see the document.
Q Yeah. And I'll represent to you that this was marked yesterday as Exhibit 8. And this was dated December 5, 2019, and it appears to have been received --
Is that a "Received" mark for UEC?
A It appears to be, yes.
Q -- on December 9, 2019, and it says "by KW."
Do you know who "KW" is?
A I believe that would be my assistant, Katrina Ward.
Q Does that look like Ms. Ward's initials?
A I think so.
Q Okay. And in this letter, Mr. Terry Tallman thanks you for a letter that you sent to him, and he notes that he appreciates your time in asking and answering questions; that they worked with several Toth Associates over the last ten months.
And then he goes on to say that "every time we met with the different Toth negotiators in the meetings things sort of" -- he expresses that he had to meet with different people at different times and it didn't go very far.
So is this around the time frame that you got involved in your discussions with the Tallmans, December time frame, 2019?
A It seems to be. It could have been 30 days earlier

Q BY MR. CAHN: Okay. And so that was something that you did approve of and allowed to be submitted to the Tallmans for their consideration, the proposed purchase and sale agreement.
A I supported drafting a purchase and sale agreement based upon the terms that were discussed. I was not party to that. I really wasn't involved at that particular time, Mr. Cahn. And so I knew that it was being discussed, and I believe it was offered.
Q And you mentioned that Mr. Lankford may have been involved. Was that a conversation that he was having with the Tallmans, that you --
A That -- I -- that, I do not know. I don't know if he had that delegated or not.
Q Okay. And do you know if he delegated within UEC any conversations with the Tallmans or negotiations with the Tallmans?
A I don't know.
Q Okay. After you became involved in November/December 2019, did you delegate responsibility for negotiations or discussions with the Tallmans to anybody else at UEC?
A I don't believe so.
Q Okay. So the only person who was having conversations with the Tallmans, up until the filing of the lawsuit, was yourself?

or more. I don't recall, Mr. Cahn.
Q There was a conversation, at one point, about acquiring the Tallman property by UEC; is that correct?
A Yes.
Q Was that a conversation that you were involved with?
A No.
Q Who was involved in that conversation?
A I learned of the Tallmans' offer to sell us the property from Josh Lankford. I don't know if he had a direct conversation.
Q Do you know who drafted a form of purchase and sale agreement to acquire the Tallman property --
A I --
Q -- by the UEC?
A I assume UEC legal counsel, but I do not know.
Q So UEC's legal counsel prepared a -- you believe prepared a purchase and sale agreement to acquire the Tallman property for a million-2-6-5?
A I --
MR. EPLEY: Objection. Object to form.
A I don't believe I ever saw the document. I just know it was being -- an offer was proposed by the Tallmans, and it probably took me some time to get comfortable with it, and then I said let's put it together and see if they would accept it.

MR. EPLEY: Object to form.
A Yeah, I don't believe that's an accurate state -- there could have been others who had conversations, I'm -- I just did not delegate.
Q BY MR. CAHN: Okay. Who do you think might have had a conversation with the Tallmans, other than yourself, during the 2019 to 2021 time frame, between when you got involved in these conversations and UEC filed its lawsuit?
A I have no idea who they would be. I could speculate that Mr. Lankford, just out of, you know, courtesy, responded to the Tallmans, but, you know, we could have had a service man talking to the Tallmans regarding service quality or outages or anything like that. That part, I just can't answer, Mr. Cahn.
Q Okay. I want to be very clear that I'm only asking about discussions regarding the land acquisition of some form of property interest in the Tallman property for the transmission line project.
So, to limit your world, I don't want to talk about service technicians to assist with power outages, I'm only focused on UEC representatives who spoke with the Tallmans concerning the acquisition of property interests for the transmission line project, okay?
A Thank you, sir. I don't believe anyone was speaking on behalf of Umatilla Electric, from this time frame on,

with the Tallmans, either Jonathan or Terry Tallman.
Q Okay. And –
A And, if I may. I believe there may have been a group meeting with others present, okay. But as far as speaking on behalf of Umatilla Electric, I don't believe there was anyone else.
Q Other than yourself, who would have been at meeting –
Who can you recall being at meetings with the Tallmans on behalf of Umatilla Electric?
A I recall a meeting, probably in 2020, simply because of the pandemic. And the Tallmans, both Terry and his father, requested to meet with Umatilla Electric. And I know Josh Lankford was present in the one meeting I recall.
Q Okay. So, so far, I've got a universe of yourself and Mr. Lankford talking with the Tallmans about land acquisition. Anyone else?
A Not that I'm aware of – I don't believe anyone else – well, I don't believe anyone else sat in any of those meetings that I recall.
Q Okay. Or phone conversations or...
A That I was a party to, I have no knowledge of.
Q Okay. Now, you mentioned that you looked at and approved the acquisition concept of the property from the Tallmans in fee simple; correct?
A I did not look at. I supported the general terms as they were discussed with me to be tendered to – to the Tallmans.
Q And those general terms included purchasing the property for $1,265,000?
A I –
MR. EPLEY: Object to form.
A Purchasing the property that was described. I don't recall the dollar amount.
MR. CAHN: Kamille, do we have the –
MS. SIMONS: 205.
MR. CAHN: 205. Thank you. Pull it up, please.
(Deposition Exhibit No. 205 was presented.)
Q BY MR. CAHN: So this is Exhibit 205.
MR. CAHN: If you can make that a little bigger, please.
(Complied.)
Q BY MR. CAHN: Do you recognize this document, Mr. Echenrode?
A Only as one of the exhibits. I was not party to it.
Q Okay. But do you recall seeing it sometime in November 2019?
A I don't believe –
Q Or –
A I don't believe I ever saw it. I don't – I never executed it. But I know it was being discussed and tendered.
Q Okay. But you didn't review a document to purchase property on behalf of UEC before it was sent out?
A I did not. Not this particular document.
Q Okay. And do you see under Section 2, the purchase price, $1,264,950? Do you see that?
A Yes.
Q Okay. Does that refresh your recollection of what UEC was willing to pay in connection with this potential proposed transaction?
A My understanding was there was a dollar per acre depending on how many acres -- or dollar per square foot, I'm sorry. And so I never did the math. So this...
Q Now, if you look at the Recital A, it's 10 acres plus 6.23 acres plus 11.88 acres; correct?
A That's what I see, yes.
Q So that's about 28 acres. Do you see that?
A I see the three numbers. I believe your math.
Q Okay. Do you have – and I invite you, it's – I compute 28 acres, 28.11 acres, using a calculator.
A Plus 6.23.
Q Correct.
A So 21, 27, so close – something above 28 acres.
Q Yeah. 28.11 is what I came up with.
A I'm not very good at blackboard math, Mr. Cahn.
Q Okay. Fair enough.
A All right?
Q And, but if I divide that – if I divided 1,264,950 by 28.11 acres, I get $45,000 an acre. Do you have any reason to dispute that?
MR. EPLEY: Object to form.
A Yeah, I understood it to be a dollar a square foot, and I couldn't tell you what it was per acre, but...
Q BY MR. CAHN: So you were willing to pay a dollar a square foot for the property?
MR. EPLEY: Object to form.
Q BY MR. CAHN: You, UEC. You as the general manager and CEO of UEC was willing to purchase the Tallman property for a dollar a square foot; correct?
A We tendered the offer. Almost all the agreements would have been subject to board approval. And, of course, there – I'm sure there's contingencies involved.
Q But it would have been your position, as the general manager and CEO, to purchase the property for a dollar a square foot?
A I would have recommended to the board to proceed with the purchase if the other contingencies were met, yes.

Q Right. So the dollar a square foot was something you felt was within at least a -- a reasonable value for the property?
MR. EPLEY: Object to form.
A As I understood it, Mr. Tallman wanted a dollar a square foot based upon another purchase we made and, therefore, I was willing to move forward with a purchase and sale agreement for his consideration.
Q BY MR. CAHN: At a dollar a square foot.
A At a dollar a square foot.
Q Okay. Thank you.
MR. EPLEY: Bruce, it's been about an hour since our last break. Is this a good stopping point?
MR. CAHN: Yeah. Let's take a break and we'll pause here.
(A recess was taken.)
Q BY MR. CAHN: Okay. So, Mr. Echenrode, you mentioned that you and possibly Mr. Lankford had conversations with Terry Tallman prior to the property being sold to 1st John; is that correct?
A Yes.
Q And did anyone other --
Well, first off, did you have any understanding or concern that Mr. Terry Tallman may not have had all of his capacity, in his conversations with you?
A I had no knowledge or awareness of that.
Q Did anyone tell you, prior to the sale of the property to 1st John, that Mr. Tallman was suffering from dementia?
A I don't recall anyone telling me that he was suffering from dementia.
Q Okay. And you had mentioned that Mr. Jonathan Tallman was not involved in any conversations with you until around the time that 1st John acquired the property; is that correct?
A There was an occasion that Mr. -- Jonathan Tallman was involved in a meeting with the family at The Farmer's Cup, the business, that included Terry Tallman, Cheryl Tallman, Jon Tallman, and the father of Terry Tallman. But he was generally not involved in the discussions of the property until he took ownership of the property.
Q Okay. But Derrin Tallman was in conversation with you prior to 1st John taking over possession of property; correct?
A I believe I had a phone call or two and, I think, two emails from Derrin. I don't recall whether it was before or after the property was transferred.
Q Okay. And in those conversations with Mr. Derrin Tallman, did he express any concerns to you concerning his father, Terry's capacity?
A I don't recall, no.
Q Have you dealt with anyone who has dementia or diminished capacity, in your experience?
A I can't say that I have, no.
Q No, okay. So if there were signs, you wouldn't have been trained or have experience to recognize them; correct?
A No, I wouldn't.
Q Okay. Let's take a quick look at Exhibit 206.
MR. CAHN: Kamille, thank you.
(Deposition Exhibit No. 206 was presented.)
MR. CAHN: And if you can make that a little bit bigger, please.
(Complied.)
Q BY MR. CAHN: So this appears to be a letter from you to Terry and Cheryl Tallman dated November 27, 2019. Do you see that?
A Yes.
Q And do you recognize this letter as something that you prepared or signed and wrote to the Tallmans?
A If I can see my signature at the bottom, but it would seem reasonable.
(Complied.)
A Yes. That's my signature.
Q Okay. Is this a letter that you personally wrote or had someone write for you?
A I believe that I wrote it, with input of the chain of events or the chronological order of events.
Q Got it. So who else had input on this letter?
A I believe Josh would have had -- Josh Lankford would have had feedback for me as to the proper order of -- the chronological order.
Q Okay. And we looked earlier at -- I think it was Exhibit 208 that said -- or, no, it wasn't 208. We looked earlier at a December letter from Mr. Tallman to you saying "thank you for your letter."
Do you believe that Mr. Tallman was referencing this Exhibit 206 as the letter that he received from you in his correspondence?
MR. EPLEY: Object to form. Lacks foundation.
Q BY MR. CAHN: To the degree that you -- was there any other letter that you wrote to Mr. Tallman, prior to his sending you a response letter on December 9 -- well, dated December 5th, 2019?
A Not that I recall.
Q Okay. And if you go up a little bit on, it says "Final Offer for Easement Acquisition." Do you see that?
A M-hm.

Q I'm sorry? Yes? Is that a "yes"?
A Yes. I'm sorry. Yes.
Q Not a worry. Just making sure that we get this correct for the court reporter.
And it says -- looking for it -- it says that there is an offer attached. It says, "Attached to this letter you will find our final offer for the easement terms."
This is a document we received from UEC; as you can see, at the bottom, it has a Bates Number UEC 278. But it is unclear to us what the offer was that was connected to this letter in the documents that were produced by UEC, so I was wondering if you could share with us what the offer was.
Back in November 2019, what was the final offer for the easement terms?
A The easement document would have had an offer amount which indicated compensation. I don't recall the dollar amount.
Q Do you know if the dollar amount was based upon an appraisal by Mr. Balfour?
A I don't believe so.
Q Okay. And let's take a quick look at Exhibit 207.
(Deposition Exhibit No. 207 was presented.)
Q BY MR. CAHN: Do you recognize Exhibit 207, "Memorandum of Easement Option Agreement"?
A That looks like a, you know, document we would have shared with various landowners; in this case, the Tallmans -- Terry and Cheryl Tallman.
Q Okay. And is there an amount of compensation that was included within the option?
A If an offer was made, it would have included it. I don't know if this was just the form of the document tendered to them for review and comment.
Q Okay. But you're not aware of what the compensation was that you were offering in November of 2019 to the Tallmans in their final -- in UEC's final offer?
A No, I'm sorry, I -- I don't recall.
Q Okay. Take a look at Exhibit 11. 211, sorry.
(Deposition Exhibit No. 211 was presented.)
Q BY MR. CAHN: Do you recognize Exhibit 211, Mr. Echenrode?
A Yes. That would have been an offer letter --
Q And it's dated -- it's dated July 14, 2022 -- I'm sorry, 2020; is that correct?
A That's when it's dated, yes.
Q Okay. And this is a utility line option and easement agreement. Do you see that?
A Yes.
Q And there's an option payment of $5,000 and easement payment of $45,000, other consideration of $60,000, and a thousand dollars a year extension payment. Do you see that?
A I do. Yes.
Q So the total is about $110,000, plus --
A Ah --
Q Is that right?
A I don't recall whether or not the option payment is deducted from the easement payment later on, but it's approximately -- adding those three numbers up, appears to be $110,000.
Q So a minimum of 105, maximum of 110,000.
A That seems reasonable.
Q And then with a -- and this was for an option that might be exercised at some point in time; and, if it needed to be extended, that it was a thousand dollars a year to extend the option; correct?
A That's what -- yes. I believe that's correct.
Q And what was the option that you were -- what was the option for?
A It was to acquire an easement for a -- for a transmission line across the property listed here.
Q Okay. And this was something that UEC was willing to pay to the Tallmans for the line; correct?
A This was an offer, yes.
Q Okay. Let's take a quick look at Exhibit 215. And we're going to compare it with 216. But let's start with 215.
(Deposition Exhibit No. 215 was presented.)
Q BY MR. CAHN: This is a letter from you dated June 1, 2021, to the Tallmans; correct? And you can go to the bottom to see your signature.
A Yes.
Q And in it, you say you've determined that it's necessary to obtain the easement and that, in accordance with ORS 35.346, "UEC offers to pay you $14,600 as just compensation and compensable damages for the enclosed 'Electric Utility Easement', which is supported by the enclosed appraisal."
Do you see that?
A I do.
Q Okay. This letter is dated June 1, 2021, and has your signature but has no enclosures. But if you look at Exhibit 216.
MR. CAHN: 216. 1-6.
(Document was presented.)
MR. CAHN: So, Kamille, while you're at it, we're going to go 216, 217, 218, and 222.
MS. SIMONS: Okay. I didn't realize I was muted.

This is 216.
MR. CAHN: No, it's not. That's 233.
MS. SIMONS: My screen stopped sharing. That's why.
MR. CAHN: Okay. So if you pull up 216, 217, 218, and 222, we'll go in that order.
MS. SIMONS: Okay. Sorry. My screen stopped sharing.
MR. CAHN: Oh, that's all right. No worries.
MS. SIMONS: Okay. So here's 216.
(Deposition Exhibit No. 216 was presented.)
MR. CAHN: Go up to the date, please.
(Complied.)
Q BY MR. CAHN: 216 is a day later than 215; it's dated June 2nd, 2021, instead of June 1st, 2021. And, otherwise, it looks to me to be the same letter, with the same language about ORS 35.346, the offer to pay of 14,600, et cetera.
Can you explain the difference between the two letters in terms of the dates and why the final letter went out on June 2nd rather than June 1st?
A No, other than June 1st may have been a draft and -- I don't -- I don't know that anything has changed in there. The generality of the offer based upon the appraisal was, I think, the purpose of the letter.
So I don't know if we didn't make it -- the mail on time, since it says "Certified." I don't know.
Q Okay. And so this one -- this letter, 216, includes a form of easement that you wished for the Tallmans to agree to and an appraisal from Mr. Balfour that said that, despite everything else that you've talked about, the value of the property is only 14,600 and that's what UEC is willing to pay; correct?
MR. EPLEY: Object to form.
A The appraisal was for $14,600 as -- as determined as just compensation for this -- this process.
Q BY MR. CAHN: And in it, Mr. Balfour concluded that the value of the property was 65 cents a square foot, rather than the dollar a square foot that you were willing to pay earlier; correct?
MR. EPLEY: Object to form.
A I don't recall Mr. Balfour's valuation details.
Q BY MR. CAHN: Are you aware that Mr. Balfour valued the property at less than a dollar a square foot?
A I don't recall. I know he valued the property before the taking and after the taking.
Q Are you aware that Mr. Balfour, even though you agreed with me earlier that there was no usage of the property owner for the property under the three posts, only valued the easement impact at 90 percent of ownership rather than 100 percent of ownership? Are you aware of that?
MR. EPLEY: Object to form.
A I don't understand the question.
Q BY MR. CAHN: So, instead of impacting the value of the property for the easement at 100 percent because you're putting three posts on the property and the property owner cannot use the property under the posts, Mr. Balfour did not conclude that it was fully impacted; rather, he concluded that those posts only impacted the property by 90 percent, rather than 100 percent. Were you aware of that?
MR. EPLEY: Object to form. Misstates the appraisal.
A I don't know the determination that Mr. Balfour used to set his value.
Q BY MR. CAHN: Would you agree -- do you agree with Mr. Balfour that those posts only impact the property by 90 percent, rather than 100 percent?
MR. EPLEY: Object to form.
A Again, I -- I don't understand where the 90 percent comes from, Mr. Cahn, nor the 100 percent. 100 percent, I assume you mean fee simple.
Q BY MR. CAHN: No. I mean if the property -- if the property owner cannot use the property in any way, shape, or form, would the property owner have -- would you agree that it's being 100 percent impacted, rather than 90 percent impacted?
MR. EPLEY: Object to form.
A I believe the easement's being negotiated up to this filing. The landowner had rights to use the property. And it was not 100 percent impacted.
Q BY MR. CAHN: So they have rights to use the property underneath the three posts as...?
A I guess he could drill a well. I have no idea about what -- how you're referring to "under the posts." I don't know what you --
Q So --
A -- how you -- the property channels underneath the posts, but I would expect Mr. Balfour to take that into consideration.
Q Would you allow somebody to undermine the posts that are carrying your transmission line by digging underneath them?
A I would not allow anyone to interfere with our enjoyment of the line and its purpose. But whether oil or minerals or water that landowner could utilize under that, I don't think we're -- we encumber that issue. I think you're splitting some hairs here.

MR. CAHN: So, Kamille, can you go in this document. It's Page 65 of Mr. Balfour's appraisal. It's got a UEC number of 78.

(Document was presented.)

MR. CAHN: There you go. Ah, that's 87.

MS. SIMONS: I have a bit of a lag. There we go.

MR. CAHN: Okay. Perfect.

Q BY MR. CAHN: Okay. So this is the summary page of Mr. Balfour's appraisal. And he concludes, if you note under "Fee Value slash SF," that the property is only worth 65 cents a square foot. Do you see that?

A Yes.

Q And -- oh, okay. Well, with respect to the parcels that -- or the easement area underneath the wires, he concludes that the impact of that easement is only 20 percent of the property owner's rights. Do you see that?

MR. EPLEY: Object to form.

A I see "20 percent" under the "Easement Impact."

Q BY MR. CAHN: Right. And that relates to the areas underneath the wires, not underneath the poles.

MR. EPLEY: Again, object to form. If you want to give him an opportunity to review this document and confirm the facts you're representing, that's one thing, but I'm going to object to form.

MR. CAHN: You can object to form.

MR. EPLEY: Summarize --

MR. CAHN: Mr. Epley, you can object to form, that's your right. What you're not allowed to do is give speaking objections or interfere with the deposition.

So, object to form. Thank you. And we can move forward.

Q BY MR. CAHN: So, looking at the paragraph that precedes the numbers, it says, "As...discussed, a 45,493-square-foot (Parcel 1) and a 68,306-square-foot (Parcel 2) perpetual easement and right of way is proposed on the subject. The acquisition area will obtain the subject's surface and aerial rights in the proposed acquisition area."

And then he does say the three poles to be constructed will essentially acquire all the property rights, so he values that at 100. I stand corrected.

But he values the easement impact on everything other than the three poles at 20 percent. Do you see that?

A I see a 20 percent easement impact, yes.

Q Okay. And that's an easement impact, even though, as you described earlier, the property owner can't exclude you from the property; can't do anything on the property that would impact or make it difficult for you to maintain your line; can't put anything under the line that could be a fire hazard; can't build up to -- from the ground up to just under the property line, can't do anything of that nature. Can't fence it out so that nobody can go in there, because that would exclude you from the easement.

All of those things you described earlier, those are restrictions on the easement area; correct?

A No.

MR. EPLEY: Object to form.

Q BY MR. CAHN: That is not --

A Those are not -- that is not correct. The landowner has a right to construct a fence, as long as he doesn't -- he or she doesn't prevent us from access, so it's not uncommon to put a gate in. So all those items that you listed are not entirely correct.

Q Okay. Taking a gate out, we can't put a building underneath the wires; correct?

MR. EPLEY: Object to form.

A I believe there are transmission easements that have structures underneath them that do not encumber the entire width and length of the easement and are not at such height that they pose a safety issue.

Q BY MR. CAHN: So I'm talking specific to this easement to this property. Can the Tallmans build a structure underneath the -- within the easement and underneath the power line that --

MR. EPLEY: Object to form.

Q BY MR. CAHN: -- that goes to the top of the easement -- or goes to the top of the -- just underneath the power line?

A They cannot create a safety hazard by building it as high as you imply.

I don't know Mr. Tallman's or your engineering skills; I would question mine from time to time. So, I'm sorry. It's a very broad question that I cannot answer. If you might propose a building, we would consider it, and give them ideas or suggestions.

Q As long as it doesn't impact your line. And if it does impact your line, you can take it out at no cost; correct?

MR. EPLEY: Object to form.

Q BY MR. CAHN: That was your testimony earlier. Is that correct?

A We will enforce an easement -- easement rights that we have with the landowner that does not allow to us provide service for the intended purpose of the easement.

Q Right. And so that, do you agree with Mr. Balfour that putting these wires over the Tallman property is only a 20 percent impact, versus anything greater?

MR. EPLEY: Object to form.

A I have acknowledged Mr. Balfour's appraisal and have used that in our offering to the Tallmans in this situation. I have no knowledge of whether it's worth 20 percent more or less.
Q BY MR. CAHN: Okay. So you have no knowledge as to whether or not Mr. Balfour's appraisal is correct, you're just utilizing it in the negotiations with the Tallmans.
MR. EPLEY: Objection. Object to form.
A I have engaged a professional who's licensed and skilled in the valuation of property and, much like other professionals in engineering, accounting, and legal professions, I have taken their findings.
Q BY MR. CAHN: But you don't know, based on your knowledge and your experience in land acquisition, if this is an accurate reflection of the impact of the easement on the Tallmans' remaining rights; correct?
MR. EPLEY: Object to form.
A I do not know.
Q BY MR. CAHN: Okay. And you don't know if this is an accurate reflection of the value of the Tallman property; correct?
MR. EPLEY: Object to form.
A I'm not qualified to make that determination.
Q BY MR. CAHN: Okay. Let's take a quick look at Exhibit 217.

(Deposition Exhibit No. 217 was presented.)
Q BY MR. CAHN: So Exhibit 217 is an email from Jonathan Tallman to you, Robert Echenrode, dated July 2nd, 2021. Do you see that?
A I do.
Q And do you recall receiving this email from Mr. Tallman?
A Other than reviewing it here, I don't recall it.
Q Okay. You sent the offer letter that we just looked at, Exhibit 216, to Cheryl and Terry Tallman; correct?
A I did.
Q At some point in time, you became aware that Jonathan Tallman was the actual -- well, that 1st John 2:17, LLC, was the actual owner of the property and not Terry and Cheryl Tallman any longer; correct?
A I -- I did -- I did learn or discover that 1st John 21 became the owner of the property.
Q Okay. Did you make a formal offer under ORS 35.346 to 1st John 2:17, LLC, to acquire the property?
MR. EPLEY: Object to form.
A At the time of the offer on June 2nd, the Tallmans owned the property and that was our -- and my understanding was our obligation to send it to the owner of record at that time.
Subsequently, 1st John became the owner. The exact timing of that, I don't know.
Q BY MR. CAHN: But it was prior to you filing the lawsuit, because you did not sue Cheryl and Terry Tallman; UEC did not sue Cheryl or Terry Tallman, UEC sued 1st John 2:17, LLC; correct?
A I believe the letter was sent as part of the filing to John -- to Terry and Cheryl Tallman. There was a requirement of a number of days that the offer had to be made and, subsequent, we learned -- UEC learned that 1st John owned the property.
And so I don't know the legal aspects of the timing and who was officially sued or not sued. I'd refer to counsel to answer that.
Q Okay. So are you aware of whether or not your lawsuit was filed against Cheryl and Terry Tallman?
A I don't recall the original filing, under whose name it was filed against.
Q Okay. That's fine. But you didn't make a subsequent statutory offer under ORS 35.346 to 1st John 2:17, LLC; is that correct?
MR. EPLEY: Object to form.
A I don't believe so.
Q BY MR. CAHN: I'm sorry. Could you repeat that?
A I don't believe we -- we did -- we made another offer directly to 1st John.

Q Okay. Thank you.
Now, did you continue having conversations with Mr. Tallman, Jonathan Tallman, in an effort to try and resolve this matter?
A There were conversations or emails, not many, where a proposal was made or articulated, and UEC did not move forward with -- with that.
His proposal, as I recall, during this time, was somewhat disjointed and had a number of contingencies that he was not able to resolve. I recall I -- he felt that he could obtain these easements from the County and the landowner to the west, I believe he refers to it here as Stiffler LLC, and it was all dependent on this and that and a number of configurations.
I encouraged him to obtain those easements for those rights that he's alleging or speculated he can accomplish and then we can talk, because, at this point, construction was becoming eminent, materials were being ordered, design was being finalized.
Q Okay. So this July 2nd proposal, as he calls it, "Proposal for Tallman property," was presented to you for your consideration; correct?
A Yes.
Q And then, if we take a look at Exhibit 218.
(Deposition Exhibit No. 218 was presented.)

Q BY MR. CAHN: This is a letter from you six days later; correct?
A And I -- looking at the date, yes, it appears so.
Q Okay. So, instead of encouraging him to go get easements and to work on those proposals, you write, "Accordingly, UEC respectfully rejects the two proposals in your July 2nd, 2021 email"; and then you go on to say, "As a matter of compromise, UEC is willing to pay a total all-inclusive settlement of 75,250," in exchange for execution of the easement, and that that offer will remain open for three days -- for a couple of days, and the letter was sent on July 8th, which was a Thursday, and then you had a intervening weekend of Saturday and Sunday, and so he had until Monday at 5 p.m. to accept or not and the option -- or the offer would be withdrawn -- would disappear. Correct?
MR. EPLEY: Object to form.
Q BY MR. CAHN: -- term you use.
MR. EPLEY: Object to form.
A I think the letter states, you know, UEC's intentions and it's -- it was dated on the 8th and an offer was made that expired at 5 p.m. on the 12th.
Q BY MR. CAHN: And no other offer was made to Mr. Tallman by UEC, that you're aware of, prior to the filing of the lawsuit?
A I don't believe so.
Q And Mr. Tallman has reached out to you on a couple of occasions to discuss trying to resolve this matter, has he not?
A I don't believe he has reached out to discuss this matter after this letter was sent.
Q Well, let's take a look at Exhibit 222.
(Deposition Exhibit No. 222 was presented.)
Q BY MR. CAHN: This is an email from you to Jonathan Tallman dated June 7, 2022. Do you see that?
A I see that.
Q And that was a year after -- about a year, 11 months, after you sent out your letter. And in your email you write, "Katrina shared with me your June 6, 2022 email regarding mediation."
Do you see that?
A I see that.
Q So Mr. Tallman reached out to you to discuss potentially mediating this matter, did he not?
A He reached out to Katrina asking for mediation, or to consider it. And I responded.
Q And you responded that you "wish to reiterate UEC's desire to reach a conclusive settlement on the proceedings between us and our path forward is with this goal in mind. Please have your representatives reach out to the Cable Huston firm."
Do you see that?
A Yes.
Q So you were willing to engage in a mediation, according to your email, in June of 2022?
A I was willing to discuss terms of a mediation and directed him to the Cable Huston law firm.
Q And did UEC enter into a mediation with the Tallmans, after it was requested in June of 2022?
A No, not to my knowledge.
Q Okay. You haven't participated in mediation with the Tallmans; correct?
A I have not.
Q And you have not authorized anybody else at UEC to participate in a mediation with the Tallmans; correct?
A I have not.
Q And you have not had any further conversations with Mr. Tallman in an effort to resolve this matter in any way, shape, or form since June 7, 2022; is that correct?
A Mr. Tallman had requested, subsequent to this date, to speak to the PUC board of directors. That would have been my only other communication. But I don't believe it was regarding this easement for those conversations.
Q Okay. So --
A I have spoken with Mr. Tallman at one or more annual meetings. Again, nothing discussing this resolution -- resolution of the lawsuit or easement.
Q Right. Even though he reached out to you to do so, it hasn't happened; right?
A It has not happened.
Q Okay. And since you became -- you became -- I'm sorry. Go back to my notes.
I'm sorry. You became general manager and CEO of UEC in 2016; is that right?
A Correct.
Q And in 2016, UEC had about $12 million in net operating income; is that about right?
A It could be.
Q We can take a look at Exhibit 226.
(Deposition Exhibit No. 226 was presented.)
Q BY MR. CAHN: Let's pause right there. Do you recognize this cover sheet from the Oregon Public Utility Commission, 2016 Oregon utility statistics?
A I'm aware that UEC collects statistical information, but I can't say I'm familiar with this form.
Q Do you review the PUC's utility statistics every year?
A No.
Q In your position as CEO of one of the Oregon utilities that are regulated by the PUC, you don't review

their annual reports?
MR. EPLEY: Object to form.
A I – I can't say that I have, particularly 2016.
Q BY MR. CAHN: Do you have any reason to doubt the statistical information that is included within the Oregon Public Utility Commission annual utility statistics reports?
A I don't have any reason to refute what is recorded.
Q And, in fact, the information that's included in this report, we can scan down a little bit, it indicates a number of data relating to Oregon – sorry, scan up again, please – electric cooperatives in Oregon, and there's a list of seven, including UEC; correct?
A I see a number of them listed across the top that UEC is included.
Q Right. And these are all regulated entities such as UEC and are obligated to provide accurate data to the PUC that's compiled in these statistical reports; is that correct?
A I don't believe we're regulated by the PUC in this regard. I think the information is offered voluntarily. But I don't exactly know. I know we're not regulated by the PUC like other utilities.
Q Your rates and your line are subject to PUC approval; correct?

A No –
MR. EPLEY: Object to form. Calls for legal conclusion.
Q BY MR. CAHN: So your rates are not subject to PUC approval?
A They are not.
MR. EPLEY: Same objection.
Q BY MR. CAHN: And, okay. But PUC has to approve your utility transmission line projects?
A No.
MR. EPLEY: Objection. Calls for a legal conclusion.
Q BY MR. CAHN: So why did you go and apply for a certificate from the PUC for your utility line project?
A If UEC receives easements from all affected landowners regarding the transmission line, a PUC certificate is not necessary. If it does not receive all necessary easements, then, in order to be in a position for further legal action, a certificate of need is – must be established.
At the time of filing, we didn't have all the easements acquired, and so, therefore, the petition before the PUC for a certificate of convenience and necessity was filed.
Q And I guess my question is, what property owners required a certificate of necessity from the PUC in order for you to acquire their property, beyond the Tallmans?
MR. EPLEY: Object to form.
A I don't know that any property owners require a certificate. It is – it is a ruling by the PUC that the project, the electrical infrastructure, was deemed to be necessary to achieve the requirements of PUC – of UEC based upon serving our members' loads.
Q BY MR. CAHN: Okay. Let me rephrase the question.
Other than the Tallmans, were there any property owners who had not negotiated an easement with UEC that UEC needed a public – a certificate of public necessity in order to acquire the property through condemnation?
A I don't recall. There were, I believe, four landowners that I was involved in, and I simply don't recall the timing of when those easements were executed and the filing of the PUC was made.
Q Oh, I think I found it. Hold on a second, I may be able to help us, if I can... Yeah, that's it. Okay.
Let's take a quick look at – let me find the exhibit now, now that I found the document.
MR. CAHN: Kamille, which number is the resolution, the amended resolution?
MS. SIMONS: I'm looking now.

MR. CAHN: Yeah, if you can pull up the amended resolution from November 2019, that would be great.
MS. SIMONS: Oh, yeah. It's Exhibit 212, I believe.
(Deposition Exhibit No. 212 was presented.)
MR. CAHN: Yeah. There you go. Thank you.
Q BY MR. CAHN: Mr. Echenrode, Exhibit 212 is the "Amended Resolution 2019 11 006 Umatilla Electric Cooperative," "Amending resolution declaring public need to acquire easements for transmission and distribution system improvements and authorizing the acquisition of easements."
Do you see that?
A No. I'm trying to –
Q Well, I just read, basically, the bolded title at the top and all of the all-capitalized statement in the first paragraph.
A Okay.
Q Is that what this document is?
A Yes.
Q Are you familiar with this document?
A I'm familiar with it, yes.
Q Is this something that you reviewed prior to submission to the UEC board of directors?

A Yes, I would have reviewed it.
Q Okay. And was this presented at a meeting of the UEC board of directors that you attended?
A I believe so.
Q Okay. And it was approved and adopted, on the second page, by Bryan Wolfe, President of the board of directors. Do you see that?
A Coming up, yes.
Q Bryan Wolfe was the president of the board of directors in April 2021?
A Yes.
Q Is he currently the president of the board of directors?
A Yes.
Q Okay. And if you look on Page 3, there's a table of designated easement properties. Do you see that?
A I do.
Q And there's a list of 14 properties. There's a column that says "Map Taxlot Numbers," and then underneath it are a series of map tax lots; then next to it is "Zoning," next column is "Zoning"; and then the next column is "Easement Status." Do you see that?
A I do.
Q Okay. And under "Easement Status," all of the 14 listed properties says easement status "Acquired" except for one; correct?
A Correct.
Q Okay. Does this refresh your recollection as to whether or not, in November of 2019, there were any easements that needed to be acquired except for the easement identified at Line 10 of Page 3 of Exhibit 212?
MR. EPLEY: Object to the form of the question.
A You're presenting an amended document that was made effective on April 1st of 2021, which I believe is subsequent to the PUC's order, at which time Mr. Tallman's property was not acquired.
I think in the original resolution 2019 would have reflected -- or could have reflected other property owners where easements had not yet been acquired.
Q BY MR. CAHN: So does UEC have a prior resolution that lists the property owners in the same manner as Exhibit 212 with respect to the status of the acquisition?
A I would believe that was included in PUC filings for the application.
Q Okay. And as we sit here today, the only easement that you have not yet acquired for this line is the Tallmans'; correct?
A Correct.
Q And you haven't had any discussion with Mr. Tallman about acquiring it since he reached out to ask for a mediation in 2022 to you; correct?
A I don't recall having a conversation.
Q Subsequent to -- since then, okay. Thank you.
MR. CAHN: It's 12:30. We're going to take a short five-minute break to let me go over a couple of things, and then we can come back and see where we are statuswise.
MR. EPLEY: Okay.
THE WITNESS: Okay.
MR. CAHN: So, five minutes.
(A recess was taken.)
MR. CAHN: Okay. Thank you, Mr. Echenrode. I appreciate your time today. Those are the questions I have for now. And I thank you for your time.
THE WITNESS: Thank you.
MR. CAHN: Kamille, can you identify for the record all the exhibits we used in today's deposition that we're attaching for the deposition transcript?
MS. SIMONS: 202, 232, 205, 206, 207, 211, 215, 216, 217, 218, 222, 212 -- and what was the last -- what was the resolution?
MR. EPLEY: That was 212.
MR. CAHN: That was 212.
MS. SIMONS: Okay. Got it.
MR. CAHN: Great.

(DEPOSITION ADJOURNED AT 12:35 P.M.)
(SIGNATURE RESERVED.)
* * *

CERTIFICATE

I, Kim Nerheim, an Oregon Certified Shorthand Reporter and a Washington Certified Court Reporter, hereby certify that said witness appeared before me by videoconference at the time and place set forth in the caption hereof; that at said time and place I reported in stenotype all testimony adduced and other oral proceedings had in the foregoing matter; that thereafter my notes were transcribed through computer-aided transcription, under my direction; and that the foregoing pages constitute a full, true and accurate record of all such testimony adduced and oral proceedings had, and of the whole thereof.

Witness my hand at Portland, Oregon, this 28th day of February, 2024.



Kim Nerheim
Oregon CSR No. 90-0138
Expires 9/30/2026
Washington CCR No. 0003038
Expires 3/28/2024

City of Boardman

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CEIVED
FEB 24 2020

February 18, 2020

Mr. Robert Echenrode
General Manager
Umatilla Electric Cooperative
750 W. Elm
P.O. Box 1148
Hermiston, OR 97838

Dear Mr. Echenrode:

The Community Development Director has performed a review of the Umatilla Electric Cooperative's ("UEC") proposed route for construction of a 230 Kv transmission line. Based on the information provided, the proposed line will extend from the planned Hwy 730 Switchyard at the intersection of Hwy 730 and I-84 to the planned Olson Rd. Substation south of Boardman, total transmission line length is approximately 4.3 miles. This route would pass through two commercial areas of the City of Boardman which include the Service Center Sub District (SC) and General Industrial (GI).

Within the SC zone, transmission lines are permitted outright pursuant to City of Boardman Development Code Table 2.2.200.B §(2)(b). The SC Zone is designed to accommodate heavy commercial uses and light industrial uses along portions of the I-84 corridor.

Within the GI zone, transmission lines are permitted outright pursuant to City of Boardman Development Code Table 2.3.110.A §(2)(b). As outright permitted uses, no land use approval is required, and the City does not directly regulate this use.

Please let me know if you require any additional information.

Respectfully Submitted,

Karen Pettigrew

Karen Pettigrew
Boardman City Manager

Problematic -

City does Regulate this use.

IN THE CIRCUIT COURT OF THE STATE OF OREGON

FOR THE COUNTY OF MORROW

UMATILLA ELECTRIC COOPERATIVE, an Oregon cooperative corporation,

Plaintiff,

vs.

1ST JOHN 2:17, LLC, an Oregon limited liability company, successor-in-interest to Terry Tallman and Cheryl Tallman, as tenants by the entirety,

Defendant.

Case No. 21CV28343

VIDEOCONFERENCE DEPOSITION OF
JOSHUA LANKFORD

Taken on behalf of Defendant

* * *

BE IT REMEMBERED THAT, pursuant to the Oregon Rules of Civil Procedure, the deposition of JOSHUA LANKFORD was taken before KIM NERHEIM, a Certified Shorthand Reporter for Oregon and a Certified Court Reporter for Washington, on Wednesday, February 14, 2024, commencing at the hour of 8:58 a.m.; the witness responding to questions by videoconference; the questions being propounded and proceedings reported remotely via videoconference.

APPEARANCES:

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Attorney for Defendant
Appearing by videoconference.

ALSO PRESENT: Jonathan Tallman
Kamille Simons

* * *

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(Exhibits delivered with transcripts.)

* * *

THE REPORTER: Good morning. This deposition is being conducted by videoconference. It is being recorded on the Zoom cloud platform as an additional backup of the record and for disaster preparedness purposes only. The recording is the work product of LNS Court Reporting and will not be distributed to counsel, any party, or any other person.

I am an Oregon Certified Shorthand Reporter, Certificate Number 90-0138, which authorizes me to administer the oath remotely.

JOSHUA LANKFORD
having first been sworn by the Certified Shorthand Reporter, testified under oath as follows:

EXAMINATION

BY MR. CAHN:

Q Good morning, Mr. Lankford. My name is Bruce Cahn. I'm an attorney with Lane Powell representing 1st John 2:17, LLC, in the lawsuit that was brought by Umatilla Electric Co-op against 1st John.

Are you aware of that?

A I am.

Q Okay.

A And good morning, Mr. Cahn.

Q Good morning, as well.

Have you had your deposition taken before?

A No.

Q Okay. So this is your first time. And I assume, but I will not ask, that you've spoken with Counsel, who has given you a little bit of an understanding of what to expect today. But even if you had that conversation, I want to go over a couple of ground rules, so that we're all on the same page. Okay?

A Okay.

Q First and foremost, it's very important, especially since this is being done remotely, that you answer verbally and audibly, meaning not shaking your head or nodding your head or saying "uh-huh" or "huh-uh," when the answer would be "yes" or "no"; I need you to say "yes" or "no." That way, the court reporter can accurately record your answer to a question.

Do you understand that?

A Got it.

Q Okay. Likewise, it's very important that the court reporter only write down what one person is saying at a time. So it's very important that you let me finish my question before you begin answering, and, likewise, I will extend the courtesy to you of letting you finish your

answer before I proceed to my next question. Okay?
A Okay.
Q We can take a break at any time; however, if there is a question pending, you will need to answer the question before we can take a break. Do you understand that?
A I understand.
Q Finally and significantly -- well, a couple of things, actually.
First and foremost, the oath that you just took is the same oath that you would be taking if you were testifying live in a court of law and it has the same requirements and penalties associated with it as if you were testifying in court.
Do you understand that?
A I understand.
Q Okay. And, finally, if I ask a question that you do not understand, please ask me to rephrase it. If you don't ask me to rephrase it and you answer the question, I, a judge, a jury, or anyone else who's reviewing this transcript will assume that you understood the question at the time that you answered it.
So do you understand that that will be the ramification of an answer to a question without asking for clarification?
A I understand.

Q And how long have you worked with Umatilla Electric Cooperative?
A About 15 years.
Q And do you understand, if I use the term "UEC," that is a shorthand for "Umatilla Electric Cooperative"; correct?
A Correct.
Q Okay. So 15 years with UEC.
What was your initial role when you first hired with UEC?
A Distribution engineer.
Q And what is your current role?
A Vice President, Engineering and Operations.
Q And how long have you been the vice president of engineering and operations at UEC?
A Since March of 2020. Was that -- Yeah. COVID. It was a great month.
Q "Congratulations, you're promoted, and here's a computer. Go home, and we don't want to see you again."
A Yeah. "Here's a pandemic, deal with it." Yeah.
Q Right. How many roles, roughly, did you have with UEC from when you were first hired as the distribution engineer about 15 years to when you became vice president of engineering and operations in March 2020?
A Starting off as a distribution engineer, I worked

Q Okay. With those preliminaries out of the way, I want to get a little bit of background for you.
First and foremost, where are you right now?
A I'm in Boardman, Oregon, in our office.
Q Okay, here in Boardman. I could have come and taken the deposition live with you in the same room.
A Yeah.
Q And is that where you are generally -- is generally your workplace, or do you have an office elsewhere?
A I just moved down here, so this is my new office.
Q Okay. And how long have you been living in the Boardman -- in Boardman?
A I live -- currently, I live in Echo, Oregon.
Q Where is that?
A It is about 30 minutes east of here.
Q Okay. And prior to moving to -- to Echo, is it?
A M-hm.
Q "Yes"?
A Echo, yeah.
Q Okay. Prior to moving to Echo, where did you live?
A I lived in Hermiston, Oregon, prior to Echo.
Q And how long did you live in Hermiston?
A About two to three years.
Q Okay. And who is your current employer?
A Umatilla Electric Cooperative.

through all facets of the engineering department before I became the manager of engineering; and then after manager of engineering, to my current role, vice president.
Q And how long were you the manager of engineering?
A Probably five years, I would guess.
Q So from about 2015 to 2020 -- March 2020?
A That sounds about right.
Q And so, 15 years back, we're in 2024, so it's about 2009 is when you started with UEC?
A Yep.
Q And let me back up a very little bit. Can you tell me your educational experience?
A I've got a Bachelor of Science degree in electric engineering from Portland State University; I have a master's of engineering -- or a Master of Science degree in transmission and distribution engineering from Gonzaga University.
Q I'm sorry. Transmission and what engineering?
A Distribution.
Q Gotcha.
A And I'm a registered Professional Engineer in the state of Oregon.
Q And when did you get your licensure in Oregon?
A I think it was 2015, as well.
Q Okay. And when did you achieve your Bachelor of

Science in electrical engineering at PSU?
A 2009.
Q So after you got your Bachelor's of Science, your first job out of college was with UEC?
A More or less. There was a few weeks there where I was with another utility.
Q Which one?
A Bonneville Power Administration.
Q Okay. Did your -- strike that.
Can you describe for me generally what your role as manager of engineering was for the five-year period between 2015 to 2020?
A Yes. Generally, my role as manager of engineering was the oversight and management of project development and project execution for UEC.
I oversaw everything from day-to-day distribution, including residential member service, reliability, keeping the lights on; developing work plans for resilience to, again, keep the lights on; and then the development of -- not necessarily the development, but the oversight of capital projects to any member requesting service.
Q So you said oversight of capital projects for any member requesting service.
A M-hm.

Q What does that mean, in terms of a member who requests service? What does that mean, and then what does that trigger within the UEC obligations?
A Sure. There's -- I mentioned the day-to-day distribution. That's -- that's typically any member falling within a rate schedule outside of Schedule 6. Schedule 6 is industrial-sized loads. Members requesting industrial-size load service would more or less come to me and my direct reports, instead of the front-line stakers or design engineers.
Q Okay. So, as an example --
And we spoke yesterday with Mr. Echenrode, and he confirmed that there has been significant growth in the commercial industrial sector by a magnitude of three times, plus what's happening in the residential side.
So is that consistent with your understanding of where the growth at UEC is and the demand for energy through UEC?
MR. EPLEY: Object to form.
You can answer.
A If I understand correctly, you're asking if industrial commercial is growing three times faster than residential?
Q BY MR. CAHN: The capacity needs or requests for energy are coming at a much greater rate, possibly three times, maybe something different, than is happening on the residential side.
A Yeah. So, as my -- in my term as manager of engineering, we handle a lot of irrigation growth, commercial growth, and industrial growth, yes.
Q Okay. Irrigation is farmland?
A Mainly pumping load out of the river and then booster stations along the way.
Q Is that for another utility service that provides water?
A No.
Q Who is that for?
A The farmers requesting the service.
Q Okay. So farmers who are putting in their own irrigation lines, but then they need power to run their pumps?
A Yes.
Q Okay. And then you said "commercial." What defines commercial, in your vernacular?
A Port of Morrow loads outside of the data center loads, for example.
Q And do you put the data centers in a separate category?
A Yes. I would consider them industrial members.
Q And so they fall under Schedule 6 --

A Correct.
Q -- the data centers?
Of those three categories that you just identified -- irrigation, commercial, industrial -- which is growing at the fastest rate?
A Industrial.
Q Are commercial and irrigation rates subject to the Schedule 6 standards or whatever Schedule 6 dictates for rates?
A Schedule 6 rates schedule -- rate Schedule 6 is loads 10 megawatts or larger within a 12-month time frame, more or less.
Q So do irrigation needs meet the Schedule 6 minimum?
A The -- there is the potential for an irrigation load to meet those Schedule 6 criteria, yes.
Q There's a potential, but are you aware of anyone who is?
A No.
Q Okay. And then commercial Port of Morrow loads, are they -- do they meet the Schedule 6 limits?
MR. EPLEY: Object to form. Vague.
Q BY MR. CAHN: You can answer.
A You're asking --
Can you repeat the question, please?
Q Yeah. The Port of Morrow loads, does that meet the

criteria of 10 megawatts or more in a 12-month period that are set forth in Schedule 6?
A Within the Port of Morrow, there's hundreds of members and loads, but I do not believe there are any with -- any single load within the rate Schedule 6 criteria.
Q Okay. So the ones that are currently meeting the rate Schedule 6 criteria are the data centers.
A Yes.
Q Okay. And the data centers are driving the need for expansion of the existing transmission infrastructure at UEC; correct?
MR. EPLEY: Object to form.
Q BY MR. CAHN: You can answer.
A The data centers do require expansion of our transmission system.
Q Okay. And so, if, for example, going back to your earlier statement that as the manager you were responsible for oversight of capital projects from any member requesting service, if one of the data center members came to UEC and said, "I need a, you know, significant amount of power and I need a line that comes -- a transmission line that comes to our facility greater than or different than what is currently available to me," who would be responsible for paying for that transmission line

maximum capacity, et cetera, what is your next step? What is UEC's next step?
A Assuming those projects would require transmission, we would then begin to identify the necessary facilities to serve their needs.
Q Okay. And if the necessary facilities that are currently in place are insufficient, what would UEC do?
A We -- we first look to see what is in place and what capacity is available, and then we factor that into their -- what I call their forecast, how fast they build out. We determine if what we have available can meet their desired timelines for service.
Q And if it doesn't meet their desired timelines, what do you do?
A We look at the upgrades necessary to meet their full capacity desires.
Q Okay. And so, do you come up with a plan for what upgrades will be needed?
A We -- we look at a -- yes, more or less, look at the plan, a multifaceted plan.
Q Okay. Does that include, potentially, figuring out new routes for transmission lines to service this new facility?
A If transmission's required, we look at multiple routes, yes.

expansion?
A (No response.)
Q Well, let me back up.
Under that scenario where a data service -- data center comes to UEC and says, "I need an electrical service that is greater than what is currently available, so I am now requesting you, UEC, to provide that to me," what's the next step?
A As in -- as any member approaches UEC for service, we would work with that member on what their needs are: so, location; their service requirements; their peak demand or their peak load; and then a load forecast, how fast they're going to build out to that peak demand.
Q Okay. So Amazon Data Service, as an example, comes to you and says, "I'm building -- I've got three data centers here in Boardman and I've got a location for another two and I need -- I'm going to need a power source for those two data centers," and you will work with them on, "Okay, what's your plan, how big are they, what's your need, what's your capacity," et cetera; correct?
A Correct.
Q And then once you've done your due diligence to understand what their needs are, what their capacities are, when their peak loads are going to be, when their off-loads are going to be, when they expect to reach their

Q Okay. And that includes the possibility of acquiring property for the purpose of siting these expansion lines?
A Yes.
Q And before you begin that project, once you've identified what new facilities are necessary, what routes are available, do you do a budget for the new project?
A Yes. So we would put together a budget.
Q Okay. Is that a budget for what UEC's cost expenditure is going to be, or is that a budget to present to the member to let them know, "Here's what the cost of running power to your new project will cost" --
MR. EPLEY: Object to form.
Q BY MR. CAHN: -- "you" being the member.
MR. EPLEY: Object to form.
Q BY MR. CAHN: You can answer.
A Can you repeat the question, please?
Q Yeah. Is the budget a budget that is prepared for UEC's internal costs of paying for the transmission line? Or is it prepared to provide to the industrial member a budget for what the cost will be to them for expanding the lines for their new facilities?
MR. EPLEY: Object to form.
Q BY MR. CAHN: You can answer.
A If I understand your question correctly, the budget that we prepare in the preliminary investigations of

serving the project would be for the purposes of presenting that total budget to the member requesting service, so that they could determine whether or not they want to move forward with the project.
Q Okay. And in the case of this particular transmission line that UEC built on the Tallman -- in part on the Tallman property, was that transmission line part of an expansion project that was undertaken for the benefit of Amazon Data Service?
MR. EPLEY: Object to form.
A Was the -- repeating the question back, was the line across Tallmans to serve a requested service for Amazon Data Services?
Q Correct.
A Yes.
Q Yes. And was a budget presented to Amazon Data Services for its consideration before it began the project that required the transmission line to be installed to its new facility?
A Yes.
Q And is that a budget that they, Amazon Data Services, would be expected to pay for the cost of running the power lines to their new data center?
A Yes.
Q Is there an agreement between Amazon data center -- or Data Services, or ADS, and UEC for paying the cost of the project that included the transmission lines over the Tallman property?
A Yes.
Q Did you negotiate that agreement with ADS?
A No.
Q Who negotiated that agreement?
A That would have likely been Robert Echenrode.
Q Okay. And not to draw an objection from your counsel, but, yesterday, Mr. Echenrode said Mr. Lankford did that agreement.
MR. EPLEY: Objection. Misstates testimony.
Q BY MR. CAHN: And yet it doesn't. But go ahead.
Mr. Echenrode indicated that you were the one responsible for the ADS budget and cost reimbursement agreement. Is that correct?
A Is it correct that I negotiated the easement -- or, not the easement -- the agreement with ADS?
Q Yes.
A No.
Q Okay. Were you involved in the preparation or/and finalization of the agreement with ADS?
A My involvement would have been the assembly of the proposal and the facilities necessary to serve the data center.
Q Did you see the final proposal as it was presented to ADS?
A Yes.
Q What was the total cost of the construction of the transmission line that ADS was expected to pay?
A I do not recall.
Q Do you have access to the ADS cost-sharing agreement, or however -- whatever you call it that is the obligation of ADS to reimburse UEC for the cost of the transmission line?
A I would have access, yes.
Q It's there in the UEC files someplace?
A I suspect so, yes.
Q And did it include that ADS would be responsible for paying for the cost of land acquisition for the transmission line that was going to be built for its facility?
A I'm not sure if it specifically calls out land acquisition, but that would -- assume that would be part -- that would be part of the transmission estimate.
Q Okay. So somewhere, as you were preparing this budget proposal for ADS, you understood that there was going to be land acquisition that was going to be part of the overall project cost; correct?
A We assumed so, yes.
Q Okay. And did you undertake a process of determining a budget value of what the cost for land acquisition would be?
A Generally --
MR. EPLEY: Objection. Object to form.
Q BY MR. CAHN: Go ahead. Generally...
A Generally, how we would estimate for transmission projects would be a -- an estimate of length from the service point we would connect into to the delivery point for the member's request. Whatever that general length estimate may be, we usually just do a dollar-per-mile estimate for those transmission lines.
Q Without consideration of what the land underneath it will be?
A It's all within the total package of the transmission project. It includes permits, easements, materials, design, project management, and construction.
Q Okay. And what do you do to determine what you think will be the land-value component of that overall cost per mile of line?
A When we --
MR. EPLEY: Object to form.
A Can you repeat the question, please, Mr. Cahn?
Q BY MR. CAHN: Yes. What do you do to determine the land acquisition component of the overall cost per -- I

think you said mile, but you might have said feet-per-line, whatever the measure was?
MR. EPLEY: Same objection.
A We don't have a dollar-per-foot or a dollar-per-mile for the land acquisition piece of those estimates. They're all within the dollar-per-mile estimate that we use for the total transmission package.
Q BY MR. CAHN: Okay. So if the total per mile is a million dollars -- and I'm --
A Yes.
Q -- just guessing, so just using that as a round number -- and you know that equipment will be 250,000 of that, labor will be 100,000 of that, you know, some other component -- engineering and permits will be 100,000 of that, how do you figure out what is the land part of that?
MR. EPLEY: Object to form.
A We wouldn't know the granular detail of the estimate breakouts until 100 percent design is done on the final route of that project. Within that, we could then identify the total land use costs of that transmission package and its total.
Early on, we just use what we've known to be the average dollar-per-mile of a transmission line.
Q BY MR. CAHN: When you gave the final budget agreement to ADS for its signature and commitment to reimburse, was it based on those earlier preliminary estimates, or was it based on that final "we figured out the route and this is what we're going to do" budget?
A It would have been the preliminary estimate.
Q Okay. So does the preliminary estimate include contingencies or, you know, did you gross it up or did you gross it down when you were considering whether or not there may be variables within the cost per mile?
A So, to use your example of a million dollars a mile, assuming that's the estimate that was used for the transmission package, if it was a five-mile estimated long project, it would have been $5 million total package.
Q Okay. But if costs went up because material went up, because labor went up, because land acquisition costs went up, who would be responsible for paying those increased costs, after the preliminary budget was provided to ADS for its consideration and approval?
MR. EPLEY: Object to form.
Q BY MR. CAHN: You can answer.
A ADS would be responsible for any costs related to that project in particular.
Q Okay. So if the estimates and the budget were low or variables changed, ADS would still be responsible for the cost, regardless of whether it was under or over the preliminary budget.
A Correct.
MR. EPLEY: Object --
Q BY MR. CAHN: Thank you. Okay.
So, taking a quick look, then, at this particular project, were you involved in discussions with the Tallmans over the acquisition of an easement on their property?
A Indirectly, I was involved in some of the negotiations with the Tallmans on their property.
Q You qualified that with two words, "indirectly" and "some." What do you mean by "indirectly"?
A Early in the project, a member from my team would have been responsible for communicating with the Tallmans on -- or, I guess, working with the Tallmans on negotiating an easement across their property.
Later in the project, Mr. Echenrode, my boss, would have been responsible for being the point of contact on those communications.
Q Before Mr. Echenrode got involved, who on your team was communicating with the Tallmans?
A My team, at that time, would have been -- there would have been -- let's see. Wendy, Grant, maybe Lynn. I think they probably would have been the primary.
Q I'm sorry. Wendy Grant and who?
A Lynn, I believe.
Q And what's Lynn's last name?
A I don't know.
(Clarification requested by the reporter.)
Q Okay. So it's Wendy, Grant, and Lynn, but you don't -- do you have last names for any of those three individuals?
A Wendy Neal. Grant Bassett, he's with Toth & Associates; they're an engineering consulting firm. Lynn also would have been with Toth & Associates, but I cannot remember her last name.
Q Okay. So that actually helps me.
You viewed your outside consultants, Toth, as your team members?
A In some capacity, they're an extension of the UEC team, yes.
Q Have you worked with Toth before this project?
A Yes.
Q How long have you worked with Toth?
A Probably eight to ten years, I'm guessing.
Q Were they hired when Mr. Echenrode first was hired as the manager of engineering in 2015?
A They would have been -- they would have been after that, probably a year or two after Robert started at UEC.
Q And did Robert bring Toth to UEC as an outside consultant?

A I don't believe so. I think it was the general manager at the time, his decision.
Q Well, did you succeed Mr. Echenrode as the manager of engineering?
A Robert hired me as his replacement for the manager of engineering.
Q Right. He was the manager of engineering; you worked for him. He became general manager/CEO in 2016, and then he hired you to be his replacement as the manager of engineering?
A Yes.
Q Okay. Does that change your time frame a little bit? Because, Mr. Echenrode said he became general manager in 2016, not '15.
A Yeah, that would – that would change that timeline, yes.
Q Okay. So, going back to your earlier testimony, you think you became manager of engineering in 2016, when Mr. Echenrode was named manager of – general manager and CEO.
A Yes.
Q Okay.
A I thought –
Q And so, it's possible that Mr. Echenrode brought Toth to the attention of the general manager at the time, when

A She was a UEC employee.
Q And what memory do you have of any communications that Ms. Neal may have relayed to you about interactions with the Tallmans?
A Can you repeat the question, please?
Q Do you have any recollection of any communications with Ms. Neal where she summarized any interactions she had with the Tallmans?
A Wendy being a direct report of me, I would imagine she summarized communications with the Tallmans, but I can't recollect any of those summaries.
Q So you, as you sit here today, you don't know if she actually did communicate directly with the Tallmans?
A I assume she did.
Q You assume, but you don't have a direct memory of that?
A Not at this time.
Q And have you seen documentation, in your preparation for today's deposition or your preparation of any of the declarations that you've submitted in this case, that indicate that Ms. Neal communicated with the Tallmans?
A I do not recall if – I do not recall if Wendy –
Yes, Wendy would have been directly communicating with the Tallmans early on in the project.
(Jonathan Tallman joined the meeting.)

he was the manager of engineering, you're just not aware.
MR. EPLEY: Object to form. Calls for speculation.
A I'm not – I'm not sure who brought Toth & Associates to UEC directly.
Q BY MR. CAHN: Okay. But they were not – you weren't working with them when you were the distribution engineer or while you were working within the engineering department before you became manager of engineering.
A I was.
Q And when was that?
A I – I can't recall the exact year of when Toth started working for UEC.
Q Okay. But you think it's somewhere eight to ten years ago?
A That would be –
MR. EPLEY: Object to form.
Q BY MR. CAHN: You can answer.
A That would be my guess.
Q Okay. And you remember a time that you worked at UEC and Toth was not an outside consulting engineer for the company; correct?
A Correct.
Q Okay. And Wendy Neal, was she a UEC employee or a Toth employee?

Q BY MR. CAHN: Okay. And what would she have been communicating with the Tallmans about?
A The need for UEC to acquire an easement. Her role was land use specialist, I believe.
Q And do you know what Ms. Neal's training or background was that led her to become a UEC land use specialist?
A Wendy had prior experience in working with land use team, I believe associated with a tribe, I just can't remember which tribe.
Q And then Lynn and Grant were both Toth employees. What memory or what do you recall them telling you about interactions or communications with the Tallmans?
A I don't have a direct recollection of any of those summaries, either.
Q Now, you said "indirectly," and we've been exploring that. Did you have any direct communications with the Tallmans regarding the land acquisition needs?
A Yeah. I communicated with Jonathan a few different times around the easement itself, but nothing really negotiating-wise. I presented no offers.
Q What were the communications or discussions you had with Mr. Tallman – Jonathan Tallman concerning the easement?
A Jonathan reached out to me a few different times

through text, phone, email, more or less just trying to get ahold of somebody from UEC, I believe.
Q Okay. So he reached out to you. Did you communicate back to him?
A A couple of times, I did respond to him. But, primarily, I would just shift it back to Robert, since he was the point of contact on that -- that negotiation.
Q Okay. Were you involved in conversations with the City of Boardman concerning the location of a loop road at Laurel Lane?
A I was involved, yes.
Q What was your involvement with the City of Boardman and other governmental entities with respect to the installation of the loop road around Laurel Lane?
A Earlier in the project, I remember attending a meeting in the Port of Morrow. Later in the project, I would say we probably worked -- I -- me, personally, I worked at arm's length with the engineer involved on laying out the -- the project.
Q Do you have any understanding -- well, I'll back up.
Did you have any involvement or conversations with Morrow County with respect to siting the transmission line on the southern portion of the Morrow County property?
A I would have, yes.

Q You would have, or did you?
A I believe I did.
Q Okay. And what were your conversations with Morrow County concerning the location of the easement on the southern side of the Morrow County property?
A My discussions with Morrow County would have been on the feasibility of the design of the line that would cross their property. So it likely would have been with -- I'd guess the public works director for Morrow County and his intended use of their property there adjacent to the Tallmans.
Q Who was the public works director of Morrow County that you spoke with?
A Matt -- Matt Scrivner. Matt Scrivner.
Q And what did Mr. Scrivner tell you was the County's intended use of the property that was being considered for the location of the transmission line?
A If I remember correctly, it was storage, primarily.
Q Okay. And would the location of the transmission line on the southern side of the Morrow County property impact their ability to utilize the property for -- their property for storage?
A If I remember correctly, Matt had some concerns, yes.
Q What were Matt's concerns?
A He had intended on building some sort of shed, a sand shed on that property.
Q And do you know -- could you describe for me what you understand a sand shed to be?
A My guess -- Would you like me to guess?
Q Well, I'm assuming you had a conversation -- well, I shouldn't say "assume."
You've testified about a conversation with Mr. Scrivner. You've testified that Mr. Scrivner, as you understood it, said that the County had a use -- or an intended use to build a sand shed on the property. In that conversation, did you have an understanding of what a sand shed would be?
A I -- yes. I assumed it was a covered -- a structure with a roof.
Q How high?
A I don't recall.
Q Where within the couple of acres of the -- or however large the Morrow County property is, was the shed to be constructed?
A There was a couple different proposed structures on that property. The sand shed was in the southwest corner.
Q Are you aware that an easement was drafted and submitted to Morrow County for its consideration by UEC?
A Was I aware of an easement that was drafted?
Q Yes, and submitted to Morrow County for consideration.
A I recall UEC being in negotiations with the County, but I don't recall specifically an easement that was drafted.
Q Okay. Mr. Echenrode, yesterday, said that there was an easement that was drafted and sent to Morrow County but it was never executed.
Does that refresh your recollection as to whether or not a final agreement might have been presented to Morrow County?
MR. EPLEY: Object to form.
Q BY MR. CAHN: You can answer.
A Can you repeat the question, please?
Q Yeah. Based upon Mr. Echenrode's testimony yesterday that a formal easement agreement was prepared and submitted for consideration to Morrow County, does that refresh your recollection as to whether a formal easement document was prepared and submitted to Morrow County?
MR. EPLEY: Object to form.
A I -- I'm not sure what was formally submitted to Morrow County.
Q BY MR. CAHN: Okay. So you weren't in part of the negotiations with Morrow County, and you were not part of the group that prepared a final proposal to submit to Morrow County, then, is what I understand. Is that

correct?
MR. EPLEY: Objection. Misstates testimony.
Q BY MR. CAHN: You can tell me if I did or not. Is that correct?
A Can you please repeat it, Mr. Cahn?
Q Yes. My question to you was, based upon what you've just told me, you were not involved in the negotiations with Morrow County over a potential easement on the southern side of its property, nor in the preparation of a final easement form that was submitted for consideration to Morrow County. Is that correct?
MR. EPLEY: Objection. Misstates testimony.
A So, if I follow, there's two -- two questions. The first part of your question was if I was involved in the -- the negotiations. Is that correct?
Q BY MR. CAHN: That's the first part. And then the second part is, and the preparation of the final agreement that was submitted for consideration.
A Okay. I -- to the extent I was involved in negotiating, the first part of your question, it would have been the technical aspects of the design for how our transmission line would have crossed the County's property.
Q And -- Okay. Go on.
A The second -- to answer the second part of your question on the formal submittal of a proposal, I was not involved.
Q Okay. And what were the technical considerations that you came up with for allowing the transmission line to cross County property?
A While I was working with the public works director for the County, it would have been clearances for any proposed structures; setbacks for any safety standards; and then the general use of the property, so pole locations and how it may have impeded property access.
Q And did you come up with a plan for building the transmission line on the southern side of the property that would satisfy UEC in --
MR. EPLEY: Objection --
Q BY MR. CAHN: -- taking into consideration the issues raised by Mr. Scrivner?
MR. EPLEY: Object to form.
A If I remember correctly, me -- my team and the County did come up with a plan that could potentially work across the County's property, yes.
Q BY MR. CAHN: And was that a plan that was submitted in writing -- or, actually, let me back up.
Was that plan reduced to writing, either a drawing or a document, that described what the plan would entail?
A I do recall seeing some visualizations. I'm not sure to what extent it was put into a formal proposal.
Q Who prepared those visualizations?
A It would have been somebody from my team at UEC or an extension of our team at Toth & Associates, I believe.
Q And those visualizations and any final documentation that came from them, would those be available in the UEC files?
A I assume so.
Q Well, if you saw a document, is the standard protocol at UEC that, if a document's created for a project, it gets saved in a file?
MR. EPLEY: Object to form.
A Not -- I would -- probably not always. I can't attest to that. Especially since it wasn't a final document.
Q BY MR. CAHN: Was it an electronic drawing or a, you know, hand drawing?
A Well, if I did it, it would have been hand drawn. But it's likely digital. Sorry. Sorry to joke.
Q You said "likely digital." Do you recall seeing something that was a digital visualization of the easement line going over the southern side of the Morrow County property?
A I do remember seeing something, yes.
Q Okay. So if it was in electronic form, would it be in the electronic records of UEC?
A I'm not sure if it is.
Q Is it UEC's policy to maintain its electronic records?
MR. EPLEY: Object to form.
Q BY MR. CAHN: You can answer.
A I'm not sure if we have a policy of retention of any draft drawings.
Q But, regardless, your understanding, as I heard you, is that UEC did come up with a plan that would work on the Morrow County property. Is that correct?
A I believe me and the public -- or my team and the public works director came up with a plan that could have worked across the County property.
Q Okay. Could have worked for both UEC and the County; correct?
A Correct.
THE WITNESS: Mr. Cahn, would this be a good time for a break?
MR. CAHN: Yes, this is -- this is fine.
THE WITNESS: Okay.
MR. CAHN: We'll go off the record until 10:00.
THE WITNESS: Okay. Thank you.

(A recess was taken.)
Q BY MR. CAHN: You mentioned, a minute ago, that you had some communications with Jonathan Tallman. Did you have any communications directly with anyone else at the Tallman family?
A I don't believe so. Not directly.
Q And anyone indirectly?
A Yeah. I was present at a couple meetings that Mr. Terry Tallman was at.
Q Okay.
A And Terry's father, I can't remember his first name.
Q The meetings that you attended with Terry Tallman, were those as part of the meetings relating to the loop road?
A The IAMP meetings, I believe I was at one of those early on. And then there was some meetings with Robert and the Tallmans.
Q Did you participate in the meetings with Robert and the Tallmans?
A I was at a couple of them, yes.
Q And when you say "Robert," you mean Mr. Echenrode?
A "Echenrode," yes.
Q "Echenrode."
A Yeah.
Q And what do you recall about the meetings with Mr. Echenrode and Terry Tallman?
A Can – what's the question?
Q What do you recall about the meetings you attended with Mr. Echenrode and the Tallmans, specifically Terry Tallman?
A I don't specifically recall what those – what came of those meetings. Just that I was at them.
Q Did Mr. Terry Tallman express any concerns with the easement going across his property?
A I do recall Mr. Terry Tallman being concerned but willing to find a resolution.
Q Willing to find a resolution if his concerns could be resolved?
A I – I – I can't assume. I'm not sure.
Q Did he express what his concerns were in those meetings with yourself and Mr. Echenrode?
A Yeah. If I remember correctly, there was different concerns each meeting.
Q Okay. And how many meetings were there?
A I believe I was at one IAMP meeting, it was probably one of the first ones, if I remember right. And then I think I was at maybe two meetings with Mr. Echenrode and Mr. Terry Tallman.
Q And what were the different concerns that were raised in each of the meetings by Mr. Tallman?
A I'm sorry. I don't recall specifically what they were, at this time.
Q But you recall they were different at each meeting?
A I believe so, yes.
Q But you can't recall whether it was the location of the easement, the impact of the easement on the Laurel road loop road – Laurel Lane loop road, anything of that nature?
A I remember a cell phone tower, at one point; a concern around a cell phone tower lease. I believe that was one meeting. A blue sign on the freeway was a concern, at one point.
Yeah, I – scratching my brain here.
Q Even though you were meeting with the Tallmans for the purpose of trying to work out the location of the easement on their property, you can't recall, as you sit here today, what concerns they raised with UEC putting an easement on their property?
MR. EPLEY: Object to form.
A Off the top of my head, I – I can't recall the specifics of those meetings.
Q BY MR. CAHN: Let's take a look at Exhibit 202.
MR. CAHN: Kamille, if you can pull that up.
Q BY MR. CAHN: We're going to share screen so you can see it.
(Deposition Exhibit No. 202 was presented.)
Q Mr. Lankford, do you recognize Exhibit 202?
A Yes.
Q And this is the easement configuration that UEC is seeking to acquire in this lawsuit from the Tallmans; correct?
A I can't say if it's the exact exhibit, but it looks to be very similar.
Q Okay. Well, let's make sure that we are dealing with the exact exhibit.
MR. CAHN: So, can you pull up Exhibit 252, Kamille. That was the late add this morning.
MR. EPLEY: Bruce, did you circulate this?
MR. CAHN: This was your Exhibit X, Brian.
MR. EPLEY: Okay.
(Deposition Exhibit No. 252 was presented.)
Q BY MR. CAHN: Mr. Lankford, this is the Complaint in the lawsuit that was filed by Umatilla Electric Cooperative versus 1st John 2:17, LLC.
Have you seen this document before?
A I recognize it, yes.
Q Okay. Did you read this document before it was filed with the Morrow County Circuit Court?
A Yes. I would have.
Q Okay. And did you validate or confirm the easement

requirements that are identified in the Complaint before it was filed?
A Someone from my team would have, yes.
Q And who on your team do you recall confirming the easement requirements that were associated with the Complaint?
A I don't recall who it was.
Q And did you verify their work?
A Probably not.
Q Okay. Let's go to Page 10 of this document. This is a similar drawing to the one that was marked as Exhibit 202; is that correct?
A Yeah. Looks similar.
Q Okay. And this shows the easement that is being acquired by UEC on the Tallman property; correct?
A Correct.
Q And it makes a -- what we call a stair step around the Morrow County property to the north; is that right?
A I understand you're calling it a stair step, yes.
Q That was your counsel's description of it.
The transmission line is a series of hashes that comes from the top of the page, which is north; goes south to Port of Morrow 3300, there's a dot; it makes a right turn -- or a right-angle turn to the right side of the page; skirts along the Tallman property Lot 3302; then

the page; correct?
A I'm sorry, Mr. Cahn. I'm trying to follow you here. Can you please repeat it?
Q Yeah. So look at the transmission line that is going down Port of Morrow 3300. Do you see that?
A Yes.
Q And it goes halfway down the page, and there's a right-angle turn that goes onto the Tallman property 3302; correct?
A Correct.
Q If you had worked out -- if the easement agreement had been signed with Morrow County, the transmission line would not have made a right-angle turn on the Tallman property 3302, it would have continued down Port of Morrow property 3300 down to the southern end of the Morrow County property; correct?
MR. EPLEY: Object to form.
A The conceptual layout that my team and Morrow County worked out would have more or less followed that path you're describing.
Q BY MR. CAHN: The path I'm describing where it goes all the way to the bottom -- the southern bottom of the Morrow County property; correct?
A Yes.
Q Okay. And Then it would have made a single

makes another right-angle turn and goes south to near the end of the Morrow County property 3211 before it makes another right-angle turn and continues to what appears to be mostly the eastern direction along the Tallman property; and it goes around the cell tower that is on the south Tallman property.
Is that correct?
A I see the area that you're -- you're trying to describe, yes.
Q And my description is reasonably accurate to this exhibit. You don't have any changes or corrections, do you?
A No.
Q Okay. So we're all on the same page.
And, earlier, we were talking about the Port of Morrow -- I'm sorry, the Morrow County property around the plan that you and the public works director came up with that would be mutually satisfying for the project.
And that easement would have allowed UEC to continue taking the transmission line down Port of Morrow 3300 to the southern end of the Morrow County property; is that correct?
MR. EPLEY: Object to form.
Q BY MR. CAHN: Well, it goes halfway down the page. It would have continued all the way down to the bottom of

right-angle turn on the southern side of the Morrow County property and then connected with the existing transmission line at the bottom of the Tallman property 3205; correct?
A Correct.
Q Okay. And then it would have avoided this stair-step feature that is in the current easement configuration; correct?
A If we would have been able to cross the southern boundary of Morrow County's property, then, yes, this stair step, as you describe, would not be there.
Q Okay. And instead of what appeared to be three right-angle turns in the current configuration of the transmission line, there would only be one right-angle turn; correct?
A Within this screenshot, if you will, correct.
Q Okay. And Mr. Echenrode testified yesterday that right-angle turn apparatus is anywhere from two to multiple times more expensive than what he called in-line power -- in-line structures or tangent structures. Is that terminology you understand?
A I understand "tangent structure," yes.
Q And angled structures or right-angled structures?
A I -- I understand them to be dead ends, or PIs.
Q Okay. And "PI" meaning is the angled structures that we're looking at here?

A Right.
Q Okay. And are dead ends more expensive to construct than tangent or in-line structures?
A Generally, yes.
Q And when you say "generally," by how much?
MR. EPLEY: Object to form.
A I -- I can't put a number on it without detail design and estimations from our material providers.
Q BY MR. CAHN: Well, you're aware of the existing structure that is in place currently; correct?
A Correct.
Q And you're aware of the three dead-end or angled structures that were constructed on the Tallman property; correct?
A Correct.
Q So if you eliminated two of those and went to the southern side of the Morrow County property, how much of a cost savings would it have been to eliminate the need for two dead-end or angled structures?
MR. EPLEY: Object to form. Calls for speculation.
A I can't speak to an exact dollar amount.
Q BY MR. CAHN: Give me a general ballpark, based on your knowledge and experience and your position as the manager of engineering of UEC.

Q I'll represent to you that it was April of 2022.
A Okay. Thank you.
Q And so, given your position and your experience with respect to this project, what is your best understanding of the cost of angled structures or dead-end structures that were put on the -- that were implemented or installed -- let's use installed at the Tallman property?
MR. EPLEY: Objection. Object to form.
A I do not know the specifics of the cost related to these structures.
Q BY MR. CAHN: Can you give me what you think it is based upon your knowledge, experience, and involvement in the project?
A My involvement in this project was not pole-specific. It was at a very high managerial level.
Q Were you responsible for reviewing and approving budgets and actual costs on the project?
A For the total project, I was.
Q Okay. So can you give me, based upon your experience and your role approving the expenditures on the project, what the cost of angled poles will be?
MR. EPLEY: Object to form.
A I -- I apologize. I would not be able to distill down the cost of these poles out of the total project budget.

A Sure, I can -- I can give you a ballpark.
So, thinking out loud here, there would have to be consideration for any requirements of Morrow County that's going to dictate height of the poles. Height then translates to thickness of steel, circumference of pole, depth of foundation, all things factored in the cost of the line and those structures.
If I took out two, keeping one of the three, that one is likely going to be larger, so it probably -- of these three structures, I would estimate it's maybe 50 percent savings.
Q 50 percent savings.
A Of those three structures.
Q And in a cost perspective, is it about a million dollars a pole?
A I can't remember what these poles came out to be per pole.
Q Well, the construction was within the last two years; correct?
A Two to three years, yes.
Q Began in March of 2022?
A Construction?
Q Of the transmission line on the Tallman property.
A I -- I can't remember the exact month we were on the Tallman property.

Q BY MR. CAHN: Half a million dollars? Three-quarters of a million dollars?
A I prefer not to speculate.
Q Well, I don't view it as speculation if you have knowledge. I'm trying to put an understanding on what these costs are for the poles.
And given your knowledge and given your experience and given your involvement in the budget process for this, can you give me -- back up -- will you give me your best understanding of what the cost of the poles were on this project --
MR. EPLEY: Object to --
Q BY MR. CAHN: -- angled poles?
MR. EPLEY: Object to form.
A Can you please repeat the question, Mr. Cahn?
Q BY MR. CAHN: Yeah. I'm simply asking you to give me your best understanding of what the cost of angled poles were on the project.
MR. EPLEY: Object to form.
A I -- I don't have that information.
Q BY MR. CAHN: But you were the manager of engineering, you reviewed and approved budgets, and you reviewed and approved expenditures; you were involved in this overall project; you have a level of experience that I don't, because I've never done any of that.

So my question to you is, based upon all of that, can you give me a ballpark understanding of what the cost of the angled poles were on this project?
MR. EPLEY: Object to form.
A I could give you a ballpark range of poles I've had experience with, but maybe not specific to this project.
Q BY MR. CAHN: When was the last time you had involvement with the cost of poles that you would be relying on in your answer?
A Would have been probably 2017, I'm guessing.
Q So, as you sit here today in your position as manager of engineering, having involvement with budgets and project management and all of the things that you identified earlier as within the scope of your responsibility, you cannot tell us what the cost of angled poles were in 2022?
MR. EPLEY: Object to form.
A Specifically, no.
Q BY MR. CAHN: But your back-of-the-envelope understanding today is that, if you reduced the number of poles from three to one, it would have constituted at least a 50 percent savings?
A My guess was a 50 percent savings from the three poles to one.
Q And you did not do a cost budget analysis of running

Q Correct.
A It is -- it has not been our standard practice to purchase property in place of an easement.
Q How long has that standard practice been employed by UEC; to acquire easements, not fee simple property?
A Off the top of my head, I can't remember buying a -- a path such as this, in place of an easement, since I've been at UEC.
Q Okay. Have you ever had conversations with anyone at UEC as to why you attempt to acquire easements for your power lines rather than to purchase your route in fee simple?
A Can you repeat the question, please?
Q Have you had any discussions with anyone at UEC as to the rationale for their practice of only acquiring easements and not fee simple ownership of the property under its transmission line?
A Yeah, I can remember some -- some high-level discussions of why.
Q And when were those high-level discussions, when did they take place?
A I don't recall.
Q Who were you discussing this issue with at a high level?
A It likely would have been Robert.

the line to the southern side of the Morrow County property, did you?
A Not that I recall.
Q Did anyone ask you to do a cost analysis of taking the line to the southern side of the Morrow County property, while you were doing your negotiations or discussions with Mr. Scrivner?
A I don't recall putting any estimates together for the route across Morrow County as you described.
Q And if there was a change and regardless of the impact on the -- if it was a -- let me strike that.
If there was a change in the cost either to the -- making it a higher cost or a lower cost, that would have been borne by ADS, based on your earlier testimony; correct?
A Correct.
Q Now, do you know why UEC chose to acquire easement instead of fee simple ownership of the property that is identified on the page in front of you?
A Can you please rephrase the question?
Q Do you know why UEC chose to acquire an easement instead of fee simple ownership of the property it needs from the Tallmans for its transmission line?
A Are you asking why we decided to get the easement as shown here, instead of buying the property as shown here?

Q So sometime after 2013 when he joined the firm?
A Correct.
Q And what were those conversations with Mr. Echenrode? What did you discuss at a high-level nature?
A It's -- in general, I look to Mr. Echenrode, Robert, my boss, as a mentor. So the high-level conceptual discussions would have been just as you ask; why do we do easements and not purchase property, or -- or something along those lines, I'm guessing.
Q As you sit here today, I don't want you to guess about what you said, I want your memory or recollection of what was discussed as to why UEC only acquires easements and not fee simple ownership of its transmission line route.
A I -- I can't speak to the specifics that came out of those conversations. I don't remember exactly when those conversations happened.
Q But they were sometime after 2013 when Mr. Echenrode came to the firm.
A They would have been, yes.
Q Okay. And prior to Mr. Echenrode, when you started at UEC in 2009, did you have -- between 2009 and 2013, did you have -- when Mr. Echenrode came to the firm, did you have conversations with anyone in that period of time?
A Not that I recall.

Q And it was still, at that point in time, the standard practice of UEC to acquire only easements and not fee simple ownership of its transmission route?
A Correct.
Q Okay. So that was a practice that predated Mr. Echenrode?
A As far as I know, yes.
Q Were you involved in any decision to acquire only an easement from the Tallmans, rather than fee simple ownership?
A I was not.
Q Did you or anyone on your team look at the City of Boardman permitting requirements for projects such as this wire transmission line to determine whether or not you could get a permit as an easement holder rather than a fee simple owner?
A I assume somebody from my team reviewed all necessary requirements of any permits.
Q You're aware that there was a LUBA challenge to the permit that was granted to UEC, because UEC was not the record owner of the property as required under the City of Boardman code, to submit a permit request for the project; correct?
A I don't follow you. Can you please repeat that?
Q Are you aware that there was a LUBA challenge to the permit that was issued by the City of Boardman because UEC was not the property owner at the time it requested a permit for this project?
A I'm not aware of that issue specifically, no.
Q Were you not advised that there was a challenge to the permit at the Land Use Board of Appeals?
A Not that I recall.
Q Okay. Does it surprise you that the City of Boardman requires a -- that anyone seek -- that -- back up.
Is this the first you have learned that the City of Boardman city code requires that only property owners, title owners, request permits for projects in the City of Boardman?
MR. EPLEY: Object to form.
A Can you please rephrase the question?
Q BY MR. CAHN: Is this the first time you've learned that the City of Boardman construction code requires that only title owners can apply for project permits?
MR. EPLEY: Object to form.
A It is -- I do understand we need landowner consent to file the necessary permits.
Q BY MR. CAHN: Did you have landowner consent from the Tallmans to file a permit for the portion of the project that went on their property?
MR. EPLEY: Object to form.
A I do not recall the timing.
Q BY MR. CAHN: Do you have landowner consent today for UEC to have its project on the Tallman property?
MR. EPLEY: Object to form.
A We have -- can you please repeat the question?
Q BY MR. CAHN: Do you have consent from the Tallmans today for the UEC transmission line on their property?
A From the Tallmans? I'm not sure.
Q From 1st John 2:17, LLC? Has 1st John given you consent?
A Not that I'm aware of.
Q So, as you sit here today, you're not aware of any consent that was provided by the property owner to UEC for the construction of this transmission line on the Tallman slash 1st John 2:17 property; correct?
MR. EPLEY: Object to form.
A As I sit here today, I do not know of any consent from 1st John, LLC.
Q BY MR. CAHN: All right. And, yet, you built the project anyway; correct?
A Correct.
Q So let's talk about the easement for a second. So let's go to --
Give me a second to pull it up, myself. There we go.
So if you look at the Complaint on Page -- let's look at Paragraph 7.
Now, you mentioned earlier that you recall reviewing the Complaint before --
MR. CAHN: Stop at 7, stop at 7, please.
(Complied.)
Q BY MR. CAHN: You mentioned, before, you recalled reviewing the Complaint prior to it being filed and that you or someone from your team reviewed the easement language. Correct?
A Correct.
Q Okay. So Paragraph 7 says, "Plaintiff," which is UEC, "seeks to condemn and acquire for the Transmission Line the following easement on the property."
Do you see that?
A Yes.
Q And then it identifies paragraph -- Subparagraph (a), Subparagraph (b), and Subparagraph -- Subparagraph (c), Subparagraph (d), Subparagraph (e), Subparagraph (f), and Subparagraph (g) as the easement that it is seeking in this action.
Is that the way the Complaint is structured?
A I understand the structure of what you just repeated under Section 7(a) through (g).
Q Okay. And Subsection (a) seeks a permanent and

nonexclusive electric utility easement on, across, over, and under a strip of land described in Exhibits A-1 and A-2 and depicted in Exhibits B-1 and B-2 attached hereto.
Is that correct?
A I see that it says that, yes.
Q Okay. And if we scan down to Exhibits A-1 and A-2, they reflect the property that --
This is a legal description of the transmission easement; correct?
A It appears to be, yes.
Q Okay.
MR. CAHN: And then scan down one more page, please.
(Complied.)
Q BY MR. CAHN: And that is a visual rendering of the easement -- a part of the easement that is going to be taken on the property; correct?
A It appears to be, yes.
Q Okay. So let's start with, how wide is that easement?
A It appears to be roughly 70 feet, if I'm reading this correctly.
Q Right. So about a 70-foot-wide easement.
So, to the west of the easement is the Morrow County property, and your easement extends 70 feet further to the east; correct?
MR. EPLEY: Objection. Object to form.
A So from what I can see, it appears the hashed area from the -- on the left side of the paper is roughly 70 feet wide. So the Morrow County property being on the left, the easement area would be describing 70 feet east of the east Morrow County property line.
Q BY MR. CAHN: Right. So the easement goes from the Morrow County property line and goes 70 feet to the east.
A Roughly.
Q Okay. So that's --
MR. CAHN: And then you can continue scanning down, Kamille, to A-2.
(Complied.)
Q BY MR. CAHN: Again, further legal description, and then the next page is a visual rendering. And that's the portion that runs to the north of the Morrow County property; correct?
A Appears to be, yes.
Q And that, again, is about a 70-foot-wide easement area; correct?
A Yes, roughly.
Q Okay. And then if you scan down to the last page, that's the rendering we just saw that puts the two Exhibit A-1 and Exhibit A-2 together to show the full line; correct?
A Yes.
Q Okay. And none of that easement area runs on the Morrow County property; correct?
A Does not appear to, no.
Q It runs from the Morrow County property and solely onto the property of the Tallmans; correct?
A Correct.
Q Okay. And Paragraph 7(a) continues to say that the easement is "for the purposes of constructing, operating, maintaining, repairing, and replacing electric utility lines, including the lines for the transmission and distribution of electrical power and communication lines reasonably necessary for the operation of Plaintiff's electrical system...."
Do you see that?
A I see that, yes.
Q And this project was conducted at the request and at the payment of ADS, Amazon Data Services; correct?
MR. EPLEY: Object to form.
A This project would be used to serve one of the ADS requests for service.
Q BY MR. CAHN: Right. ADS requested it and they're paying for it; correct?
A Correct.
Q Okay. Paragraph (b) then says that "Plaintiff shall have the right to enter upon and use the Easement Area for the purposes described above," and then it identifies specific rights or actions that UEC can take within the easement area.
Do you see that?
A I see that.
Q Okay. And then Paragraph (c) goes on to provide that Plaintiffs will "have the right to cut, trim, and control the growth, by reasonable chemical means, machinery, or otherwise, of trees, shrubbery, and vegetation located within the Easement Area that may interfere with the safe operation of Plaintiff's electrical system."
Do you see that?
A I see that.
Q So if you start spraying chemicals and Mr. Tallman comes running out and says, "This is my organic farm, don't do that," he has no ability to stop you, based upon the language in this easement; correct?
MR. EPLEY: Objection. Calls for a legal conclusion. Speculation. Object to form.
Q BY MR. CAHN: You can answer.
A Can you repeat the question, please?
Q The question is, if UEC is using chemical means to control growth and Mr. Tallman comes out and says, "Stop,

I don't want you using chemicals on my property, it's impacting my organic farm," he has no right, under Paragraph 7(c), to stop you from doing so; correct?
MR. EPLEY: Object to form. Calls for a legal conclusion. Speculation.
Q BY MR. CAHN: You can answer.
A I would look to -- to our legal counsel for guidance on such a situation.
Q Do you see anything in there that gives Mr. Tallman the right to stop you from using reasonable chemical means to cut, trim, and control the growth of trees, shrubbery, or vegetation located in the easement area?
MR. EPLEY: Objection to form. Calls for legal conclusion. Calls for speculation.
A I'm not sure I'm qualified to answer that.
Q BY MR. CAHN: Whether you're qualified or not, do you see anything in there that would prevent -- that would allow Mr. Tallman to stop UEC from using chemical means to control growth of trees, shrubbery, vegetation?
MR. EPLEY: Same objections.
A Can you repeat the question, please, Mr. Cahn?
Q BY MR. CAHN: Do you see anything in Paragraph 7(c) that would give Mr. Tallman the ability to prevent UEC from using reasonable chemical means to cut, trim, and control the trees, shrubbery, and vegetation in the easement area?
MR. EPLEY: Again, object to form. Calls for legal conclusion. Calls for speculation.
A Again, I would look to my legal counsel for guidance on -- on the situation that you've described.
Q BY MR. CAHN: But as you sit here today, looking at that language, do you see anything that would give Mr. Tallman any right to stop UEC from using chemical means to control trees, shrubbery, and vegetation?
MR. EPLEY: Same objections.
A I do not see.
Q BY MR. CAHN: Okay. Paragraph (d) says that "Defendant," 1st John 2:17, LLC, "shall not construct, place, or otherwise locate any building, structure or other obstruction in or upon...the Easement Area."
Do you see that?
A I see that.
Q So they can't build anything, based upon this easement language, in the easement area; correct?
MR. EPLEY: Objection. Object to form. Calls for legal conclusion. Speculative.
Q BY MR. CAHN: It says, "Defendant shall not construct, place, or otherwise locate any building, structure or obstruction in, upon, or under the Easement Area."
Do you see that?
A I see that.
Q So 1st John, LLC, is prohibited from building any building, structure, or obstruction in the easement area; correct?
A Correct.
MR. EPLEY: Same objection.
Q BY MR. CAHN: That's correct, Mr. Lankford?
MR. EPLEY: Same objection.
A Correct.
Q BY MR. CAHN: I'm just -- you and Mr. Epley are speaking over each other. I asked, just for clarification for the court reporter. Your answer to my question is that that is correct; right?
A Right.
Q Thank you.
Despite that, Paragraph (e) says, even though defendant can't construct, place, or otherwise locate any building, structure, or obstruction in the easement area, they shall have the right to use the easement area, as long as the right is not inconsistent with and does not unreasonably interfere with the purpose of the easement or the use of the easement area by UEC; correct?
A Correct.
Q And so, whatever use the property owner, 1st John, has left in the easement area, it can't include building anything, under Subsection (d); and it can't be inconsistent or interfere with UEC's use of the easement. Correct?
MR. EPLEY: Object to form.
A Can you please repeat that, Mr. Cahn?
MR. CAHN: Kim, can you repeat the question, please.
(The question was read by the reporter.)
MR. EPLEY: Same objection.
A That is how I read it, correct.
Q BY MR. CAHN: Okay. Thank you.
Paragraph 7(g) says that "All Facilities installed on, across, over, or under the Easement Area at Plaintiff's expense shall be the property of Plaintiff and removable at the option of Plaintiff."
So that means that, even though the property is still owned by the Tallmans, the structures that are built by UEC are UEC's property and the Tallmans have no control over those facilities once installed; correct?
MR. EPLEY: Object to form.
A I believe that is the intent, yes.
Q BY MR. CAHN: Okay. And Subsection (f), just to close the loop, says that Plaintiff, UEC, damages anything, it will repair damage and restore the easement

area, as near as practicable, to the same or like condition as existed prior to UEC's use of the easement area.

Do you see that?

A I see that.

Q So if UEC broke anything or caused any damage in the easement area, it's obligated to fix it; correct?

MR. EPLEY: Object to form.

Q BY MR. CAHN: You can answer.

A Correct.

Q Okay.

Paragraph 9 says that the true value and just compensation for the easement is $14,600. Do you see that?

A I see that.

Q Do you know how UEC came up with a $14,600 value for the easement that it is taking on the Tallman property?

A We had hired an appraiser, I believe.

Q Did you meet with the appraiser?

A I did not.

Q Did you ever talk with the appraiser?

A I have, yes.

Q When did you speak with the appraiser?

A I don't recall.

Q What do you recall about your conversation with the appraiser, Mr. Balfour?

A Mr. Balfour would have asked me if I knew of any comps in the area that he could use for the assessment of the easement.

Q Are you a licensed real estate appraiser?

A I am not.

Q Are you a licensed real estate agent?

A I am not.

Q Do you have any experience in valuing real estate?

A I do not.

Q Do you have any experience in purchasing large industrial tracts or large commercial tracts of land?

A Personally, no.

Q Okay. And, yet, your appraiser came to you and asked you if there were comparable properties or properties that you considered comparable for him to consider in doing his valuation?

A Yes. He was asking me for property that I knew of recently sold that he could look closer at.

Q Do you know why? Do you know why Mr. Balfour would come to you and ask you if you knew of properties that sold in the area that he could use as comparables?

A I do not.

MR. EPLEY: Object to form. Calls for speculation.

A I do not.

Q BY MR. CAHN: -- the answer -- You do not, okay.

So what did you tell Mr. Balfour, in response to his inquiry of comparable properties to consider?

A That the only property I knew of was the -- I can't pronounce it, Chastagner property at the intersection of Highway 730 and I-84 that UEC had acquired.

Q That UEC had acquired.

A Yes.

Q Do you know if Mr. Balfour used that property as a comparable in his appraisal?

A I do not recall.

Q Did you review Mr. Balfour's appraisal?

A Not that I recall.

Q Okay. So if I find that property in there, it's a good possibility that it came from your suggestion; correct?

MR. EPLEY: Object to form. Calls for speculation.

A I'm not sure if Mr. Balfour knew it before I talked to him or not.

Q BY MR. CAHN: Okay. But you gave him a UEC-acquired property to consider as a comparable for the Tallman property.

A I --

MR. EPLEY: Objection. Misstates prior testimony.

A I had only mentioned the property that UEC had acquired.

Q BY MR. CAHN: You mentioned it to him. You told him that this is one that he could consider as a comp; correct?

MR. EPLEY: Objection. Misstates prior testimony.

A I told him about the property. I did not point him to use it as a comp.

Q BY MR. CAHN: But you pointed him to that property in a direct response to his question, "Are there comparables that you know of that I can use?"

MR. EPLEY: Objection. Misstates prior testimony.

A I -- I can't recall the specific wording used within the conversation. He did ask if I knew of any properties recently sold that he could look at, and I mentioned the UEC property that it had acquired.

Q BY MR. CAHN: Do you know why Mr. Balfour called you versus anyone else at UEC?

A I do not know the reason why.

Q Did his call come out of the blue? Or was it planned?

A It – I do not recall –
Can you repeat the question, please?
Q Did he call you at a unplanned date and time, or was the call scheduled through email and a calendar invite?
A The call would have came out of the blue as you described.
Q And did Mr. Balfour explain if anyone had suggested that he call you specifically?
A Yes.
Q Who did he –
A Sorry. What?
Q You were – I interrupted you. My apologies. You were starting to say "legal."
A Legal had given him my contact information.
Q Legal Cable Huston, or in-house legal at UEC?
A Cable Huston.
Q As you sit here today, do you have any basis to understand the value of the Tallman property that's being acquired by UEC in this matter?
MR. EPLEY: Object to form.
A Can you please repeat the question, Mr. Cahn?
MR. CAHN: Kim, can you please repeat.
(The question was read by the reporter.)
MR. EPLEY: Object to form. Vague.
A I – I am not an appraiser. I do not know how to value property.
Q BY MR. CAHN: Okay. Thank you. Okay.
So let's look at Exhibit 243 and 244.
MR. EPLEY: Bruce, are we moving to a new topic? I think it's been about an hour since we took a break.
MR. CAHN: Well, not necessarily a new topic, we've covered it, but we're going to an area –
So, yeah, we can take a break. Let's take a short break. I'm really trying to get out of here by noon, given the weather conditions, so I'm hoping to – that we have about another hour.
MR. EPLEY: Okay. Yeah, that's fine. If we can just have five minutes just to use the restroom.
MR. CAHN: Five minutes is great. Thank you.
(A recess was taken.)
(Deposition Exhibit No. 243 was presented.)
Q BY MR. CAHN: Just a couple of very quick questions on these documents.
MR. CAHN: Can you expand those, please, Kamille.
(Complied.)
MR. CAHN: Thank you.
Q BY MR. CAHN: Exhibit 243 is an email from Carla McLane to a series of people. And I don't know if you want to trust me on this or not, but within that large number of people is your name.
A I –
Q You're the last one on the list. Do you see that?
A Yes.
Q Do you recall –
First off, do you know who Ms. McLane is?
A I do.
Q Who is Ms. McLane?
A At the time, she was Morrow County planner, I believe.
Q Okay. And is she still the Morrow County planner?
A No.
Q Okay. Just to summarize, and I think you mentioned you went to a meeting at the Morrow County – or the Port of Morrow concerning the loop road. And this is an email, the subject of "POM IAMP Walking Tour," Friday, and the email is dated July 5th, 2019.
Do you see that?
A I see that.
Q Okay. And in it, Ms. McLane suggests – first, she notes, at the bottom, that there's a – not an agenda, but some things that they want to talk about in some of the earlier email –
MR. CAHN: Kamille, at the bottom.
(Complied.)
Q BY MR. CAHN: There it is. There's some traffic count issues that need to be addressed; she needs to reach out to somebody at Kittelson, which is traffic engineer; and it says, "Communicate with UEC and their contractor concerning IAMP."
Do you see that?
A I see that.
Q Did Ms. McLane reach out to you and whomever UEC was using as its contractor to address the IAMP issues that could intersect with your easement line?
A I don't recall if it was Carla specifically, but I – I vaguely remember working on some of the IAMP issues.
Q And what did you work on on the IAMP issues? What were you working on?
A My team would have been working on the pole placement in relation to the road – the roads – the roadway, I believe. Loop road.
Q And did you have an understanding, based on the work that you were doing relating to pole placements, where the loop road was going to be located?
A I believe we had some conceptual layouts of the plan, yes.
Q Okay. And the conceptual layouts were going to put

the loop road to the east side of your easement; correct?
A Can you be more specific on where we're talking, please?
Q Yeah.
MR. CAHN: Let's pull back Exhibit 202.
(Deposition Exhibit No. 202 was presented.)
Q BY MR. CAHN: So I'm going to need you to tell me, based upon Exhibit 202, we've got the easement running north to south on the east side of the Morrow County property and then it makes a right angle and goes west to east at the bottom of the Tallman property.
Where was the loop road going to be placed in context with the poles that are identified on this map?
A Going off the top of my head here, I believe the proposed loop road would overlap both UEC's easement and BPA's easement on the southern part of Tallmans' property, so south of the proposed transmission line as shown here. And then --
Q Oh --
A I'm sorry.
Q Would the loop road have a north/south component?
A I believe -- yes, I believe it did, yes. On this property, it did.
Q And where was the north/south component in relation to the north/south portion of the UEC easement?
A I -- I want to say it bordered the west edge of the cell tower fence.
Q So in the space -- we see there's a box for the cell tower.
A Yes.
Q So the west end would be the left side.
A Yes.
Q So between -- so, right now, there would be open area there. But when the loop road comes in, it's going to cut a little box between the easement and the cell tower and it's going to leave a little sliver of land available for the Tallmans; correct?
MR. EPLEY: Object to form.
A I -- I can't remember the exact layout as you describe it, I'm sorry.
Q BY MR. CAHN: Well, but you agree with me that it's going to run north to south parallel to your north/south easement; correct?
A Between the cell tower and Morrow County property, yes.
Q Right. So it's going to create a box between the cell tower on one side -- or the road on the one side of the cell tower and the easement, there will be a little bit of land left in the middle; correct?
A I can't remember if there were -- if there was or not, between our easement and the proposed road.
Q And the proposed road has been in existence prior to this project coming into conception; correct?
MR. EPLEY: Object to form.
Q BY MR. CAHN: Do you know how long the IAMP has been in place?
A I do not.
Q Do you know that the City of -- I think it's the City of Boardman has a city ordinance for the construction of the loop road that was passed in 2011?
MR. EPLEY: Object to form.
Q BY MR. CAHN: Do you know that?
A I don't recall that.
Q Okay. So, but you know that they were already talking about a loop road and that they were talking about a location, and they gave you some parameters of where the location would be and that that was all prior to your beginning construction of the wire transmission line on the Tallman property; correct?
MR. EPLEY: Object to form.
A I don't remember the timing of the conversations.
Q BY MR. CAHN: Okay. But let's be -- Mr. Lankford, let's be clear. You just testified that you went to a meeting before -- in 2019, two years -- a year and a half or more, or so, before you began construction in March of 2022. You talked about people on your team planning the poles around where the loop road was going to be.
Before you began construction, you knew there was a loop road that was going on the Tallman property; correct?
A We -- we were aware of a conceptual plan for a proposed road, yes.
Q Right. And the County came to you and had to discuss with you what your project was going to do vis-a-vis the loop road plan; correct?
A We coordinated directly with the City of Boardman and the County on their proposed loop road and our project, Yes.
Q The proposed loop road that was passed as an ordinance and a plan that predated your even conceiving of a wire transmission line expansion to the Amazon data center customer; correct?
MR. EPLEY: Object to form.
A Again, I don't recall the ordinance or what it was.
Q BY MR. CAHN: Did you have Ms. Neal look into the ordinance, as your land use specialist at UEC?
A I -- I can assume that she was in contact with the City of Boardman, but I -- I can't speak to whether or not she reviewed it.
Q So you don't know if anybody at UEC even looked into

what was going on with the loop road; you have no knowledge of any interaction that anyone at UEC had, other than this meeting that you attended with Ms. McLane and others; is that –

MR. EPLEY: Object – objection. Misstates testimony.

A Can – can you repeat the question, please?

Q BY MR. CAHN: The question is, you have no knowledge, as you sit here today, of any investigation that was done by anyone at UEC into the existence of the ordinance, the plan for the loop road, or anything that was done prior to the start of this project; is that correct?

MR. EPLEY: Objection. Object to form. Misstates testimony.

A So, Mr. Cahn, I think there's a couple questions within your question there, so I'm going to try to break it down.

Prior to the beginning of this project, I don't recall any review of any ordinance or plans. UEC was working – once this project started, UEC was working with the City of Boardman and the County on the coordination of the proposed loop road and our structure placements.

Q BY MR. CAHN: Who was on the team that was working with the County on the proposed construction and the loop road impact?

A It would have been – Wendy Neal would have been part of it. Toth & Associates would have been part of it.

And you just asked for my team; right?

Q Yeah.

A Yeah.

Q And would there be anybody else at UEC who would have been responsible for interacting with the City or the County on the loop road issue, outside of your team?

A Outside of my team?

Q Yeah.

A There was – there was a few parties who we were working directly with. So some folks from the Port of Morrow were directly involved; the landowners, of course, were directly involved.

Q I asked about UEC, and you said "my team." Is there anybody at UEC, other than your team, who would have been involved in discussions concerning the interaction or intersect – interplay between the transmission line and the loop road?

A At UEC, Robert Echenrode may have – I believe he might have been in some of the conversations, as well.

Q Okay. So when you started this project, when was the first that you learned that the proposed easement would or could impact the loop road?

A I'm – I'm not sure that we ever concluded that.

Q But you participated in conversations with the County to determine whether or not there would be impacts; correct?

A We – we participated in conversations to coordinate both paths, to minimize impacts on one another.

Q Did you have any understanding from the City of Boardman as to what type of road was being constructed?

A I don't recall.

Q Do you know if it was going to be a collector street or not?

MR. EPLEY: Object to form.

A I don't even know what that means.

Q BY MR. CAHN: I was going to ask next if you knew what a collector street was.

A (Laughter.)

Q Do you know if the street is going to require – is going to need to have sidewalks and bike lane, in addition to streetlights?

MR. EPLEY: Object to form. Calls for speculation.

A I don't remember talk of streetlights or sidewalks, just road width, road right-of-way width.

Q BY MR. CAHN: What was the right-of-way width that you were discussing?

A I don't recall the exact footage.

Q But you concluded that whatever you were building was not going to interact with the loop road; is that the final conclusion that you reached?

A From what I remember, yes. We had coordinated with the City, Port of Morrow, and the County on our structure placements in comparison to their proposed loop road alignment.

Q Okay. And if you look at Exhibit 244.

(Deposition Exhibit No. 244 was presented.)

Q This is a follow-up email from Ms. McLane to the group; again, you're included somewhere in the mess of email names at the top of this document; after Jonathan Tallman, there's Josh Lankford. And this email is dated August 22nd, 2019.

Do you recall receiving this?

A I see my name, but I – I don't recall this exact email.

Q Okay. And this is Ms. McLane's summary of the prior meeting that we were just discussing. And under the loop road section, she writes, "Umatilla Electric Cooperative project impacts and the current option (refer to Toth map) were discussed. Morrow County brought forth another option which was discussed. Group consensus was to move forward with the current concept. It was agreed the cross

sections of the various inputs would be helpful. Toth and UEC agreed they could produce something prior to the next meeting. Morrow County Public Works asked for a better understanding (maps, graphics and texts) of the power line impacts to their future operations."

Do you see that?

A I see that.

Q Do you recall any part of that conversation?

A I don't believe I was at this meeting.

Q Okay. Do you know if UEC provided the -- or Toth provided the cross-sections of the various inputs or/and the maps, graphics, and texts requested by Morrow County Public Works?

A I don't have a reason to believe we did not provide it.

Q But you don't know if you did.

A I -- I don't recall.

Q Okay. You don't recall.

And have you seen in your files, did you look for any materials that were provided to Morrow County public utility -- Public Works or any of the other parties in response to the intersection or interaction of the UEC transmission line and the loop road?

A Yes. The Port of Morrow was, I believe, responsible for combining all the different parties' plans, and I do

A I'm not sure.

Q Did anyone bring to your attention someone from the County or the City inquiring about the construction vis-a-vis the loop road plan?

A I don't recall anybody inquiring, no.

Q Okay. Let's take a look at your -- at Exhibit 250.

(Deposition Exhibit No. 250 was presented.)

Q This is a declaration that you submitted in this lawsuit. Do you see this?

A I see this.

Q Did you draft this declaration?

A I would have participated in the draft of this declaration, yes.

Q Did you type the words that are included within your declaration that are your sworn testimony?

A Probably most of them, yes.

Q Okay. So let's start with Paragraph 2. The last line says, "UEC's Olson Road 115kV Line Segment is limited to a load of no more than 75 megawatts, period. Once the 75 megawatt load limit is exceeded, it will greatly reduce the reliability of service to all members served by UEC's Boardman 115kV system, which could result in outages or disruptions in service."

Do you see that?

A I do.

believe there was some back-and-forth conversations with Jacob at the Port of Morrow, I see his name there, in getting all those laid out.

Q Okay. And were there -- have there been further conversations between yourself and anyone at the City of Boardman or the County with respect to the loop road since the transmission line was installed?

A Since the line has been installed, no, I don't believe we've had any further conversation.

Q What was the last conversation you recall with the City of Boardman or Morrow County with respect to the loop road?

A I think it was -- as I looked through the documents in preparation, I believe it was -- I want to say August of 2020 -- summer of 2020.

Q Summer of 2020. So two years/18 months before you started construction was the last involvement had with the County or the City on the loop road. Is that what I -- is that correct?

A Summer of 2020.

Q Okay. Did anyone at the County or the City come out during construction to confirm that the work that was being done by UEC was consistent with agreements or the proposal that had been provided to the County and the City in connection with the loop road project?

Q Was the Amazon Data Service demand for power what would have caused the Olson Road line to exceed 75 megawatts?

A Can you repeat the question, please?

Q Yeah. You write in the declaration that UEC's Olson Road 115kV line segment is limited to a load of no more than 75 megawatts and that once that load is exceeded it will reduce reliability.

Was the Amazon Data Service demand for this project what would have caused the Olson Road line segment to exceed 75 megawatts?

MR. EPLEY: Object to form.

A So the -- think out loud here. The -- the 115kV line that serves UEC's Olson Road substation, yes, it did -- the Amazon data center at Olson Road is served out of the UEC Olson Road substation that is connected to the UEC 115kV line segment with the 75 megawatt limit.

Q BY MR. CAHN: Okay. And because Amazon Data Service connected to the Olson Road line segment, its use is what's going to cause the segment to reach the 75 megawatt limit for the line; correct?

MR. EPLEY: Object to form.

A Their -- their load growth would have contributed to the overload -- the mentioned overload of that 75 megawatts, yes.

Q BY MR. CAHN: And Paragraph 3 says that, based on the UEC load growth in recent years, UEC anticipates the Olson Road line segment will reach its 75 megawatt limit in approximately nine months, by April 2022.
Do you see that?
A I see that.
Q And that's because of the Amazon Data Service usage?
A They are --
MR. EPLEY: Object to form.
A They are one of the main users of service out of UEC's Olson Road substation, yes.
Q BY MR. CAHN: Okay. So if this project -- if ADS did not build its substation --
A M-hm.
Q -- this line would not have exceeded the 75 megawatt capacity by April of 2022 or any time in the foreseeable future; correct?
MR. EPLEY: Object to -- object to form.
Calls for speculation.
A UEC's substation serves the Olson Road data center campus, and their load forecast provided to us and our experience serving industrial members led us to believe that that limit would be exceeded in that nine months time frame that was mentioned.
Q BY MR. CAHN: Right. And if Amazon Data Service did not get serviced out of this Olson Road line segment, then it would not have exceeded the 75 megawatt capacity; correct?
A Correct.
Q Okay. So the only reason it's going to exceed the 75 megawatt capacity is because Amazon is using the property -- is using the power through this substation; correct?
A I can't say only reason, but a majority of the reason, yes.
Q Okay. Did the Olson Road line segment exceed the 75 megawatt capacity in April of 2022, before the line went on -- before the transmission line was completed and went online or went into service?
A I do not recall that off the top of my head.
Q Well, the project didn't begin construction on the Tallman property until April 2022, so it wasn't completed in April 2022. Correct?
A Correct.
Q And the new 230 kilovolt --
Is that kilovolt?
A Yes.
Q The new 230 kilovolt transmission line wasn't operable or in service until after April 2022; correct?
A Correct.
Q So if your projection in Paragraph 3 was correct, then what was done to eliminate the impact of the 115 kilovolt line being at overcapacity?
A I don't recall specifically, but I could -- I could talk about what could have happened.
Q I want to know what did specifically happen in April of 2022. Do you recall specifically, as you sit here today, having to scramble your system in order to obviate outages and disruption in service caused by a 75 megawatt over -- you know, re -- of the line reaching beyond the 75 megawatt capacity?
MR. EPLEY: Object to form.
A I do not recall what the loading was on the Olson Road 115kV line segment April 2021.
Q BY MR. CAHN: It wasn't a big enough deal for you today to remember; correct?
MR. EPLEY: Object to form.
A I don't recall.
Q BY MR. CAHN: It didn't cause such a mass disruption in UEC's overall services that it created an indelible memory for you that everything went to -- fell apart in April of 2022; correct?
A I don't require -- or I don't recall any significant outages or results.
Q Okay. When did the 230 kilovolt transmission line go in service?
A I don't recall the exact date.
Q Give me a ballpark.
A After COVID. Sorry. Let me see. The -- it would have been -- had to be -- had to be right at the end of 2022, I'm guessing.
Q Possibly into early 2023?
A Possibly. I don't recall the exact date.
Q Okay. So sometime December/maybe January, 2022/2023?
A Maybe.
Q Paragraph 9, you wrote that the construction of the 230kV transmission line will take approximately nine months to complete and is planned to start beginning in August of 2021 in order to be completed by the critical April 2022 deadline.
Do you see that?
A I see that.
Q And, but as you recall just a moment ago, the critical April 2022 deadline was missed and it went online sometime at the end of 2022, possibly into the beginning of 2023; correct?
A Correct.
Q Were there any significant power outages or transmission line problems during the period of April 2022 to when the 230 kilovolt transmission line went in service

at the end of 2022 or early 2023?
A I don't recall any significant outages or results from the delay in the installation of the 230kV line.
Q As you sit here today, there's nothing that jumps out at you as a outage or disruption of service that was directly related to the 115kV line segment reaching its overcapacity of 75 megawatts in April of 2022; correct?
A Correct.
Q Okay. Paragraph 11, you wrote, "Any delays in obtaining immediate occupancy and use of the Easement...will not only increase costs for the construction...but will also jeopardize UEC's ability to continue providing safe, reliable electric service to its members served by the Boardman 115kV -- kilovolt system."
Do you see that?
A I see that.
Q Was UEC unable to provide safe and reliable electric service to its members served by the Boardman 115kV system through the end of 2022/beginning of 2023?
A Was UEC -- Can you repeat the question, please?
MR. CAHN: Kim, can you repeat the question, please.
(The question was read by the reporter.)
MR. EPLEY: Object to form.
A I -- I do not recall any major system outages or safety concerns during that time frame.
Q BY MR. CAHN: Okay.
Sorry, I'm loading something up.
Okay, past that.
This may seem like it's taking forever, Mr. Lankford, but this is actually good, because it means I'm taking things out of the discussion.
A Please. Take your time.
Q Let's take a look at Exhibits 208 and 223, real quickly.
MR. CAHN: 223 first, please.
(Deposition Exhibit No. 223 was presented.)
Q BY MR. CAHN: Mr. Lankford, do you recognize Exhibit 223?
A Yes.
Q And what is this?
A This is UEC's alternate route map.
Q Okay. And this identifies a preferred route for the transmission line, the 230kV transmission line, an Alternate Route Number 1, and an Alternate Route Number 2; correct?
A Correct.
Q Okay. Were you involved in determining the preferred route versus the alternate routes?
A My team would have been. Not me directly.
Q Okay. Were you sitting in meetings providing input and your perspective on these particular routes?
A I likely would have been in meetings related to the route analysis, yes.
Q Okay. And did you understand why the purple route was the preferred route, versus either of the other two alternatives?
A Yes.
Q Why was the purple route the preferred route?
A At the time of this map, I believe we had acquired most of the easements along the preferred route.
Q And the preferred route has a number of what you called dead-end posts, or angled posts as Mr. Echenrode called them yesterday; correct?
A Correct.
Q And, in fact, the preferred route has what appears to be eight angled or dead-end routes in the -- or posts in the segment that runs from the start to where it intersects with Alternate Route Number 2, and Alternate Route Number 2 appears to have three angled or dead-end posts; is that correct?
MR. EPLEY: Object to form. Compound.
A So I see where the intersection of Alternate Route 2 and preferred route separate. There are eight PIs on the purple, which is the preferred route, and three PIs on blue, which is Alternate Route 2.
Q BY MR. CAHN: Right. And as you testified earlier and Mr. Echenrode said yesterday, all of these dead-end posts or angled posts cost significantly more than the in-transit posts; correct?
A They can, yes.
Q Okay. And did you have an understanding as to which was the most cost-effective route for the transmission line?
A I -- I believe, at this time, we did have pretty detailed cost estimates for each of the identified alternatives, yes.
Q And which one cost more and which one cost less, then?
A I can't recall how they were -- how they fell out.
Q Okay. Well, let's take a look at Exhibit 208.
(Deposition Exhibit No. 208 was presented.)
Q Is this the detailed cost estimate that you referenced a moment ago prepared by Toth Engineering?
A I'm not sure of the date and how it corresponds to the map, but it -- it looks to be like it could work, yes.
Q Okay. And there's a reference to the preferred route, a reference to Alternate Route 1, and Alternate Route 2; correct?
A Yes.

Q And the preferred route has a rounded project cost of $12,410,000; correct?
A Can you -- can you repeat that, please?
Q The preferred route has a rounded project total cost of $12,410,000; correct?
A I see that, yes.
Q Okay. And that includes, within that budget, land acquisition services; correct?
A Yes. I see that.
Q Okay. And Alternate Route 2, the route with five less dead-end posts or angled posts, was 12,000 -- I'm sorry, 12,100,000; correct?
A Yes.
Q So about $300,000 less in cost than the preferred route; correct?
A Yes.
Q And land acquisition was included within that $12.1 million estimate; correct?
A Appears to be, yes.
Q And despite the savings --
And, by the way, easement acquisition payments are included in both; correct?
A Appears to be, yes.
Q And easement acquisition payments are almost triple the easement acquisition payments in -- let me rephrase that.
The easement acquisition payments in Alternate Route 2 are almost triple the easement acquisition payments in the preferred route; correct? 1.4 million to 575,000? Do you see that?
A I see those numbers, yes.
Q Okay. And yet, despite the high number of easement acquisition payments, the cost for the Alternate Route 2 was less than the preferred route; correct?
A Yes.
Q And so, even though there was a cost savings and even though there were less right-angle or dead-end posts, was it your position that the preferred route was a better route?
MR. EPLEY: Object to form.
A Can you repeat the question, please?
Q BY MR. CAHN: Despite the fact that Alternate Route Number 2 was considerably less in cost than the preferred route and included a significantly less number of right-angle or dead-end posts, did you believe that the preferred route was the better route?
MR. EPLEY: Object to form.
A We -- so, I'm having a hard time answering that question because there's -- there's more that goes into the route analysis than -- than just the cost.
Q BY MR. CAHN: Okay. Let's look at Exhibit 230 -- 223 again.
(Deposition Exhibit No. 223 was presented.)
Q So, other than the cost, which, for Alt Route Number 2, is significantly less and which runs along the BPA transmission line, so it's sort of coupled up with an already existing high-power line, what is -- what makes the preferred route better than the alternate route?
MR. EPLEY: Object to form.
A I can't remember the specifics. If I remember correctly, Alternate Route 2 would have possibly taken out some irrigated farmland and it crossed a wetland, if I remember correctly. So, environmentally sensitive areas.
Q BY MR. CAHN: Would the cost of environmental remediation or wetland remediation have been factored into the cost analysis that was done for Alternate Route 2 versus the preferred route?
A I don't recall if it was or not.
Q And wetlands can be remediated. You run your lines -- UEC has run lines through wetlands before; correct?
A We have.
MR. EPLEY: Object to form.
Q BY MR. CAHN: You have; correct?
A We have.
Q You've either done remediation or done environment work-arounds to enable you to have your transmission line go through wetlands and other environmentally sensitive areas; correct?
MR. EPLEY: Object to form.
A We've -- we've had to -- I can think of one -- one structure we had to do wetland mitigation on.
Q BY MR. CAHN: So it's something that can be done. It's not something that is impossible; right?
A Sure.
Q Okay. What else makes this preferred -- this more expensive, more-difficult-to-construct preferred route better than the alternative route?
MR. EPLEY: Object to form.
A Again, I think, at this point, we had a majority of the easements along the preferred route. There might have been two or three landowners we were still working with at this point.
Q BY MR. CAHN: You had a cost estimate of acquisition, but your belief is that the cost estimate had already been expended?
A I'm not sure I follow your question. Can you please rephrase it.
Q Well, looking at Exhibit 208, acquisition payments are listed as a line item for both routes. So had you

already acquired easements, or was this an estimate for what easement acquisition costs were going to be back when you were considering the proposed routes?
MR. EPLEY: Object to form.
A I don't -- I don't have that information. Is there a date on this document?
Q BY MR. CAHN: Well, this came from your files, so it is what we got from UEC.
A I can't speak to which easements had been paid and which are estimated to be paid based upon this document compared to the map.
Q So you don't really know whether or not all the easements had been already acquired at the time you were making your consideration of which route to go forward with?
MR. EPLEY: Object to form.
A I based my response -- if you want to go back to the other exhibit, the map.
Q BY MR. CAHN: Sure.
(Deposition Exhibit No. 223 was presented.)
A I'm looking at the date in the bottom -- just underneath "Umatilla Electric Cooperative" in blue, February 12th, 2020.
Based upon that, it's my assumption we had the majority of the easements secured for the preferred route.

When I say bought property, I meant, even before the route was determined, UEC was buying easement rights for the route; correct?
MR. EPLEY: Object to form.
A Yes. We were securing easements prior to identifying the final route.
Q BY MR. CAHN: Or even having a sense of what was an anticipated route; correct?
MR. EPLEY: Object to form. Misstates testimony.
A Can you repeat the question, please?
Q BY MR. CAHN: That's fine.
MR. CAHN: Kamille, have you been able to find it?
MS. SIMONS: Is that the Toth on 10/20 --
MR. CAHN: Yeah, the 3/19/2020 one.
MS. SIMONS: Yeah.
(Deposition Exhibit No. 237 was presented.)
Q BY MR. CAHN: So this is the testimony of Louis Toth before the PUC, March 19, 2020. Do you see that?
A I do.
Q Did you review Mr. Toth's testimony before it was presented to the PUC?
A I likely would have, yes.
Q Okay. And in it, he includes a chart that shows the status of land acquisition.

Q So that's in -- sorry, what you say, February 2020.
Let's take a look at the PUC testimony and the materials that were provided to the PUC when UEC requested a certificate of necessity from the PUC. We're in process, so give us a moment.
While we're looking at this, Mr. Lankford, did you or anyone at UEC commission the acquisition of easements before you had determined which was the final route that the transmission line was going to take?
A Can you repeat the question, please?
Q Yeah. Did you start buying easements before you knew what the final transmission line was going to be?
MR. EPLEY: Object to form.
A I believe we were acquiring easements before we had a preferred route or even route alternatives identified, yes.
Q BY MR. CAHN: So, before you had done all of the analysis necessary to determine whether or not this was the best route for the transmission line, you were already buying property for it?
MR. EPLEY: Object to form.
A I don't believe we bought any property for the acquisition of these easements.
Q BY MR. CAHN: Bought easements for the line. Easement is a property interest, I apologize.

MR. CAHN: Kamille, can you pull that up?
MS. SIMONS: Yeah, I'm looking for it right now. It's 60 pages.
MR. CAHN: Yeah. It's also in the original resolution, I think.
MS. SIMONS: Yeah, that's right. Yeah, it is in there.
MR. CAHN: Let's go to the resolution. It may be easier to find in the original resolution.
MS. SIMONS: Take that down and open this. I don't know. I'm just trying to close it.
MR. CAHN: I know.
Let's go off the record for a few seconds while we find that, so that we're not --
MS. SIMONS: It's here.
MR. CAHN: You've got it? Okay. So hold on.
(Deposition Exhibit No. 212 was presented.)
Q BY MR. CAHN: Mr. Lankford, this is the "Resolution 2019 11 006 Umatilla Electric Cooperative," "Amending resolution declaring public need to acquire easements for transmission and distribution system improvement and authorizing the acquisition of easements."
Do you see that?

A I do.
Q Did you ever review a resolution when it was passed by the Umatilla Electric Cooperative board?
A I would have seen it afterwards, yes.
Q Okay. And let's go down to the chart that's included at the bottom.
So this is a list of 15 properties that were needed to acquire -- needed to be acquired for the transmission line. Do you see that?
A I do.
Q And there's five or six easements that needed to be acquired; correct?
A I see that, yes.
Q And there's Number 14, which is an alternate route, needs acquisition. Do you see that?
A I see that, yes.
Q And is that the -- okay.
So as early as March of 2020, there was still quite a bit of property that needed to be acquired for this project; correct? When the resolution of necessity was initially passed by the UEC board of directors; correct?
MR. EPLEY: Object to form.
A If you could, what was the date of this resolution?
Q BY MR. CAHN: It was November 2019.

MR. CAHN: Let's look at Exhibit 2-0 -- the map again.
(Document was presented.)
MR. CAHN: Go in a little bit closer.
(Complied.)
Q BY MR. CAHN: Do you know where easements were being acquired versus going on existing right-of-way?
A Can you -- can you repeat that question?
Q Yeah. Looking at the map, where were the easements that you were acquiring versus running the route on the existing right-of-way?
A I'm still not sure I track what you're saying. Which existing right-of-way?
Q So streets or places where UEC had an existing right-of-way. Did you --
Let me ask you this way. Did UEC have a goal of utilizing as much public right-of-way or existing right-of-way as possible for this project?
A One of our criteria for doing that analysis is to rebuild existing right-of-way or within existing right-of-way or parallel existing right-of-way, yes.
Q Okay. So, in looking at this, can you identify where easements need to be acquired versus running the line on existing right-of-way or parallel to existing right-of-way?

A And the date of the map was February 2020?
Q That iteration of the map was February 2020. There are other iterations of the map.
A And can you repeat the question, please?
Q The question was, there was still a significant number of properties that needed to be acquired for the project as part of the preferred route when the resolution was passed; correct?
A You highlighted five, I believe. Yes.
Q Actually, six. There's five that need acquisition, and then Number 14 -- well, there's Number 4, Number 6, Number 7, Number 10, Number 11; and Number 14 needed acquisition.
MR. EPLEY: Object to form.
Q BY MR. CAHN: Is that correct?
A I -- I'm not sure what the alternative route is on Number 14, but, yes, I see what you're -- you're highlighting.
Q Okay. So, at this point in time, had UEC already concluded that it was going forward with the preferred route versus the more cost-effective Alt Route Number 2?
MR. EPLEY: Object to form.
A I don't recall. I wasn't in that meeting, that I remember.
Q BY MR. CAHN: And if you go to --

MR. EPLEY: Object to form.
A Yeah, I can -- I can kind of highlight where there's existing right-of-way on here.
Q BY MR. CAHN: Where is that?
A You can see the BPA transmission lines. That's a major utility corridor that runs through the middle of Boardman east to west. We've got many county roads. You've got the interstate that runs right through the middle of the page.
There's some various miscellaneous small/big/otherwise distribution lines that are scattered around. I'm not sure where all those are at specifically. And then --
Q So if you had run the route, Alternative Route 2 parallel to the existing BPA transmission line, you would have been avoiding -- well, you would have been following the project criteria of siting your line parallel to existing right-of-way; correct?
A As one of the criteria, yes.
Q Okay. And the BPA transmission line is located in areas where a small -- if you had to acquire an easement, it was going to be directly adjacent to what was already a high-power utility -- electric utility; correct?
A As -- as one of the factors, yes.
Q Okay. And so I'm still trying to understand why

Alternate Route Number 2 is not your preferred route, if it's cheaper and it goes over existing -- or parallel to existing right-of-way and can avoid problems because it's already running tangent to the BPA transmission line.

MR. EPLEY: Object to form.

A What was the question, Mr. Cahn?

Q BY MR CAHN: Question is, I'm trying to understand why -- Alternative Route Number 2 meets all the design criteria that you were referring to, why it's not your preferred route, because -- given that it's cheaper and it meets your routing criteria.

MR. EPLEY: Object to form. Misstates prior testimony.

A Yeah. As I mentioned earlier, it would have taken irrigated farmland out of production, as well as gone through the middle of some wetland.

Q BY MR. CAHN: Can you identify where the irrigated farmland is that it would have taken out of production?

A You can kind of see it where Alternate Route 2 and -- and the preferred line separate, the purple and blue line separate in the top part of the page. There's a crop circle that you can see vaguely in the background.

So then, east of Laurel Road, south of the BPA corridor, and your blue highlight that you have going through the screen right now kind of goes through the bottom part of that crop circle.

Q Okay. And that's already directly adjacent to the existing BPA right-of-way; correct?

A That crop circle is, yes.

Q Okay. And as Mr. Echenrode said yesterday, you can still plant crops underneath your power line; correct?

A Yeah.

Q Okay. And where is the wetland that you were concerned with?

A I -- I can't really tell. I believe it's -- I believe there's a couple spots, but the big one is where "Alternate Route 2" is typed out, if I remember correctly.

Q Again, directly adjacent to the BPA transmission line, which has already addressed wetland concerns when it went in; correct?

A I'm not sure when it went in.

Q And those wetland concerns, as you identified, can be mitigated as part of any project; correct?

A I can't confirm if they would be allowed to be mitigated, but it is something we can explore, yes.

Q And did you do any investigation and exploration into wetland mitigation as part of the analysis of Alternative Route Number 2?

A I can't speak to if we did or not.

Q You don't know if you did?

A I'm not sure, no.

Q And you haven't seen any wetland remediation reports or cost estimates or anything relating to wetland remediation as part of the Alternative Route Number 2 analysis?

A I don't recall seeing any for this project.

MR. CAHN: Let's take two minutes and I may be done. I just want to double-check something.

(There was a pause in the proceedings.)

Q BY MR. CAHN: Mr. Lankford, I'm back. A couple of very quick things. If you look at Exhibit 208, which we'll pull up again, that's the budget.

(No response.)

MR. CAHN: Kamille, are you getting that?

(No response.)

MR. CAHN: Kamille, are you there?

MS. SIMONS: I am.

MR. CAHN: Can you pull up 208.

(Deposition Exhibit No. 208 was presented.)

MR. CAHN: Ah, thanks.

Q BY MR. CAHN: So, Mr. Lankford, looking at Exhibit 208, there's also a line item for environmental, is there not?

A Yes, it appears so.

Q And the line item for environmental is a little higher for Alternative Route Number 2 than it is for the preferred route or Alt Route 1; correct?

A Is it 200 to 250, is that what it says?

Q That's what it says.

A Okay.

Q So somebody at UEC or Toth, in their analysis, factored in increased easement acquisition payments and increased costs for environmental concerns into the total budget for Alt Route Number 2 and still concluded that it was cheaper than the preferred route. Do you see that?

A I do --

MR. EPLEY: Object to form.

Q BY MR. CAHN: You do see that?

A I see that.

Q Okay. And so, easements are taken care of, wetlands are taken care of. Alternate Route Number 2 follows the UEC criteria. Anything else that makes it a less desirable route than the preferred route?

A I can't speak to the conclusion that you just repeated, but there's -- there's still the fact that it would take a crop circle -- part of a crop circle out of production.

Q As long as -- unless the -- that crop circle could be construct -- or could be utilized underneath the power line.

A Where there's not a structure.
Q Right. So there's just a post. In between the posts, you can still grow crops; right?
A Yes. But the pivot irrigation itself can't move through the pole, it has to go around it.
Q And that would have been factored into the easement acquisition payment component of Alt Route 2 cost analysis; correct?
MR. EPLEY: Object to form. Calls for speculation.
A I'm not sure if it does account for the loss production of -- of an irrigated crop.
Q BY MR. CAHN: You don't know what's in there?
A I don't know what's in there.
Q You don't know what's in any of these numbers.
MR. EPLEY: Object to form.
A I don't, off the top of my head.
Q BY MR. CAHN: Okay. So as you sit here today, you've identified a couple of things that appear to have been addressed in the cost estimates as inadequacies of Alternate Route 2, but you can't say whether or not these cost estimates resolve those issues or not; correct?
MR. EPLEY: Object to form.
A Can you please repeat the question?
Q BY MR. CAHN: As you sit here today, you've identified a couple of issues with Alternative Route Number 2, but you cannot say with any level of certainty as to whether or not those deficiencies were resolved by the cost estimates that appear to address those issues in Exhibit 208.
MR. EPLEY: Object to form.
A I -- I can't speak to the date of these estimates, nor what is in these estimates as compared to the alternate route segments that we looked at on the other exhibit.
Q BY MR. CAHN: So you don't know if this -- if this was addressed -- if those issues were addressed in the budgeting for the project.
MR. EPLEY: Object to form.
A I can't -- I can't speak to the specifics of that off the top of my head.
Q BY MR. CAHN: Were these issues discussed with Amazon Data Services as part of their agreement to pay for the costs of the project?
A Which issues?
Q Any of the issues relating to the various route alternatives, especially the fact that preferred route -- or Alt Route Number 2 is cheaper than the preferred route.
A I don't recall any conversations with Amazon on specific challenges to any route segment analysis or the specifics within the acquisition payments or environmental or other buckets.
Q And if you had gone with Alt Route Number 1, even though it was 800,000 -- $400,000 more than the preferred route, Amazon would have picked up that cost, so it wouldn't have mattered; correct?
MR. EPLEY: Object to form.
A Can you repeat the question?
Q BY MR. CAHN: Yeah. The question is, if you had chose to go Alt Route 1, even though it was about 400,000 more than the preferred route, it would not have mattered, from a cost perspective, to UEC, because ADS was going to pay for it; correct?
MR. EPLEY: Object to form.
A ADS would have been responsible for the cost, yes.
Q BY MR. CAHN: So if you had gone with Alt Route 1 and avoided the Tallman property entirely, it would not have been a financial impact to UEC; correct?
MR. EPLEY: Object to form.
A That's a -- that's tricky, because there is -- there is, like, a precedent-setting amount on easement acquisitions. I'm not sure I understand your question entirely.
Q BY MR. CAHN: My question is, if you had gone with Alt Route Number 1 instead of the preferred route, it would not have been a financial impact on UEC, because ADS was going to pay for the difference; correct?
A For this project --
MR. EPLEY: Object to form.
A For this project, it would have not been a financial impact to UEC. I cannot speak to that for future projects that we would have used this for analysis on.
Q BY MR. CAHN: Okay. And that led me to what you just said a moment ago, which is that you're afraid of setting a precedent with respect to easement acquisition costs, if you overspend on easements in this project; is that correct?
A I would say for any project.
Q So if you -- if a property owner says their property's worth more, it's important to UEC to keep that valid -- let me strike that -- it's important to keep the cost of the easement that it acquires down for UEC, because it will be acquiring easements in the future and it wants everyone to -- strike that question.
I'm trying to understand what you just said. As I understood what you just said, UEC wants to keep the cost of easement acquisition down because it will benefit UEC's future projects if easements are paid for at a lower rate on this project. Is that correct?
MR. EPLEY: Object to form.

A I'm not sure – I'm not sure I agree with what you stated.
So we – UEC is a not-for-profit member-owned electrical cooperative, so it's – it's – we're constantly looking out to manage costs to maintain fair and reasonable rates for our entire membership.
Q BY MR. CAHN: Right. And that includes setting a precedent for easement acquisition costs; correct?
A So, as I –
MR. EPLEY: Object to –
Q BY MR. CAHN: – projects don't cost as much?
MR. EPLEY: Object to form.
A Can you repeat the question, please?
Q BY MR. CAHN: That includes keeping easement acquisition costs down for future UEC easement – projects acquiring easements; correct?
A It requires –
MR. EPLEY: Object to form.
A It requires managing all costs for all projects, yes.
Q BY MR. CAHN: And UEC doesn't want to set a precedent today that could be used against it tomorrow; correct?
MR. EPLEY: Object to form.
A Can you repeat the question again, please?
Q BY MR. CAHN: UEC does not want to set a precedent today that could be used against it tomorrow; correct?
MR. EPLEY: Object to form.
A Yes.
MR. CAHN: Those are the questions I have for you, Mr. Lankford. Thank you for your time today. I am done, and we can conclude your deposition.
MR. EPLEY: Well, I have additional questions.
MR. CAHN: Okay.
MR. EPLEY: And if we can – it's been a little bit since we've taken a break, so if we can take maybe a five-minute break.
MR. CAHN: If possible, if you've got less than ten minutes, I'd like to finish it out. I really was hoping to be on the road at 12:30.
MR. EPLEY: Well, Bruce, I think it'll help me to be able to go back through my notes and make this more efficient, if we can just take five minutes.
MR. CAHN: Okay.
(A recess was taken.)

EXAMINATION

BY MR. EPLEY:
Q Mr. Lankford, do you recall Mr. Cahn asking you questions about Alternative 2?
A Yes.
Q And he was asking you about the reasons that UEC did not select Alternative 2?
A Yes.
Q I want to share my screen.
(Deposition Exhibit No. 237 was presented.)
Q And just to confirm, can you see a document where, at the top, it says "Before the Public Utility Commission"?
A I see it.
Q Okay. Did Mr. Cahn show this document to you during your testimony?
A Yes.
Q And is this the testimony of Louis Toth that was submitted as part of the PUC proceeding?
A Yes.
Q I want to take a look at a page that is Bates numbered 1st John 388. Do you see that?
A Yes.
Q Okay. On the top of this page it says, "Route Selection Summary For Olson Road 230kV Planned Transmission Line"; correct?
A Correct.
Q Did Mr. Cahn show you this document when he was questioning you today?
A No.
Q Have you seen this document before?
A I've likely reviewed it, but I can't remember it.
Q Okay. So you hadn't recently reviewed it prior to your testimony today?
A No.
Q Why don't we scroll down to – let's see. This is the third page of that section of the document with a Bates number 1st John 390. Do you see that?
A I do.
Q Do you see a table with a reference to Alternative Route 2?
A Yes.
Q Can you read the portion of the table to the right of that that discusses Alternative Route 2?
A "Alternative Route 2 (shown as blue color) is not selected because of environmental impact and challenges. The line stretches approximately two and a half miles adjacent to BPA's lines. The route, however, crosses a crop circle, wetlands, and properties that are zoned as residential."
Q Okay. Thank you. Does that refresh your recollection that Alternative Route 2 crosses properties that are zoned residential?
A I did not remember that, so it does refresh my memory, yes.
Q Okay. And is it UEC's practice to avoid crossing

residentially zoned properties with 230 kilovolt transmission lines?
A It's -- it's one of the criteria that we look for, yes.
Q Okay. Mr. Lankford, do you recall Mr. Cahn talking with you about a loop road?
A Yes.
Q And you said that you had coordinated with the City and County to ensure that UEC project would be compatible with that loop road; is that right?
A Correct.
Q And was it your understanding that the project would be compatible with the loop road when the project was submitted to the PUC?
A That was my understanding, correct.
Q Okay. And was it your understanding that the project would be compatible with a loop road when this condemnation case was filed in July of 2021?
A Can you repeat the question, please?
Q Sure. Was it your understanding that UEC's transmission line project was compatible with the loop road when this lawsuit was filed in July 2021?
A It's -- as far as I know, the conceptual layouts that we did through the summer of 2020 I don't think changed from that time to construction.

Q Do you have any reason to doubt that Mr. Balfour exercised his independent professional judgment in selecting the appropriate comps to be used in his appraisal?
MR. CAHN: Objection. Lacks foundation. Calls for speculation.
Q BY MR. EPLEY: You can answer.
A Can you repeat the question, please?
Q Sure.
MR. EPLEY: Kim, could you read the question back.
(The question was read by the reporter.)
MR. CAHN: Same objection. Calls for speculation. Lacks foundation. Is a hypothetical.
A I -- I have no doubt that Mr. Balfour acted independently in his role as an appraiser.
Q BY MR. EPLEY: And are you aware of whether the property that you had identified was used as a comp by the appraiser retained by Defendant 1st John in this lawsuit?
MR. CAHN: Asked and answered.
A What was the question?
Q BY MR. EPLEY: Sure. Are you aware of whether the property that you had identified to Mr. Balfour was, in fact, used by the appraiser that has been retained by 1st John, LLC, in this case and used as a comp in his

Q Okay. And is it correct that the loop road is a City project, to your knowledge?
A I believe it is a City project, yes.
Q Okay. Do you recall Mr. Cahn asking you some questions about the city code with respect to the loop road?
A I do.
Q Would you have relied on the City to know what type of road was going to be built by the City?
A I would suspect that my team would be looking to the City to help guide them, yes.
Q Okay. And with respect to the City's code, would you or UEC have relied on the City to advise you if the City's project was incompatible with the city code?
A I think that -- I think the efforts that we were putting forth in working with the City, the County, and the Port of Morrow show that we were trying to all get on the same page and identify any potential issues, yes.
Q Do you recall Mr. Cahn asking you about communications with Mr. Balfour?
A Yes.
Q And you said that you had identified a property that had recently been sold in the area to Mr. Balfour; is that right?
A Correct.

appraisal?
MR. CAHN: Objection. Asked and answered.
A I have not seen 1st John's appraisal of the property.
Q BY MR. EPLEY: Okay. Mr. Lankford, does Amazon Data Services own this transmission line?
A Umatilla Electric Cooperative owns this transmission line.
Q Does Amazon Data Services operate this transmission line?
A No. The UEC operates its own facilities.
Q Does the construction of this 230 kilovolt transmission line provide benefits to UEC's electric system generally?
A Brian, I want to clarify my last answer to that last question on UEC operating its facilities.
So UEC or Bonneville Power operate UEC's electrical facilities.
Q Okay. Thank you for that clarification.
A Right.
Q Does the construction of the 230 kilovolt transmission line provide benefits to UEC's electric system generally?
A Yes.
Q And those are benefits that inure to UEC customers other than Amazon?

A Yes.
Q Can you describe for me some of those benefits?
A Yes. There's the -- the Olson Road substation that this 230kV line ties into UEC's system can also serve a good portion if not all of the city of Boardman out of that same substation.
Q And, okay.
A There's a distribution tie out of that substation into the distribution system that serves the city of Boardman.
Q Does that increase system reliability?
A Yes.
Q And does that increase system resiliency?
A Yes.
Q Do you recall Mr. Cahn asking you questions about the cost for an angled pole?
A Yes.
Q Do the costs for transmission line poles vary based on various factors, including height, foundation, or other things?
A Yeah, many factors, everything from soil to water table to frost line to wind, ice, conductor size, insulator type, framing, height, any other necessary clearances required; span length, for example.
Q So is there one cost for an angled structure?

FURTHER EXAMINATION
BY MR. CAHN:
Q So, very quickly, Mr. Lankford, during the last break, did you have any conversations or communications with Mr. Epley --
A No.
Q -- Epley?
A No.
Q Have you had communications or conversations with Mr. Epley, either text, email, or through chat, during this deposition?
A During the very first break, he checked in on me, yes.
Q Okay. And you mentioned a moment ago that UEC owns the transmission line components. But Amazon Data Service is paying for the line expansion; correct?
A They pay for UEC's facilities, yes.
Q And while the 2300 -- or, the 230 kilovolt transmission line has benefits, its need was generated by -- sorry.
While the 230 kilovolt transmission line has general benefits to the UEC system, the need for the 230 kilovolt transmission line came from Amazon Data Services' utilization of electricity through UEC; correct?
MR. EPLEY: Object to form.

A Not in my experience.
Q Okay. I also want to ask you, Mr. Cahn asked you about whether UEC had the consent of 1st John to construct the project on its property. Do you recall that?
A Yes.
Q Are you aware that UEC moved for advanced occupancy in this case?
A Yes.
MR. CAHN: Objection. Calls for a legal conclusion.
Q BY MR. EPLEY: What is your understanding of what happened with that motion?
A We --
MR. CAHN: Object to the form.
A We were granted the advanced occupancy based upon our CPCN.
Q BY MR. EPLEY: And what is the CPCN?
A Gosh, you would ask me that. Convenience -- certificate of public convenience and necessity for a transmission line.
Q And are you aware that the court granted an order permitting UEC to occupy this easement area?
A I was.
MR. EPLEY: I think that's all I have right now.

A Can you repeat the question, please?
Q BY MR. CAHN: While Mr. Epley asked you if the city and the county and all the residents that are served by UEC generally receive a benefit from this project, my question is, but the need for this project came from Amazon Data Services' utilization of energy from UEC; correct?
A So the Amazon's request for service drove the need for the transmission line and the substation to serve that -- that load center. And, yes, it does have benefit to the community for that.
Q Right. But some of the reliability issues is because the city of Boardman has to coexist with this very high-level, high-volume utility user; correct? Amazon --
MR. EPLEY: Object.
Q BY MR. CAHN: -- Data Services?
MR. EPLEY: Object to form.
A I'm not sure I follow, Mr. Cahn.
Q BY MR. CAHN: Well, what makes the system unreliable without the transmission line improvements is that more and more of the electricity being utilized through the system is being consumed by Amazon Data Services; correct?
A Those -- those two things are different.
Q Amazon Data Services' utilization of energy is what is causing overload in the UEC system; correct? Which

created the need for this project; correct?
A Their -- their request to build their site required facilities to serve it, and UEC made extra effort to tie those same facilities back into the community of Boardman through the distribution system separate from Amazon.
Q Would UEC have done that, had Amazon not come to UEC and said, "I need transmission line capacity to my data service centers"?
MR. EPLEY: Object to form. Calls for speculation.
A At that point in time, there wasn't a need for a substation at that location, without the request from Amazon.
Q BY MR. CAHN: Thank you.
And who have you been working with or who is your contact at Amazon Data Services?
A At that time? I can't remember who my direct contact was at that time. There's a lot of people there.
Q So do a lot of people from Amazon Data Services contact you on a regular basis?
A There's -- there's a half dozen that I'm in regular communication with.
Q Who are they?
A The ones that I'm in communication with today are a lot different than the ones from a few years ago. They change regularly. Do you want me to list today's?
Q Give me who you're talking to -- who you remember having worked with at Amazon Data Services in your tenure as the manager of engineering.
A Oh. Okay. I'll just list some names.
(Names spelled phonetically.)
A We've got Travis Metcalf. Steven Goulet, I believe is his last name. There's David Wright. There's Charlie Deitch. There was Nat Salstrom. Oh, there was -- who am I missing? Stan Hollowell.
Oh, gosh. Terrible with names, too. This is tough. I can see their faces.
Q Not trying to test you. If you can't remember further, that's fine.
A Feels like a test.
Q But suffice to say, as you suggested a second ago, you get calls a lot from a number of people at Amazon Data Services on a regular basis; correct?
A I speak with -- with Amazon regularly, and their personnel shifts regularly.
Q Okay. And you speak with them regularly about their energy needs?
A Yeah -- yes.
Q Do you speak with Amazon Data Service representatives more regularly than any other customer of UEC?
A Yes.
MR. CAHN: No further questions.
MR. EPLEY: Okay. I don't have anything additional.
MR. CAHN: So we are going to -- for the record, we utilized exhibits, in addition to exhibits that have already been marked as provided to the court reporter, Exhibit 252, 243, 250, 208, 223, 252, and -- oh, and the board resolution; we didn't mention it, but I think we're marking that as Exhibit 253.
MR. EPLEY: And we, in my questioning, talked about the Toth testimony, and I think -- I referred to Bates numbers, so we need to get that in. But we can choose a number to mark that as that we haven't used already and I can circulate that.
MR. CAHN: That's fine.
MR. EPLEY: So, Kim, can we --
(A discussion was held off the stenographic record.)
MR. EPLEY: Let's then mark what was produced as -- with the first page with Bates number 1st John 332 as Exhibit 260.
(Deposition Exhibit No. 260 was marked for identification.)
MR. CAHN: Okay. And then the only other caveat, Kim, is that we'll need this draft as soon as we can get it. And it can be rough. We understand.
MR. EPLEY: Okay.
MR. CAHN: With that, we can sign off.
MR. EPLEY: And just for the record, we'll reserve the right to read and sign. And same for Mr. Echenrode yesterday, as well. May have forgotten to put that on the record.

(DEPOSITION ADJOURNED AT 1:54 P.M.)
(SIGNATURE RESERVED.)
* * *

CERTIFICATE

I, Kim Nerheim, an Oregon Certified Shorthand Reporter and a Washington Certified Court Reporter, hereby certify that said witness appeared before me by videoconference at the time and place set forth in the caption hereof; that at said time and place I reported in stenotype all testimony adduced and other oral proceedings had in the foregoing matter; that thereafter my notes were transcribed through computer-aided transcription, under my direction; and that the foregoing pages constitute a full, true and accurate record of all such testimony adduced and oral proceedings had, and of the whole thereof.

Witness my hand at Portland, Oregon, this 29th day of February, 2024.



Kim Nerheim
Oregon CSR No. 90-0138
Expires 9/30/2026
Washington CCR No. 0003038
Expires 3/28/2024

From: SOMERS Lindsay N * ODFW
Sent: Wednesday, March 25, 2026 1:10 PM
To: ESTERSON Sarah * ODOE
Cc: MCVEIGH-WALKER Chase * ODOE; SMITH Jorden D * ODFW
Subject: Re: WREFIII AMD1 - Follow Up Items (Easement Map and WREFIII HMP w Additional Enhancement Actions)
Attachments: WREF III AMD1_WTS II HMP_ODFW Comments.pdf

Hi Sarah and Chase,

I have attached ODFW comments on the WTS II HMP and WREF III AMD1.

Please let me know if you have any questions,

Lindsay

Lindsay Somers
Habitat Biologist-John Day Watershed
Oregon Department of Fish and Wildlife
73471 Mytinger Ln
Pendleton, OR 97801
Office: 541-388-6294
Cell: 541-314-1236

From: ESTERSON Sarah * ODOE <Sarah.ESTERSON@energy.oregon.gov>
Sent: Wednesday, March 4, 2026 12:58 PM
To: SOMERS Lindsay N * ODFW <Lindsay.N.Somers@odfw.oregon.gov>
Cc: MCVEIGH-WALKER Chase * ODOE <Chase.MCVEIGH-WALKER@energy.oregon.gov>
Subject: WREFIII AMD1 - Follow Up Items (Easement Map and WREFIII HMP w Additional Enhancement Actions)

Hi Lindsay,

Thanks again for your time today to talk about the draft HMP for Wagon Trail Solar II. Attached are the following docs of note/for reference:

- HMA Figure, including areas for WREFI, II, III, East and available area for WTSII
- Conservation easement provided for the WREFIII HMA. If this is inadequate, I think it provides good justification for commenting on the need for clear legal instrument language within the HMP
- WREFIII Amended HMP, with additional enhancement actions provided in Section 11. Includes 5-acres of sagebrush planting and annual grass treatment/overseeding to mitigate for Cat 4 impacts.

Let us know if you need anything else.

Thanks!

Sarah T. Esterson
Senior Policy Advisor
550 Capitol St. NE | Salem, OR 97301
P: 503-559-9218
1-800-221-8035

Stay connected!

Oregon
Tina Kotek, Governor

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March 24, 2026

Chase McVeigh-Walker
Senior Siting Analyst
Oregon Department of Energy
550 Capitol St. NE
Salem, OR 97301

RE: Request for comments on Wheatridge Renewable Energy Facility III Amendment 1 and Wagon Trail Solar II facility

Dear Chase,

Oregon Department of Energy has requested comments from the Oregon Department of Fish and Wildlife (ODFW) on the Wheatridge Renewable Energy Facility III (WREF III) Amendment 1 and the proposed Wagon Trail Solar II facility (WTS II). This Letter contains ODFW specific comments after reviewing both the Proposed Amendment 1 and the Draft Habitat Mitigation Plan (HMP) for WTS II.

ODFW requests that the following information be added to the Habitat Mitigation Plan for Wagon Trail Solar II, in accordance with OAR 635-415-0020(8).

Section 1.0 Introduction

- The location, physical and operational characteristics, and duration of the proposed development action.
- A map of the proposed development including the latitude and longitude, township, range, section, quartersection and county.

Section 2.0 Legal Instrument

- Description of the legal protections and assurances regarding the duration of any conservation easements, demonstrate consistency with the duration of project impacts.

Section 7.0 Implementation Schedule

- A clearly defined schedule for reporting on the progress toward achieving the mitigation goals and standards, the overall efficacy of mitigation measures in conjunction with associated monitoring efforts, and any modification of mitigation measures.

In addition to the required components mentioned above, ODFW recommends inclusion of the following components.

- WREF III and WTS II: A defined data sharing protocol for monitoring and survey results.

- WTS II, HMP, Table 4. Calculating Mitigation for Temporary Disturbance: ODFW requests clarification that the temporary impacts detailed in Table 4 are outside the facility perimeter fencing. All impacts within the perimeter of a solar facility are considered permanent impact.

- WTS II, HMP, Section 6.2 Habitat Enhancement Actions: Consistent with previous review of Wheatridge III, ODFW recommends that additional proposed habitat enhancement actions be considered to achieve no net loss in either habitat quantity or quality to category 3 and 4 habitat. Actions such as sagebrush planting, native grass seeding/forb planting, and annual grass treatment should be included as needed to ensure the habitat quality at the Habitat Mitigation Area is equivalent to that of the impacted habitat and maintained as such.

ODFW respectfully requests an additional review period prior to finalization of the Habitat Mitigation Plan to ensure incorporation of all required elements.

Sincerely,

Lindsay Somers

Lindsay Somers
Regional Habitat Biologist
Lindsay.n.somers@odfw.oregon.gov

From: Grace, Jordan
Sent: Friday, April 3, 2026 3:38 PM
To: MCVEIGH-WALKER Chase * ODOE
Cc: ESTERSON Sarah * ODOE; TARDAEWETHER Kellen * ODOE; Twitchell, Sara; Jaberi, Sarah
Subject: WREFIII RFA1 - WTSII VSMP Redlines
Attachments: Attachment C-1 Draft Vegetation and Soil Management Plan_20260403_redline.docx; Attachment C-1 Draft Vegetation and Soil Management Plan_20260403_clean.docx

---

Chase,

As you're aware, the Certificate Holder's team has been coordinating with ODOE staff via email and in meetings on 3/16/2026 and 4/3/2026, to discuss and integrate mutually agreeable redlines in the WTSII VSMP, in response to the changes ODOE made to the prior WTSII VSMP included in the February 27, 2026 Proposed Order.

The primary changes are to:

- Remove Appendix C (NPDES 1200-C Permit and ESCP) to shorten the document and reduce duplicative submittals. In addition, the ESCP is a living document that is updated frequently during construction, the version provided here would be quickly out of date.
- Revise monitoring methods and clarified frequency.

Attached please find a redlined word document, outlining the changes. Also attached is a clean word document with redlines accepted.

Thank you,

Jordan Grace (he/him)

From: Grace, Jordan
Sent: Friday, April 3, 2026 3:41 PM
To: MCVEIGH-WALKER Chase * ODOE
Cc: ESTERSON Sarah * ODOE; Twitchell, Sara; Jaberi, Sarah
Subject: WREFIII RFA1 - Condition Change Request

Chase,

The Certificate Holder requests that condition GEN-OE-02 subsection 'a' of the WTSII site certificate be changed as follows (to most accurately reflect the intent of the wildlife response and reporting system section of the removed WMMP):

The certificate holder shall, as soon as reasonably possible:

a. *Report incidents of livestock or ~~incidental~~ wildlife ~~observations~~ injury or fatality discovered within the Facility boundaries.*

Thank you,

Jordan Grace (he/him)

Wagon Trail Solar II

~~Draft~~ Solar Vegetation and Soil Management Plan

Prepared for
Wagon Trail Energy Center, LLC

Prepared by



Tetra Tech, Inc.

~~February~~ April 2026
~~Amended by the Department February 2026~~

Document History

Date	Description
February 2026	Submitted in response to General Comment #2 of ODOE's Request for Additional Information~~,~~ for the Wheatridge Renewable Energy Facility III (WREFIII) Preliminary Request for Amendment (RFA) 1. Submitted as part of WREFIII RFA1 for the Wagon Trail Solar II (WTSII) facility.
February 2026	Amended by ODOE.
March 2026	Revised by Certificate Holder in response to ODOE's amendments.
April 2026	Revised by ~~the Department~~ODOE based on ongoing coordination with C~~c~~ertificate H~~h~~older.
April 2026	Revised by Certificate Holder in response to ODOE's amendments.

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Appendix B. ~~Construction Plan~~Disturbance Levels
~~Appendix C. NPDES 1200-C Permit and Erosion and Sediment Control Plan~~
Appendix ~~D~~C. Fugitive Dust Control Plan
Appendix ~~E~~D. Environmental Monitoring Methods
Appendix ~~F~~E. Revegetation and Soil Stabilization Methods
Appendix ~~G~~F. Weed Control Plan

Commented [A1]: TT: We recommend removing Appendix C from the VSMP to shorten the document and reduce duplicative submittals. In addition, the ESCP is a living document that is updated frequently during construction, the version provided here would be quickly out of date.

Commented [A2R1]: ODOE: Agreed

Acronyms and Abbreviations

Certificate Holder	Wagon Trail Energy Center, LLC
BESS	battery energy storage system
BMP	best management practice
County	Morrow County
EFSC	Oregon Energy Facility Siting Council
EMC	Environmental Monitoring Contractor
EPC	Engineering, Procurement, and Construction Contractor
ESCP	Erosion and Sediment Control Plan
Facility	Wagon Trail Solar II
gen-tie	generation tie
NOT	Notice of Termination
NPDES	National Pollutant Discharge Elimination System
OAR	Oregon Administrative Rule
ODA	Oregon Department of Agriculture
ODFW	Oregon Department of Fish and Wildlife
ODOE	Oregon Department of Energy
OSWB	Oregon State Weed Board
RACM	Reasonable Available Control Measures
RC	Revegetation Contractor
VSMP	Solar Vegetation and Soil Management Plan
WC	Weed Control Contractor

1.0 Introduction and Plan Goals

This Solar Vegetation and Soil Management Plan (VSMP) was prepared by Wagon Trail Energy Center, LLC (Certificate Holder), a wholly owned, indirect subsidiary of NextEra Energy Resources, LLC (NEER or Certificate Holder Owner) to serve as a primary source of commitments related to revegetation, soil management, dust control, stormwater management, and noxious weed control through the pre-construction, construction, and operations phases for the Wagon Trail Solar II (Facility), located in Morrow County, Oregon.[1] ~~This VSMP was developed to demonstrate compliance with applicable state and local laws and regulations. Specifically, the~~The actions described in this VSMP are intended to increase the probability of revegetation success, reduce erosion and fugitive dust, protect topsoil for future agricultural use on agricultural land, prevent and address the establishment and spread of noxious weeds, minimize fire risk, and maintain beneficial vegetation at the ~~F~~Facility.

For solar facilities, while impacts within the ~~perimeter fenceline~~Solar Micrositing Area fence are treated as a permanent impact under the Fish and ~~&~~Wildlife Habitat standard, and mitigated in the HMP, onsite vegetation and soils are not actually permanently impacted and therefore related impacts must still be minimized and mitigated through revegetation.

For ease of implementation and compliance tracking, this document is structured to identify actionable items by phase and typical sequencing within each phase, with additional details provided as appendices and/or incorporated by reference. This VSMP will be updated, as necessary, in coordination with the Oregon Department of Energy (ODOE) and applicable agencies as specified below prior to construction and operation to reflect the final layout of the Facility and additional details only available once an Engineering, Procurement, and Construction Contractor (EPC) has been identified.

1.1 Plan Finalization

[1] Request for Amendment (RFA) 1 for the Wheatridge Renewable Energy Facility III ~~proposes to~~ split the constructed/operational portion from the remaining undeveloped portion, and created a new site certificate for the Wagon Trail Solar II (Facility). Therefore, the Facility comprises the approved, but not yet constructed (in 2026), 100-megawatt (MW) solar photovoltaic energy generation component of the Wheatridge Renewable Energy Facility III.

~~Table 1~~ identifies information that must be incorporated into the VSMP before beginning any phase of construction.

Table 1. Action Items for Plan Finalization

Action	Timeframe	Implemented By[1]	~~Review/~~Compliance Verification[1]
~~Notify ODOE of identity of EMC, EPC, RC, and WC.[1] Provide evidence that each contractor meets the minimum qualifications described in Appendix A.~~	~~Plan Finalization~~	~~Certificate Holder~~	~~ODOE~~
In preparation of the final VSMP, ~~c~~Certificate ~~h~~Holder is encouraged to coordinate with ODOE~~.~~, ODA, ODFW, Morrow County (County). Once finalized submit VSMP to ODOE for approval, and to ODA, ODFW, Morrow County (County) for consultation.	Plan Finalization	Certificate Holder	Approval - ODOE~~.~~, Consultation - ODA, ODFW, Morrow County (County)
Update Appendix A, Table A-1 with the name and contact information of EMC, EPC, RC, and WC.[1] Provide evidence that each contractor meets the minimum qualifications described in Appendix A.~~name and contact information for each contractor.~~	Plan Finalization	Certificate Holder	ODOE
Update Section ~~6~~5.0, Table 5 with operations long-term vegetation management ~~details from Public Utility Commission (PUC) approved vegetation management plan including monitoring for Wildfire Management Plan vegetation criteria.~~consistent with vegetation management designated in the Operational Wildfire Mitigation Plan~~WMP~~.	Prior to ~~O~~operations	EMC	ODOE
~~Update Appendix B, Table B-1 with temporary and permanent disturbance acres by habitat subtype for the final design.~~	~~Plan Finalization~~	~~EMC~~	~~ODOE~~
Update Appendix B with a construction plan and maps based on final design, expected disturbance levels, and sequencing of construction.	Plan Finalization	EMC	ODOE~~, ODA, ODFW, Morrow County (County)~~
~~Update Attach in Appendix C with the approved National Pollutant Discharge Elimination System (NPDES) 1200-C permit and Erosion and Sediment Control Plan (ESCP).~~ Incorporate all stormwater control and treatment best management practices (BMPs) required by the National Pollutant Discharge Elimination System (NPDES) 1200-C permit~~, and any supplemental BMPs required by this~~into this VSMP~~, into ESCP~~.	Plan Finalization	EPC	ODOE

Table 1. Action Items for Plan Finalization

Action	Timeframe	Implemented By[1]	~~Review/~~Compliance Verification[1]
Update Appendix ~~D~~ C with construction dust control measures. Include contact information and procedures for Dust Control Hotline.	Plan Finalization	EPC	ODOE
Consult with ODOE, ODFW, ODA, County Weed Department, and/or the seed supplier to determine the optimal timing for seed application based on climatic conditions of the particular year when construction and revegetation efforts will be implemented and include in plan. Seeding from September to March is typically recommended.	Plan Finalization	Certificate Holder & EMC	ODOE, County
Update Appendix ~~E~~D with proposed ~~baseline~~ soil compaction and baseline vegetation sample locations.	Plan Finalization	Certificate Holder & EMC	ODOE
Update Appendix ~~E~~D with vegetation management measures that are consistent with W~~w~~ildfire M~~m~~itigation P~~p~~lans.	Plan Finalization	Certificate Holder & EMC	ODOE
Update Appendix ~~G~~F, Table ~~G~~F-1 with noxious weeds observed during pre-construction surveys.	Plan Finalization	EMC	ODOE
Update Table F-3: Treatment Plan and Tracking for Noxious and Invasive Weed Control with timing and treatment methods for each identified weed species of concern in Appendix ~~G~~ F after consulting with the County Weed Department.	Plan Finalization	WC & EMC	ODOE, County
~~Coordinate the construction schedule and sequence with landowners to maintain land in current production and weed control until the end of the last growing season prior to construction.~~ Include any measures to minimize impacts to adjacent agricultural operations or landowners in the final VSMP.	Plan Finalization	Certificate ~~h~~Holder & EPC	ODOE

1. EMC = Environmental Monitoring Contractor; EPC = Engineering, Procurement, and Construction Contractor; ODA = Oregon Department of Agriculture; ODFW = Oregon Department of Fish and Wildlife; ODOE = Oregon Department of Energy; RC = Revegetation Contractor; WC = Weed Control Contractor

Commented [A3]: ODOE: Okay, to delete. This is in PRE and CON and it says that if landowners have preferences etc., that info is submitted to ODOE

2.0 Definitions

Definitions applicable to this VSMP are provided in Table 2~~Table 2~~, below.

Table 2. Definitions for the Wagon Trail Solar II

Term	Definition
Facility	Wagon Trail Solar II
~~Facility Components~~	~~Photovoltaic solar energy generation, BESS, and other components.~~
Solar Micrositing Area~~/ Site Boundary~~	Maximum area where Solar Components may be constructed and operational activities can occur.
~~Permanent~~ Disturbance Area	Any area ~~permanently occupied by the Facility Components, including all areas within~~impacted by construction of the F~~f~~acility within and outside the fence ~~line~~ of a solar array.
Sensitive Soils	Soils that are highly susceptible to erosion from water, fugitive dust propagation, compaction, or other impacts ~~as described in Appendix E~~.
Solar Components	Components related to photovoltaic solar energy generation and BESS.
~~Temporary Disturbance Area~~	~~Any area that is disturbed during construction of the Facility Components but will not be permanently occupied during operations.~~
Weed Management Area	~~Disturbance area associated with Facility Components~~Area within the fence~~line~~ and a 10-foot buffer outside the~~of~~ fence~~nline~~, if accessible.
~~Wildlife Habitat~~	~~Any undeveloped, non-agricultural areas, including but not limited to areas mapped as grassland, sagebrush shrub-steppe, or riparian habitat, prior to construction of the Facility.~~

~~3.0 Plan Goals and Management Objectives~~

~~This VSMP was developed to demonstrate compliance with applicable state and local laws and regulations. Specifically, the actions described in this VSMP are intended to increase the probability of revegetation success, reduce erosion and fugitive dust, protect topsoil for future agricultural use on agricultural land, prevent and address the establishment and spread of noxious weeds, minimize fire risk, and maintain beneficial vegetation at the Facility.~~

~~The Facility is located on privately owned agricultural land used primarily for dryland wheat production with areas of native perennial and exotic annual grassland. Sensitive soils are present throughout the Facility with moderate susceptibility to erosion from wind and water. To ensure that the area can be restored adequately to a useful, non-hazardous condition following permanent cessation of construction or operation of the Facility Components, Permanent Disturbance Areas in wildlife habitat will be revegetated for the purposes of soil stabilization to reduce erosion, dust pollution, topsoil depletion, and the potential for invasion by noxious weeds and other invasive plants. Cropland outside the Solar Components fenceline will be returned to landowner control and will not be revegetated by the Certificate Holder.~~

~~To minimize impacts to agricultural uses and habitat in Temporary Disturbance Areas, soil disturbance and vegetation removal will be minimized and reasonable efforts will be made to restore vegetation and soils in agricultural areas and wildlife habitat to their pre-disturbance condition. BMPs will be implemented to minimize erosion and prevent the introduction or spread of noxious weeds and other invasive plants in both wildlife habitat and temporarily disturbed developed areas (i.e., existing roads, rock quarries).~~

~~4.0~~3.0 Pre-~~C~~construction ~~Compliance~~Actions and Compliance Submittals

Error! Reference source not found.~~Table 3~~ outlines tasks, actions, and submittals ~~related to revegetation, soil management, dust control, stormwater management, and noxious weed control~~ that must be completed before beginning construction.

Table 3. Pre-construction Compliance Action Checklist and Compliance Verification

Action	Timeframe	Implemented By	~~Review/~~Compliance Verification
Provide Final VSMP to ~~all participating parties~~ ODA, ODFW, Morrow County (County).	At least 30 days prior to construction	Certificate Holder	Provide copies of transmittals to ODOE.
Hold a kick-off meeting with the EMC, EPC, County, and ODOE. Meeting may be in-person or remote.	Prior to ~~listed in this table~~ Environmental Training~~At least 14 days prior to construction.~~	Certificate Holder	ODOE will attend.
Provide information about target noxious weed species at the operations and maintenance buildings.	Prior to construction	EPC	EMC & ODOE to confirm. ~~on site~~
Collect baseline soil compaction measurements within all anticipated Level 3 and 4 Disturbance Areas ~~(described in Appendix B)~~ using the protocol described in Appendix ~~E~~D. ~~Submit baseline soil compaction measurement results to ODOE.~~	Prior to construction	EMC	Submit baseline soil compaction measurement results to ODOE in the Environmental Monitoring Summary. ~~ODOE~~
Flag sensitive environmental resources (e.g., historic, cultural and archeological resources; active raptor nests; Category 1 habitat; delineated wetlands and waterways) and noxious weed infestations to alert construction personnel of avoidance areas or management requirements.	Prior to construction	EMC	EMC & ODOE to confirm ~~on site~~ as needed.
Complete installation of stormwater, erosion, and sediment controls as required by the 1200-C permit. ~~See Appendix C.~~	Prior ~~During~~ to construction	EPC	EMC & ODOE to confirm ~~on site~~ as needed. ~~ODOE~~
Coordinate the construction schedule and sequence with adjacent and impacted landowners to maintain land in current production and weed control until the end of the last growing season prior to construction.	Prior to construction	Certificate Holder	Provide records of landowner coordination to ODOE.

Table 3. Pre-construction Compliance Action Checklist and Compliance Verification

Action	Timeframe	Implemented By	~~Review/~~Compliance Verification
Conduct Environmental Training at the Facility with contractors, construction personnel, and environmental inspector(s), inviting specialty contractors, Oregon Department of Agriculture (ODA), Oregon Department of Fish and Wildlife (ODFW), the County, and ODOE. The training must cover all aspects of this VSMP and other requirements applicable to construction, including but not limited to: • Roles and responsibilities • Implementation of avoidance buffers for sensitive resources (e.g., flagging) • Methods for identifying and preventing the spread of noxious and invasive weeds • BMPs for soil protection and erosion control under the 1200-C permit ~~Fire prevention practices during construction~~Training may be separate or overlap or occur with pre-construction training required in the W~~w~~ildfire ~~m~~Mitigation P~~p~~lan with emergency personnel.	Prior to construction	Certificate Holder & EMC	ODOE will attend. Provide records demonstrating that all contractor personnel have attended on-site Environmental Training ~~described above~~.
~~Provide records demonstrating that all contractor personnel have attended on-site Environmental Training described above.~~	~~Prior to construction~~	~~Certificate Holder~~	~~ODOE~~
~~Provide the Appendix G Weed Control Plan to the County Weed Department for review and concurrence with treatment guidelines.~~	~~Prior to construction~~	~~Certificate Holder~~	~~ODOE, County~~
Treat noxious weeds within the Weed Management Area in accordance with methods in Appendix ~~G~~F.	Prior to construction	WC	Provide evidence to ODOE, including what types of treatments in which areas, that existing noxious weeds have been identified and treated. ~~in accordance with methods in Appendix G.~~ODOE
~~Provide evidence that existing noxious weeds have been identified and treated in accordance with methods in Appendix G.~~	~~Prior to construction~~	~~Certificate Holder~~	~~ODOE~~

~~5.0~~4.0 Construction ~~Compliance~~Actions and Compliance Submittals

Error! Reference source not found.~~Table 4~~ outlines actions, monitoring, and submittals~~-~~ needed ~~for~~ to demonstrate compliance during construction ~~related to revegetation, soil management, dust control, stormwater management, and noxious weed control~~. This list includes actions applicable throughout construction as well as actions required as construction nears completion and revegetation commences in preparation for entering the operations phase.

Table 4. Construction Checklist and Compliance Verification ~~Compliance Checklist~~

Action	Timeframe	~~Responsible Party~~Implemented By	~~Review/~~Compliance Verification
During Construction ~~Mobilization~~			
~~Provide information about target noxious weed species at the operations and maintenance buildings.~~	~~During construction~~	~~EPC~~	~~EMC & ODOE~~
Ensure a copy of this VSMP and a description of any additional fugitive dust control requirements are available at the Facility.	During construction	EPC	EMC & ODOE to confirm.~~ on site~~EMC & ODOE
Prominently display Dust Control Hotline signs, providing direct access to the Certificate Holder Site Manager.	During construction	EPC	EMC & ODOE to confirm.~~ on site~~EMC & ODOE
~~Flag sensitive environmental resources (e.g., historic, cultural and archeological resources; active raptor nests; delineated wetlands and waterways) and noxious weed infestations to alert construction personnel of avoidance areas or management requirements.~~	~~Prior to construction~~	~~EMC~~	~~ODOE~~
During Ground-Disturbing Activities			
In Disturbance Levels 3, 4, and 5 areas (described in Appendix B), stockpile excavated soils by soil horizon to replace in the same order and prevent mixing of topsoil and subsoils. Put conserved topsoil back in place prior to revegetation activities.	During construction	EPC	EMC & ODOE to confirm,~~ on site~~ ongoing as needed.~~EMC & ODOE~~
Do not move topsoil and other soil from areas with noxious weeds to areas without noxious weeds; instead, return these soils to their previous location during reclamation activities to reduce the transport of weed seeds, roots, or rhizomes.	During construction	EPC	EMC & ODOE to confirm,~~ on site~~ ongoing as needed.~~EMC & ODOE~~
Use appropriate erosion and sediment control practices, as required by the 1200-C permit~~ (Appendix C)~~.	During construction	EPC	EMC & ODOE to confirm,~~ on site~~ ongoing as needed.~~EMC & ODOE~~
Limit vehicle access to designated routes, whether existing roads or newly constructed roads, and the outer limits of construction disturbances per the final design for the Facility Components; limit vehicle traffic in areas with noxious weeds.	During construction	EPC	EMC & ODOE to confirm,~~ on site~~ ongoing as needed.~~EMC & ODOE~~

Table 4. Construction Checklist and Compliance Verification ~~Compliance Checklist~~

Action	Timeframe	~~Responsible Party~~Implemented By	~~Review/~~Compliance Verification
Require construction vehicles to pass through a wheel wash station at vehicle ingress/egress points each time they enter or exit the Facility.	During construction	EPC	EMC & ODOE to confirm, ~~on site~~ ongoing as needed.~~EMC & ODOE~~
Clean vehicles and equipment associated with ground disturbance and movement of topsoil utilizing a mobile wash station after performing work in areas with noxious weeds and prior to performing work in areas without noxious weeds.	During construction	EPC	EMC & ODOE to confirm,~~ on site~~ ongoing as needed.~~EMC & ODOE~~
Implement appropriate BMPs, as designated in this VSMP, to control any dust generated by construction activities, such as applying water or stabilizers to roads and disturbed soil areas.	During construction	EPC	EMC & ODOE to confirm,~~ on site~~ ongoing as needed.~~EMC & ODOE~~
Maintain records of U.S. Environmental Protection Agency (EPA) Method 22 (ODEQ 2019) monitoring.	During construction	EPC	EMC & ODOE to confirm,~~ on site~~ ongoing as needed. Submit to ODOE upon request.~~EMC & ODOE~~
After grading is complete but prior to installation of Facility Components, apply temporary or permanent soil stabilization, as described in Appendix ~~F~~E.	During construction	RC	EMC & ODOE to confirm,~~ on site~~ ongoing as needed.~~EMC & ODOE~~
Monitor the Weed Management Area for noxious weeds during and after construction and implement control measures as described in Appendix ~~G~~F.	During and following construction	EMC & Certificate Holder	EMC & ODOE to confirm,~~ on site~~ ongoing as needed.~~ODOE~~
~~Conduct compliance monitoring to ensure that contractors are complying with noxious weed prevention measures in this VSMP. Facilitate coordination meetings with ODOE and County Weed Department, train all personnel to maintain tracking sheets, conduct routine check-in calls with the construction team, and document communication with landowners prior to chemical application. Maintain records and provide ODOE with copies of these records annually during construction. If the Certificate Holder contracts with the County Weed Department to perform weed control at the Facility, then monitoring records will include a statement that the county agency performed the work.~~	~~During construction~~	~~EMC~~	~~ODOE, County~~

Table 4. Construction Checklist and Compliance Verification ~~Compliance Checklist~~

Action	Timeframe	~~Responsible Party~~Implemented By	~~Review/~~Compliance Verification
~~If construction extends into the growing season prior to the commercial date of operations and formal post-construction weed monitoring, conduct informal but comprehensive weed surveys to inform adaptive management. Weed monitoring may be conducted as part of routine environmental monitoring to be completed at least monthly from April to October.~~	~~During construction~~	~~EMC~~	~~ODOE~~
Soil Stabilization and Reclamation			
Coordinate with landowner or farm operator to identify the preferred approach for soil stabilization on agricultural land until routine seeding and tillage resumes. Soil stabilization may include applying unseeded hydromulch or crimping in weed-free straw until seeding can occur. Landowner may choose to assume responsibility for soil stabilization. Agricultural lands will be restored to landowner satisfaction.	During and following construction	Certificate Holder	Submit documentation of coordination to ~~EMC &~~ ODOE.
Request ~~M~~meeting with ODOE, ~~in coordination with~~ WC, ODFW, and County Weed Department to review the actual extent and condition of disturbed areas and confirm revegetation methods to be implemented.	After each phase of construction is complete and before revegetation	Certificate Holder	ODOE, ODFW, EMC, County to attend, if available.
In areas with noxious weeds where soil was removed, return soils to their previous location during reclamation activities to reduce transport of weed seeds, roots, or rhizomes.	During reclamation	EPC	~~EMC & ODOE~~EMC & ODOE to confirm, ~~on site~~ ongoing as needed.
Treat noxious weeds in the Weed Management Area using methods described in Appendix ~~G~~F ~~and in consultation with the County Weed Department as necessary~~. No weed treatment will occur in agricultural lands without landowner permission.	Before reclamation and revegetation	WC	EMC & ODOE to confirm, ~~on site~~ ongoing as needed.~~EMC & ODOE~~
De-compact soil by mechanical scarification (tilling or ripping the soil) to an appropriate depth as described in Appendix ~~F~~E. Soil amendment, such as addition of organic matter (compost), may also be necessary to alleviate compaction.	Prior to revegetation	EPC	EMC & ODOE to confirm, ~~on site~~ ongoing as needed.~~EMC & ODOE~~

Table 4. Construction Checklist and Compliance Verification ~~Compliance Checklist~~

Action	Timeframe	~~Responsible Party~~Implemented By	~~Review/~~Compliance Verification
Complete post-construction soil compaction testing in all Level 3 and 4 Disturbance Areas in spring or late fall in accordance with Appendix ~~E~~D. ~~Submit results to ODOE for review and approval.~~	After reclamation and before revegetation	EMC & Certificate Holder	Submit results to ODOE for review and approval.~~ODOE~~
Perform soil preparation prior to seeding using methods described in Appendix ~~F~~E.	Before revegetation	EPC	EMC & ODOE to confirm.~~ on site~~ ongoing as needed.~~EMC & ODOE~~
~~Prevent conditions favorable for noxious weed germination by revegetating as soon as practicable.~~	~~After reclamation~~	~~RC~~	~~ODOE~~
Revegetation of ~~Permanent~~ Disturbance Areas			
Following completion of construction phases, seed undeveloped ~~Permanent~~ Disturbance Areas in accordance with methods described in Appendix ~~F~~E.	During revegetation	RC	EMC & ODOE to confirm.~~ on site~~ ongoing as needed.~~EMC & ODOE~~
~~Revegetation of Agricultural Temporary Disturbance Areas~~			
~~Coordinate with the landowner or farm operator to identify the preferred approach for revegetating agricultural land. Landowner may choose to assume responsibility for revegetation. Agricultural lands will be restored to landowner satisfaction.~~	~~During revegetation, following each construction phase~~	~~Certificate Holder, EPC~~	~~EMC & ODOE~~
~~Report to ODOE on the success of agricultural land restoration efforts; provide evidence that landowner or farm operator is satisfied with restoration.~~	~~During & following construction~~	~~Certificate Holder~~	~~EMC & ODOE~~
~~Revegetation of Non-Agricultural Temporary Disturbance Areas~~			
~~Reseed areas of temporary disturbance outside of agricultural lands, as described in Appendix F.~~	~~During revegetation, following each construction phase~~	~~RC~~	~~EMC & ODOE~~
If straw is needed and certified weed-free straw is unavailable, identify a local source of straw and obtain approval for its use by ODOE in consultation with the County Weed Department.	Before revegetation	RC or EPC	Submit to ODOE for ODOE approval in consultation with~~,~~ County.

Table 4. Construction Checklist and Compliance Verification ~~Compliance Checklist~~

Action	Timeframe	~~Responsible Party~~Implemented By	~~Review/~~Compliance Verification
~~Consult with ODOE, ODFW, ODA, County Weed Department, and/or the seed supplier to determine the optimal timing for seed application based on climatic conditions of the particular year when construction and revegetation efforts are implemented. Seeding from September to March is typically recommended.~~	~~Before revegetation~~	~~RC & EMC~~	~~ODOE, ODFW, ODA, County~~
Stabilize seeded areas to facilitate establishment by applying seedless, certified weed-free hydromulch containing a tackifier or crimped weed-free straw.	During revegetation	RC or EPC	EMC & ODOE to confirm, ~~on site~~ ongoing as needed.~~EMC & ODOE~~
Maintain records of revegetation efforts in all ~~Temporary and Permanent~~ Disturbance Areas. ~~and update ODOE monthly as revegetation work occurs.~~	Monthly during revegetation	EMC	EMC & ODOE to confirm, ~~on site~~ ongoing as needed. Submit to ODOE monthly or as directed by ODOE.~~ODOE~~

~~6.0~~5.0 Operations Actions and~~s~~ Compliance Submittals

Error! Reference source not found.~~Table 5~~ summarizes ~~actions~~ monitoring actions~~,~~ and submittals~~-~~ needed to demonstrate compliance during operations. ~~related to revegetation, stormwater management, and noxious weed control.~~ This list includes actions applicable throughout operations as well as actions required only initially following construction~~; for example, through the Notice of Termination (NOT) for Coverage under a NPDES Permit. Soil management and dust control measures are not included in Table 5 because they are addressed during prior phases.~~.

Table 5. Operations Checklist and Compliance Verification ~~Compliance Checklist~~

Action	Timeframe	~~Responsible Party~~Implemented By	~~Review~~Compliance / Verification
YEAR 1 to YEAR 2			
Monitor soil compaction, noxious weeds, and revegetation of Disturbance Areas ~~Conduct seasonal monitoring of Permanent Disturbance Areas in April-May to visually assess the following:~~ ~~a. Establishment of seeded species;~~ ~~b. Inspection of areas of bare soil for erosion; and~~ ~~c. Presence of noxious weeds.~~according to Appendix ~~E~~D.	~~Initiate within 60 days of the completion of revegetation and conduct o~~Once per season in the first two years following construction	EMC	Submit Environmental Monitoring Summary to ODOE~~Submit to ODOE after monitoring report is prepared~~ annually.
Inspect and maintain stormwater measures as required in the 1200-C permit.	During operations~~, prior to achieving NOT for the NPDES~~	Certificate Holder & EMC	EMC & ODOE to confirm, ~~on site~~ ongoing as needed.~~ODOE~~
Inspect and maintain any permanent stormwater management infrastructure. Inspect project facilities (e.g., roads) for erosion issues.	During operations~~, after achieving NOT for the NPDES~~	Certificate Holder	EMC & ODOE to confirm, ~~on site~~ ongoing as needed.~~ODOE~~
~~**YEARS 2 to 6**~~**DURING OPERATIONS**			
Conduct annual management and monitoring of Disturbance Areas in Years 3 to 5 to assess whether success criteria are achieved (Appendices D, E, and F). Compile actions taken to restore soils and manage vegetation and weeds as well as monitoring results into one Environmental Monitoring Summary, or similar.	Annually for Years 3-5	EMC	Submit Environmental Monitoring Summary to ODOE annually.
After Year 5 of annual monitoring, meet with ODOE to determine long-term vegetation and weed management monitoring efforts and update the Operational VSMP, if necessary.	Year 5 of operations	Certificate ~~h~~Holder & ~~,~~ EMC~~, ODOE~~	ODOE & EMC to attend. Update VSMP if necessary.

Table 5. Operations Checklist and Compliance Verification ~~Compliance Checklist~~

Action	Timeframe	~~Responsible Party~~Implemented By	~~Review~~Compliance / Verification
After Year 5 of annual monitoring, scope and level of effort may transition to trained F~~f~~acility staff.~~: Conduct annual management and m~~Site monitoring shall occur on an ongoing basis as designated in this plan~~VSMP~~, ing in April-May of Permanent Disturbance Areas every 5 years to assess whether re~~vegetation, soil restoration and weed management meets success criteria~~efforts and ~~See (~~Appendices ~~ED~~B~~, and F~~E, and ~~GF)~~. Compile actions taken to restore soils and manage vegetation and weeds into one ~~Soil Condition, Weed Control and Revegetation~~ Environmental Monitoring Summary, or similar report that provides ODOE evidence that vegetation, soil, and weed conditions ~~on site~~ are being addressed according to this VSMP.	~~Every 5 years;~~Annually for the life of the Facility~~Annually for 5 years in April May or June, beginning the first year after revegetation~~	~~EMC~~Certificate Holder	Submit ~~to ODOE once Soil Condition, Weed Control and Revegetation~~Environmental Monitoring Summary, or similar report, annually ~~is complete~~to ODOE.~~ODOE every 5 years.(May-June)~~
~~Monitor revegetated Temporarily Disturbance Areas to determine if revegetated areas are meeting success criteria as described in Appendix F, unless the landowner converted the area to land uses that preclude meeting revegetation success criteria.~~	~~Annually for 5 years in May or June, beginning the first year after revegetation~~	~~EMC~~	~~ODOE~~
~~Determine and report on whether success criteria have been met or are trending towards being met (see Appendix F for report content and success criteria) for Temporary and Permanent Disturbance Areas. Final determination of whether the Certificate Holder is in compliance with revegetation obligations will be made by ODOE. Remedial actions and/or additional monitoring for areas may be required in areas that have been determined by ODOE not to have met the success criteria.~~	~~Annually for 5 years in May or June, beginning the first year after revegetation and for the life of the Facility on a schedule to be determined in consultation with ODOE~~	~~EMC~~	~~ODOE~~
If ~~a~~ revegetated area~~s are is~~ damaged by wildfire, develop a plan, subject to ODOE approval, to address the damaged area. Continue to monitor and report on revegetation progress ~~during the remainder of the 5-year monitoring period~~in the annual monitoring report. Report to ODOE within 72 hours of discovery.	~~During the first 5 years following revegetation I~~if wildfire occurs	EMC	Submit to ODOE if applicable and then annually as applicable.

Commented [A4]: TT: Suggest annual monitoring for 5 years following construction and then every 5 years for the life of the facility. Annual monitoring for the life of the facility would result in unsustainable operational costs.

Commented [A5R4]: ODOE: See edits to the monitoring and weed appendices. Long term weed monitoring must happen for the life of the facility however, the level of effort (staff and reporting) can be adjusted to be more manageable and efficient.

Table 5. Operations Checklist and Compliance Verification ~~Compliance Checklist~~

Action	Timeframe	~~Responsible Party~~Implemented By	~~Review~~Compliance ~~/~~ Verification
If a revegetated area (5 or more acres) ~~within the site~~ is damaged due to operational activities or overuse of herbicide, Appendices C through F will be applied to the area for restoration. ~~Report to ODOE within 72 hours of discovery.~~	If ~~the site~~revegetated areas ~~is~~ are damaged from O&M activities or overuse of herbicide	Certificate H~~h~~older	~~Submit~~Report to ODOE within 72 hours of discovery, if applicable, and then annually as applicable.
~~Monitor noxious weeds and summarize monitoring results in annual reports that describe noxious weeds identified, treatments implemented, treatment efficacy, and recommendations for additional treatments. Submit reports to ODOE, ODA, ODFW, and the County annually.~~	~~During first 5 years of operations~~	~~Certificate Holder & EMC~~	~~ODOE, ODA, ODFW, County~~
~~Implement the measures outlined in Appendix F to address vegetation management to reduce wildfire risk.~~	~~During operations~~	~~EMC~~	~~ODOE~~
~~Provide records demonstrating that all Facility personnel have been trained~~Annually train personnel on noxious weed identification and control.	Annually during operations	Certificate Holder	~~ODOE~~Provide records demonstrating that personnel have attended ~~T~~training.
~~Monitor noxious weeds within the Weed Management Area for the life of the Facility to inform control measures as described in Appendix G. Assess the success of noxious weed treatments and document any new noxious weed infestations observed.~~	~~During operations~~	~~Certificate Holder & EMC~~	~~ODOE~~
Control and monitor noxious weeds as described in the ~~long-term~~ weed control plan (Appendix F and Appendix D). Maintain ongoing communication with landowners and the County Weed Department regarding noxious weeds at the Facility. Control noxious weeds reported by landowners on a case-by-case basis and prepare a summary of measures taken for that landowner, if applicable.	During operations	Certificate Holder	Submit records of noxious weed treatments in the Environmental Monitoring Summary, or similar report, to ODOE~~, County~~ as needed.
Fill out and submit Table F-3. Treatment Plan and Tracking for Noxious and Invasive Weed Controls	During operations	Certificate Holder	Submit records of noxious weed treatments in the Environmental Monitoring Summary, or similar report, to ODOE as needed.

Commented [A6]: ODOE: Added to capture these scenarios

Commented [A7]: ODOE: This could be combined with the above, but wanted to reference Table separately

Table 5. Operations Checklist and Compliance Verification ~~Compliance Checklist~~

Action	Timeframe	~~Responsible Party~~Implemented By	~~Review~~Compliance / Verification
~~Consult with the County Weed Department on timing, method, and application rates for weed species of concern, to allow for adaptive weed management given changes in weed control effectiveness from noxious weed species tolerance to herbicide treatment over time. Report results of the consultation to ODOE within 30 days. Any alternative control methods can be proposed by the Certificate Holder or its contractors, subject to approval by the County Weed Department.~~	~~Every fall season during operations~~	~~Certificate Holder~~	~~ODOE, County~~
~~Design a long-term vegetation monitoring plan in consultation with ODOE.~~Submit updates to this VSMP based on Section 6.0 Plan ~~Updates and~~ Amendment to address any outstanding or ongoing issues with soils, weeds, or revegetation.	~~After 5th year of annual monitoring~~Ongoing	EMC	Submit to ODOE, as needed.
~~Consult with ODOE, ODA, and the County Weed Department to design a long-term weed control plan as needed based on the success of control efforts.~~	~~After 5th year of annual monitoring~~	~~Certificate Holder~~	~~ODOE, ODA, County~~

~~7.0~~6.0 Plan ~~Updates and~~ Amendment

Information from ~~the~~ annual reporting, as well as ~~and~~ from the ~~c~~Certificate ~~h~~Holder's or ~~Department~~ODOE's review of monitoring report~~ing~~s or site visits, may be used to ~~establish the performance of this Plan~~determine whether soil restoration, vegetation management, and weed control are successfully implemented. If determined necessary by the ~~c~~Certificate ~~h~~Holder or ~~Department~~ODOE, adjustments or improvements ~~must~~ may be proposed to ensure this ~~Plan~~VSMP ~~is~~ provides effective guidance on~~at~~ restoring soils, management vegetation, and controlling weeds.

This VSMP may be amended from time to time by agreement of the Certificate Holder and the Oregon Energy Facility Siting Council (EFSC) or ODOE, acting in its delegated authority of EFSC. Such amendments may be made without amendment of the site certificate. EFSC authorizes ODOE to agree to amendments to this VSMP. ODOE will notify EFSC of all VSMP amendments, and EFSC retains the authority to approve, reject, or modify any amendment agreed to by ODOE.

~~8.0~~7.0 References

ODEQ (Oregon Department of Environmental Quality). 2019. OAR 340-208-0210 EPA Method 22. https://secure.sos.state.or.us/oard/viewAttachment.action?ruleVrsnRsn=256141

Appendix A. Roles and Qualifications

Roles and Responsibilities

The Certificate Holder is the overall responsible party for construction and operation of the Facility Components and implementation of this Solar Vegetation and Soil Management Plan (VSMP). However, the Certificate Holder may use contractors to complete tasks associated with this VSMP. Responsible parties and their roles are described in Table A-1. Minimum qualifications for contractors are provided in Table A-2.

Table A-1. Roles and Responsibilities

Responsible Party	Name and Contact Information	Role
Certificate Holder	Wagon Trail Energy Center, LLC	Responsible for compliance with all condition requirements, hiring contractors that meet the minimum qualifications described in Appendix A, and ensuring that all contractors perform work in accordance with the requirements of this VSMP.
Engineering, Procurement, and Construction Contractor (EPC)	Name: Contact Person: Address: Phone: Email:	Responsible for implementing best management practices (BMPs) and other measures specified in the National Pollutant Discharge Elimination System (NPDES) 1200-C permit and this VSMP to minimize impacts during construction, as well as for performing restoration and revegetation actions, as identified in this VSMP.
Revegetation Contractor (RC)	Name: Contact Person: Address: Phone: Email:	Responsible for performing revegetation actions during and immediately after construction, as described in this VSMP.
Weed Control Contractor (WC)	Name: Contact Person: Address: Phone: Email:	Responsible for performing weed control actions in the Weed Management Area, as described in this VSMP. ~~If the Certificate Holder contracts with the County Weed Department to perform weed control at the Facility, then monitoring records will include a statement that the county agency performed the work.~~

Commented [A8]: TT: Per ORS 634.166, the county should be in an advisory role unless there is NOT a licensed commercial applicator working in that area. The ODA website states that "Public Applicators may not function as a Commercial Pesticide Applicator." Instead, they may "provide others with technical advice or recommendations." Recommend deleting this sentence wherever it occurs in this VSMP.

Commented [A9R8]: ODOE: OK, this is just to capture if weed monitoring/control is done w contract with the County.

Responsible Party	Name and Contact Information	Role
Construction/Operational Environmental Monitoring Contractor (EMC)	Name: Contact Person: Address: Phone: Email:	Responsible for conducting environmental monitoring and documenting compliance with aspects of this VSMP during and following construction, including conducting revegetation, dust, soil, stormwater, and noxious weed monitoring. Conduct compliance monitoring to ensure that contractors are complying with noxious weed prevention measures in this VSMP. Facilitate coordination meetings with ODOE and County Weed Department, train all personnel to maintain tracking sheets, conduct routine check-in calls with the construction team, and document communication with landowners prior to chemical application. Maintain records and provide ODOE with copies of these records ~~at a frequency designated by ODOE~~annually along with the Environmental Monitoring Summary. ~~If the Certificate Holder contracts with the County Weed Department to perform weed control at the Facility, then monitoring records will include a statement that the county agency performed the work.~~
Operational Staff	Name: Contact Person: Address: Phone: Email:	Responsible for conducting environmental monitoring during operations and documenting compliance with aspects of this VSMP. Maintain records and provide ODOE with copies of these records as designed in this ~~plan~~VSMP.
Oregon Department of Energy (ODOE)	Oregon Department of Energy Compliance Specialist 550 Capitol St. NE Salem, OR 97301 Phone: Email:	Responsible for providing technical input on proposed BMPs and other measures to minimize impacts and for validating all compliance deliverables described in this VSMP. ODOE may utilize contractors to meet its responsibilities under this VSMP during some or all phases.
Morrow County (County)	Morrow County Weed Department Corey Sweeney, Weed Program Manager 365 West Highway 74 Lexington, OR 97839 (541) 989-9500 mcweed@co.morrow.or.us	Responsible for providing input on weed control and other actions described in this VSMP and its implementation as needed. The County will also attend calls with ODOE and other agencies as needed and as available.

Commented [A10]: ODOE: Added to separate that there may be different people doing monitoring during CON, within the first 5 years, and then long term.

Table A-2. Contractor Minimum Qualifications

Contractor	Role	Minimum Qualification
Engineering, Procurement, and Construction Contractor (EPC)	Responsible for implementing best management practices (BMPs) and other measures specified in the National Pollutant Discharge Elimination System (NPDES) 1200-C permit and this VSMP to minimize impacts during construction, as well as for performing restoration and revegetation actions.	Minimum qualifications for the EPC include: • Experience implementing measures in the NPDES 1200-C permit; • Demonstration of sufficient resources and staffing for anticipated BMP installations and maintenance; and • Experience in coordination with agencies and private landowners.
Revegetation Contractor (RC)	Responsible for performing revegetation actions during and immediately after construction.	The Certificate Holder will ensure that the RC has the following minimum qualifications: • ~~Demonstrated experience in the Columbia Plateau;~~ • Experience in native plant, non-native and invasive plants, and noxious weed identification and management; • Experience in revegetating natural areas; • Experience with soil preparation and applicable seeding methods; • Experience in documenting revegetation actions and providing progress reports; • Experience in coordination with agencies and private landowners; and • No recent (within one year) violations on the contractor's record.
Weed Control Contractor (WC)	Responsible for performing weed control prior to, during, and after construction within the disturbance area and a 10-foot buffer (Weed Management Area).	The Certificate Holder will ensure that noxious weed management actions will be conducted by specialists with the following qualifications: • Experience in native plant, non-native and invasive plants, and noxious weed identification in ~~the Columbia Plateau Ecoregion~~Oregon; • Experience in noxious weed mapping; • If chemical control is used, specialists must possess a Commercial or Public Pesticide Applicator License from the Oregon Department of Agriculture or possess an Immediately Supervised Pesticide Trainee License and be supervised by a licensed applicator; • Training in noxious weed management or Integrated Pest Management with an emphasis in noxious weeds; • Experience in coordination with agencies and private landowners; and

Contractor	Role	Minimum Qualification
		• No recent (within one year) violations on the contractor's record.
Environmental Monitoring Contractor (EMC)	Responsible for conducting environmental monitoring and documenting compliance with aspects of this VSMP during and following construction, including conducting revegetation, dust, soil, stormwater, and noxious weed monitoring as described below.	Minimum qualifications for the EMC include: • Have an active certification recognized in the 1200-C permit (e.g., Certified Erosion and Sediment Control Lead); • Experience implementing and monitoring measures in the 1200-C permit; • ~~Experience and k~~Knowledge of U.S. Environmental Protection Agency Method 22 (ODEQ 2019)[1] with respect to the general procedures for determining the presence of visible emissions; • Experience in native plant, non-native and invasive plants, and noxious weed identification and management; • Experience in noxious weed mapping; • Training in noxious weed management or Integrated Pest Management with an emphasis in noxious weeds; and • Experience in coordination with agency and private landowners. The EMC will include a qualified botanist or revegetation specialist who will be responsible for monitoring and reporting on revegetation success.
1. ODEQ 2019. OAR 340-208-0210 EPA Method 22. https://secure.sos.state.or.us/oard/viewAttachment.action?ruleVrsnRsn=256141		

Appendix B. ~~Construction Plan~~Disturbance Levels

Disturbance Acreage

~~Add Summary Table for disturbance areas here~~

~~Acres of temporary and permanent disturbance to habitat subtypes associated with Facility construction and operation are provided in Table B-1.~~

[to be inserted at plan finalization]

Table B-1. ~~Acres of Temporary and Permanent~~ Acreage by Anticipated Disturbance Level

~~ODFW Habitat Category~~Disturbance Level	~~Habitat Type~~	~~Habitat Subtype~~	~~Temporary Disturbance (acres)~~	~~Permanent Disturbance (a~~Acres~~)~~
~~2~~1	~~Grassland~~	~~Native Perennial~~	~~0.3~~	~~1.3~~
~~3~~2	~~Developed~~	~~Revegetated or Other Planted Grassland~~	~~0.7~~	~~<0.1~~
~~4~~3	~~Grassland~~	~~Exotic Annual~~	~~0.7~~	~~54~~
	~~Category 6 Subtotal~~		~~6.3~~	~~578~~
		~~Total~~	~~8.7~~	~~633~~

Note: Totals in this table may not appear to sum correctly due to rounding. N/A = not applicable; <0.1 = greater than zero but less than 0.05

Disturbance Levels

Revegetation and soil stabilization needs will be determined by a combination of topography, soil type, disturbance level, and existing vegetative cover.

Disturbance levels will primarily be determined by conditions such as slope, gradient, and existing vegetation. As much as is feasible, use of heavy machinery and soil disturbance should be conducted on dry soil. Disturbance of saturated soil has a much greater risk of compaction and requires more effort to revegetate and control weedy species. Disturbance levels are defined as follows and depicted in Figure B-1:

- *Level 1 – Mowing:* Mowing is used to conserve vegetative resources within a facility. Vegetation will be limited to a height of 12 inches and mowed to no less than 6 inches during construction. Mowing to no less than 6 inches protects perennial grass crowns and allows grasses to regenerate. Depending on facility objectives, vegetation can be allowed to reach a normal height or kept trimmed to a height between 6 inches and the plant's full height potential. Crushing of vegetation will be minimal and this disturbance level is designed to have a minimal impact on existing vegetation. This method is least likely to result in invasions of undesirable plant species.
- *Level 2 – Overland Drive and Crush:* Disturbance caused by accessing a facility without significantly modifying the landscape. Vegetation is crushed to the ground, but no surface soil is removed so root structures are left intact. Even though vegetation may be damaged or

Commented [A11]: TT: Removing impact calculations from the VSMP will simplify pre-construction submittal. However, it is helpful to have project impacts documented in a format that can be easily updated. Let's discuss what would be suitable.

Commented [A12R11]: ODOE: The final VSMP will be: "Update Appendix B with a construction plan and maps based on final design, expected disturbance levels, and sequencing of construction. "

So, maybe add in a table that shows impacts based on disturbance level?

Commented [A13R11]: TT: Revised table to acreage by disturbance level instead of temporary and permanent disturbance.

destroyed, the surface soil and seed bank remain in place. Some crushed vegetation will likely sprout after disturbance ceases. These activities would result in minimal to moderate disturbance. This type of disturbance will result in a faster recovery time for vegetation compared to Levels 3 and 4. Soil seed banks remain largely in place, perennial vegetation can grow back, and minimal external efforts are necessary. This method is less likely to result in invasions of undesirable plant species compared to Levels 3 and 4.

- *Level 3 – Clear and Cut:* Disturbance caused by accessing the facility including having to remove all vegetation to improve or provide suitable access for equipment. All vegetation is removed, soils are compacted, and the root zone or soil A-horizon may be disturbed, but no subsurface soil is removed. Clear and cut activities would result in moderate disturbance. This type of disturbance will result in moderate recovery times for vegetation. This method has a moderate risk for invasion of undesirable plant species. An example is imprinting to crush vegetation down into the soil or incidental grading and smoothing of surface soils.
- *Level 4 – Clear and Cut with Soil Removal*: Disturbance is caused by removing all vegetation in the impact zone, soils are compacted, and surface soil and subsoil are displaced. These activities result in heavy disturbance. This type of disturbance results in an extensive recovery time for vegetation and is most likely to lead to invasions of undesirable plant species, which can result in lengthy and expensive control efforts. Includes disc-and-roll construction and other traditional construction methods where soils are disturbed and no vegetation is left intact. This category includes all work requiring the segregation and replacement of topsoil.
- *Level 5 – Development Footprint*: Disturbance is caused by removing all vegetation and covering the area surface with gravel, concrete, or other vegetation-free surfaces, or where the intended function of a specific area necessitates it remain unvegetated. This disturbance level includes roads, graveled lots, fire breaks, utility pole pads, and the areas underlying any component installed on a foundation. This level does not include vegetated areas under solar arrays. This type of disturbance will result in a complete loss of vegetation and will be required to be monitored and kept free of noxious weeds and other vegetation for the life of the facility.

Maps showing the expected disturbance levels ~~in Temporary and Permanent Disturbance Areas~~within the ~~site boundary/~~Disturbance Area~~micrositing area~~ in relation to~~showing~~ existing vegetation type~~, habitat type,~~ and areas with sensitive soils are provided in Figure B-1 below. Maps can also be attached to the final VSMP.

[to be inserted at plan finalization]

Figure B-1. Disturbance Levels ~~in Temporary and Permanent Disturbance Areas in Relation to Existing~~within the ~~Site Boundary/Micrositing Area~~Facility with Vegetation Type ~~, Habitat Type, and Areas with~~and Sensitive Soils

~~Appendix C. 1200-C Permit and Erosion and Sediment Control Plan~~

To be added at plan finalization

Appendix ~~D~~C. Fugitive Dust Control Plan

To manage fugitive dust from construction, the Certificate Holder and its contractors will generally follow the Dust Control Plan Flow Chart (Figure ~~D~~C-1).

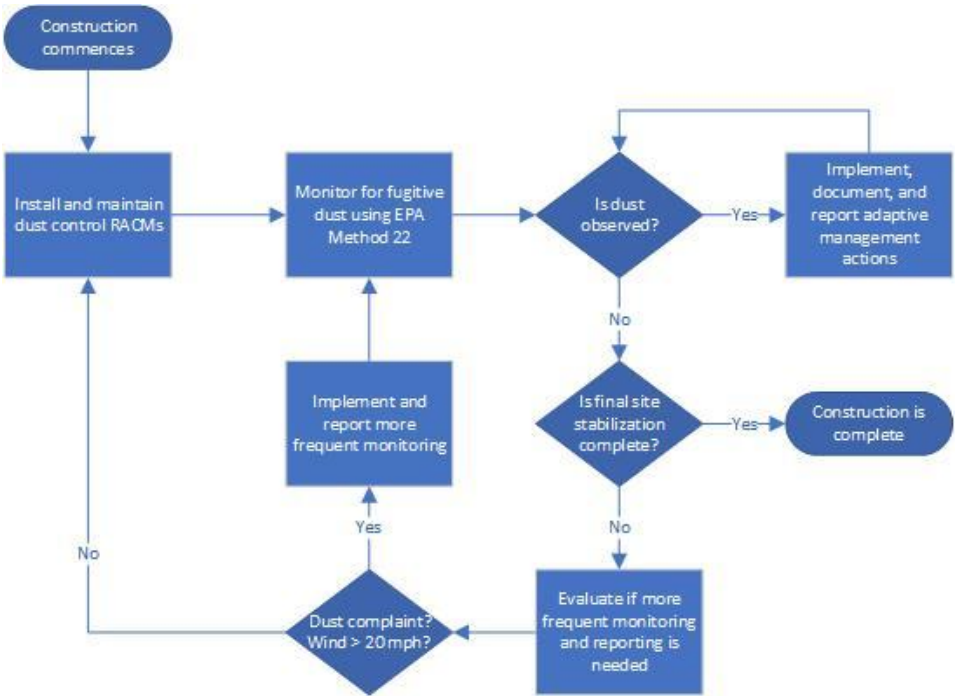


Figure ~~D~~C-1. Dust Control Plan Flow Chart

Fugitive Dust Monitoring and Reasonable Available Control Measures (RACMs)

Visual monitoring required by the 1200-C permit must occur at least once every 14 calendar days. However, because Oregon Administrative Rule (OAR) 340-208-0210 restricts visible fugitive emissions on a continuous standard to a maximum of **18 seconds in any 6-minute period** and fugitive dust emissions may provide an immediate public safety concern, this VSMP requires that fugitive dust be monitored and controlled on an ongoing basis (Table ~~D~~C-1).

Monitoring for fugitive dust emissions will include:

- Use of U.S. Environmental Protection Agency (EPA) Method 22 (ODEQ 2019), as specified in OAR 340-208-0210, **at least once per day during the dry season, during peak construction activities.**

- The observation will be performed during times of peak construction activity at the downwind facility boundary.
- Recording observations in a fugitive dust inspection log kept at the Facility and digitally, described below.

Triggers for additional, more frequent monitoring will include:

- Observation of visible fugitive dust emissions by the Environmental Inspector, contractor(s), agency, or Certificate Holder staff,
- Wind speeds or gusts greater than 20 miles per hour, or
- Receipt of complaints or concerns through the Project Dust Control Hotline or other means.

Table ~~D~~C-1. Fugitive Dust Sources and Reasonable Available Control Measures (RACMs)

Construction Phase	RACM(s)	Supplemental RACM(s)
All Phases of Construction	Daily fugitive dust monitoring and record keeping.	Increase frequency of monitoring.
	Prominent display of Dust Control Hotline signs, providing direct access to the Environmental Inspector.	If established, proactive engagement with Community Action Council.
	Worker Environmental Awareness Program training for all construction employees.	Additional trainings and refreshers for employees.
	Maintain stockpile of best management practices (BMPs) at the Facility, including sufficient palliatives for a single treatment of all access roads and sufficient palliatives, mulch, and/or hydromulch for a minimum of 25 percent of the total disturbed area, and machinery for application.	Increase stockpile of palliatives, mulch, and/or hydromulch and add additional BMPs.
	Documentation and reporting of adaptive management actions.	Development and submittal of revised Fugitive Dust Control Plan.
Facility Access	Install and maintain stabilized construction entrances at ingress/egress locations and restrict traffic to these locations.	Add additional construction entrance BMPs (e.g., wheel wash).
	Daily sweeping up of sediment from paved surfaces utilizing vacuum sweeper with HEPA filtration.	Increase sweeper frequency.
	Access roads will be graveled.	Road maintenance and reapplication of gravel.
	Access roads will be stabilized with water or palliative sufficient to eliminate visible and sustained dust from vehicular travel and wind erosion. Reapply stabilization as necessary to maintain dust-free condition.	If water is unavailable or ineffective, or if water use is limited by any agency or regulation, access roads will be stabilized with longer-lasting palliatives.
	Restrict construction traffic to established and stabilized access routes.	Install fencing or barricades to prevent traffic outside of established routes.

Construction Phase	RACM(s)	Supplemental RACM(s)
	Limit traffic speeds to 15 miles per hour on stabilized unpaved roads within the facility as long as such speeds do not create significant visible dust emissions. Traffic speed signs will be displayed prominently at all entrances and exits.	Limit traffic speeds within the facility to 5 or 10 miles per hour.
	Minimize disturbance areas and soil exposure to the maximum extent feasible.	Limit work to a portion of the disturbed area until all disturbed areas receive temporary or final stabilization.
	When wind speeds or gusts exceed 15 miles per hour, minimize new disturbances to the extent possible and/or mobilize additional water trucks or palliatives to minimize fugitive dust from exposed surfaces.	Stop all ground disturbing activities and apply additional dust control measures until measures are effective or wind speeds slow and fugitive emissions stop.
	Separate and cover or otherwise stabilize topsoil to preserve it until it is replaced during revegetation.	Increase maintenance frequency for topsoil cover/stabilization. Combine methods, such as mulch plus tackifier.
	Stabilize exposed soils within the timeframes established in the 1200-C permit. Stabilize exposed soils in stages based on soil conditions and weather.	Stabilize exposed soils more frequently, even if additional work is anticipated within the timeframe established in the 1200-C permit. Reapply stabilization measures following any additional disturbances.
	Temporarily stabilize exposed surfaces to prohibit significant and sustained visible fugitive dust from wind erosion. Utilize BMPs such as mulch, hydromulch with or without seeds, tackifier, spreading stone or gravel, and trackwalking.	Combine stabilization methods, such as mulch plus tackifier, or trackwalking plus hydromulch. Increase frequency of maintenance of stabilization.
	Seed exposed surfaces during the appropriate season with approved temporary or permanent seed mixes.	Reapply seed to newly disturbed areas or areas with poor germination. Use temporary seeding even if additional work is anticipated before final stabilization. Use irrigation to enhance seeding success.
Removing and Hauling Sand, Soil, or Other Loose Materials	Gate seals should be tight on dump trucks. Soil load will be kept below 6 inches of the freeboard of the truck. Drop heights will be minimized when loaders dump soil into trucks. Gate seals will be checked and tight on dump trucks. All trucks on highways must be fully covered and secured.	Cover haul trucks with a tarp or other suitable cover.

Fugitive Dust Reporting

A dust inspection log will be completed after each dust inspection. Log records will be kept digitally and included in construction monitoring reports as described in Appendix ~~E~~ D of this VSMP. This log will include all information required in EPA Method 22. Photos and/or video taken during the observation period to document conditions will be available digitally to the Oregon Department of

Energy upon request. Any documented exceedance events will include a detailed explanation of RACMs implemented for corrective action and the results of subsequent monitoring demonstrating fugitive dust has returned to below exceedance thresholds.

Appendix ~~E~~D. Environmental Monitoring Methods

Construction Monitoring

The Environmental Monitoring Contractor (EMC) will be present during construction activities that involve ground disturbance, grading, weed treatments, and vegetation removal, and high traffic volumes and is responsible for monitoring and recording construction activity to ensure compliance with this VSMP.

In addition, the EMC will:

- Assist Provide guidance and information to contractor(s) for the direction use of water trucks, civil activities, and road maintenance to reduce fugitive dust and erosion issues.
- Identify when reasonably available and best available control measures are not adequate, as designated in Appendix DC.
- Maintain dust inspection and noxious weed logs and reporting designated in this VSMP.

Specific protocols and requirements for testing and monitoring to be performed prior to and during construction and revegetation efforts are described in the sections that follow.

Revegetation Records

The EMC will maintain monthly records of revegetation efforts in Disturbance Areas and update ODOE monthly as revegetation work occurs. Revegetation records will include:

a. Date construction phase was completed;

b. Acreage of each disturbance level;

c. Description and photos of the affected area constructed;

d. Reclamation methods implemented;

e. Date revegetation was initiated;

f. Description of the revegetation effort, including methods, and timing, and seed mix used;

g. Supporting figures representing the location, acres affected, and pre-disturbance condition of the revegetation area; and

h. Confirmation from the landowner that cropland has been satisfactorily restored, where applicable.

Environmental Monitoring

The measures detailed for soil monitoring and reporting are applicable to pre-construction, construction, post construction and into the first 5 years of operation, as designated in coordination with ODOE. However, soil restoration and monitoring measures may be applicable to long term operational activities if soils are damaged.

Baseline Soil Monitoring Protocol

~~The m~~Measures detailed for soil monitoring and reporting are applicable to pre-construction, construction, post construction and into the first 5 years of operation, as designated in coordination with ODOE. However, soil restoration and monitoring measures may be applicable to long term operational activities if soils are damaged.

Commented [A14]: ODOE: Trying to connect the dots with the tables in the beginning and when this applies

The EMC will conduct pre- and post-construction soil compaction testing in all anticipated Level 3 and 4 Disturbance Areas, and any areas consisting of soils with low soil compaction resistance. If disturbance level maps are not available at the time of pre-construction monitoring, the Certificate Holder may choose to base sample locations on the overall anticipated D~~d~~isturbance A~~a~~rea (i.e., regardless of level of disturbance).

- Soil compaction sample locations will be evenly distributed across the solar D~~d~~isturbance A~~a~~rea at a rate of 1 sample per ~~50~~ 200 acres. Sample locations will be stratified by soil type to ensure a minimum of three sample locations in each soil type and a representative density of sample locations in major soil types. ~~Additionally,~~
- ~~s~~Sample locations will be selected to avoid infrastructure such as inverters and roads where revegetation will not occur.
- ~~Soil compaction measurements and location photographs will be collected at all sample locations prior to ground disturbing activities and again at the same locations post reclamation but prior to revegetation.~~
- Sample locations are identified in Figure ~~E~~D-1, below. ~~Figures can also be attached to this VSMP.~~

~~*Soil Compaction Testing*~~ *Monitoring Schedule*

Soil ~~C~~compaction testing will be conducted at all sample locations, in conditions favorable to soil testing (e.g., non-saturated or frozen soils, typically conducted in spring or fall), at the following intervals:~~at least 60 days after construction activities in an area are completed. Soil compaction testing must occur annually until soil conditions are restored to pre-construction conditions and vegetation is established.~~

- Baseline survey prior to ground-~~-~~disturbing activities;
- Post-reclamation but prior to revegetation; and
- ~~Soil compaction testing must occur a~~Annuall~~y~~ during operations until soil conditions are restored to pre-construction compaction conditions and vegetation is established.
- Additional soil monitoring may be necessary if soils are damaged during operations.

~~*Test*~~ *Methods*

Soil compaction testing will be conducted using the following standard methods (NRCS 2020; Duiker 2025):

- The surveyor will measure soil resistance using a penetrometer.
- Resistance will be measured at 3-inch intervals to 12 inches or until the meter goes above 300 pounds per square inch (3, 6, 9, and 12 inches if soils allow).

- Three penetrometer readings will be collected and averaged at each sample location.
- A photo will be taken of each sample location.
- Measurements will be conducted in conditions favorable to soil testing (e.g., non-saturated or frozen soils).

~~***Results***~~

~~Testing results will be provided to the Oregon Department of Energy (ODOE) in the Final Construction VSMP prior to construction, in construction reporting, and the final Operational VSMP after reclamation but before revegetation, and in operational vegetation monitoring report.~~

Commented [A15]: TT: We recommend submitting monitoring results in survey reports rather than incorporating into the VSMP. Combined all monitoring reports into a single section below.

[to be inserted at plan finalization]

Figure ED-1. Soil Compaction and Baseline Vegetation Sample Locations

~~Baseline~~ Noxious Weed Protocol

Noxious weeds will be monitored and mapped throughout the Weed Management Area (area within the solar fence and a 10-foot buffer outside the fence, if accessible) at the frequency listed in Table D-1. Weeds will be managed according to Appendix F: Weed Control Plan.

Results of baseline noxious weed surveys will be used to recommend treatments to be conducted prior to construction. During the construction phase, the EMC will conduct periodic monitoring of noxious weeds. The Certificate Holder will be responsible for treating all noxious weeds observed within the Weed Management Area, as described in Appendix F.

The EMC will conduct seasonal (spring, summer, and fall) post-construction noxious weed monitoring within the weed management area for two years starting the first growing season after construction to map the extent of all noxious weed occurrences and identify areas for treatment. In Year ~~53~~, the Certificate Holder will consult with ODOE and the County Weed Department to determine if the monitoring cycle can be reduced during operations. ~~Prior to construction of Facility Components, the EMC will conduct pre-construction baseline noxious weed surveys (See Appendix G for species of concern, however, all weeds and invasives must be documented) in all Disturbance Areas following methods described below.~~

Commented [A16]: ODOE: Align this with soil/reveg and Environmental Monitoring Report transition to Environmental Monitoring Summary

Table D-1. Noxious Weed Monitoring Schedule

Year	Frequency	Activity
Prior to construction	Once	Conduct site-wide noxious weed survey to identify areas for treatment prior to construction.
During construction	Periodic	Conduct periodic monitoring of noxious weeds in the Weed Management Area.
Years 1 – 2	Seasonal (spring, summer, fall)	Conduct site-wide noxious weed survey to identify areas for treatment. Document previous treatment effectiveness, as applicable.
Years 3 – ~~-~~5	~~Once~~Annually ~~(May – June~~ September)	Conduct site-wide noxious weed survey to identify areas for treatment. Document previous treatment effectiveness, as applicable.~~Certificate Holder will consult with ODOE and the County Weed Department to determine if the monitoring cycle can be reduced during operations.~~ Surveys, monitoring and reporting will occur consistent with soil and revegetation monitoring and reporting.
~~-~~5	~~Annually~~	~~Surveys, monitoring and reporting will occur consistent with soil and revegetation monitoring and reporting~~
Years 5+	Annual (May – September)	Operational staff or contractor will monitor and control noxious weeds as determined in coordination with ODOE and as designated in VSMP.

Commented [A17]: TT: Combined with row above.

~~ADD THIS ROW TO TABLE~~

~~Year~~	~~Frequency~~	~~Activity~~

Commented [A18]: ODOE: Add this row to the table. If I do it, I loose the track changes

Commented [A19R18]: TT: Added to table above as requested. Weeds can be monitored from May through September, revised timing.

Years 5+	Revegetation monitoring will be conducted in May or June annually in years three through five	Operational staff or contractor will monitor and control noxious weeds as determined in coordination with ODOE and as designed in VSMP.

Landowners may contact the Certificate Holder directly to report the presence of noxious weeds related to Solar Component activity. The Certificate Holder will control reported noxious weeds on a case-by-case basis and prepare a summary of measures taken for that landowner. The Certificate Holder will report the investigator's findings and recommendations regarding weed control in the Facility's annual report required by Oregon Administrative Rule 345-026-0080.

Baseline locations must be selected by their representation of optimal vegetative cover representative varying topography for the site, and must be at a minimum of (20) locations for each 1,000 acres impacted, or as agreed to by the Department prior to construction.

Existing weed infestations must be separately documented collecting the data listed below.

Data collected will include:

- Noxious species observed;
- Whether or not it is a state or County listed species
- Percent cover of vegetation including noxious weeds; and
- Percent cover of litter and bare soil.
- Professional opinion and description of whether the vegetative cover is ideal or representative for the area and concerns about certain types or abundance of weeds.
- Photographs and GIS data must be provided included.

Baseline locations must be provided on maps.

*Noxious Weed Monitoring Reports*Methods

During construction of the facility, the Certificate Holder or EC will monitor Disturbance Areas inside and outside the fenceline (as applicable) for the presence and spread of noxious weeds and invasive species. Disturbed areas within and outside the fenceline (as applicable) will be monitored by a qualified investigator annually, beginning the first year after construction. It is recommended to combine monitoring of weeds with vegetation and soils.

The Certificate Holder will monitor Disturbance Areas to assess the following:

- Noxious species observed;
- Whether or not it is a state or County listed species
- Percent cover of vegetation including noxious weeds; and
- Percent cover of litter and bare soil.
- Professional opinion and description of whether the vegetative cover is ideal or representative for the area and concerns about certain types or abundance of weeds.

~~Photographs and GIS data must be provided included.~~

~~Weed inspections will occur~~Noxious weed monitoring will be conducted within the Weed Management Area through visual inspection while driving or walking. The EMC will record the following information for each noxious weed occurrence:

- Map occurrence location with a point or polygon;
- Approximate number of individuals;
- Density; and
-
- Disturbance type.~~the~~~~disturbance areas within and outside the fencelein~~ ~~Weed Management Area through visual inspection while driving or walking. During the construction phase, the Environmental Monitoring Contractor (EMC) will conduct periodic monitoring of noxious weeds. Noxious weeds observed during construction will be treated with mechanical or chemical treatments or other best management practices, as applicable. If construction extends into the growing season prior to the commercial date of operations and formal post-construction weed monitoring, the EMC will conduct informal but comprehensive weed surveys to inform adaptive management. In addition, weed monitoring may be conducted by the EMC as part of routine construction environmental monitoring monthly from April to October.~~
- ~~The EMC will conduct annual post-construction noxious weed monitoring within the Weed Management Area starting the first growing season after construction to map the extent of all noxious weed occurrences and identify areas for treatment. Results will be summarized in annual monitoring reports that describe treatments performed, treatment efficacy, recommendations to improve efficacy (if necessary), and any new noxious weed occurrences. Reports will be submitted to ODOE, ODFW, and the County annually. The Certificate Holder will be responsible for treating all noxious weeds observed within the Weed Management~~~~disturbance~~ ~~A~~~~a~~~~reas~~~~.~~
  ~~Based on the success of control efforts after the second~~~~fifth~~ ~~year of monitoring, the Certificate Holder will consult with ODOE and the County Weed Department to determine if the monitoring cycle can be reduced for Year 3 through Year 5. After 5 years of monitoring, the Certificate Holder will design a long-term weed control plan in consultation with ODOE and the County Weed Department. The Certificate Holder will maintain ongoing communication with individual landowners, the County Weed Department, and ODOE regarding noxious weeds within the Weed Management Area.~~
  ~~Landowners may also contact the Certificate Holder directly to report the presence of noxious weeds related to Solar Component activity. The Certificate Holder will control reported noxious weeds on a case-by-case basis and prepare a summary of measures taken for that landowner. During the Facility operational period, the Certificate Holder will control noxious weeds as described in the long-term weed control plan. The Certificate Holder will report the investigator's findings and recommendations regarding weed control in the Facility's annual report required by Oregon Administrative Rule 345-026-0080.~~

~~Baseline Vegetation~~ Vegetation Monitoring ~~Conditions~~Protocol

Baseline Methods

Prior to construction ~~of Facility Components~~, the EMC will conduct ~~pre-construction~~ baseline ~~habitat surveys for all Temporary~~vegetation surveys in all Disturbance Areas following methods described below. Baseline vegetation surveys will be conducted at the same locations identified for soil compaction monitoring at rate of 1 sample per 200 acres (Figure D-1). A 1x1 meter square quadrat will be placed on the ground at each sample location.

~~Baseline locations must be selected by their representation of optimal vegetative cover, representative varying topography for the site, and must be at a minimum of (20) locations for each 1,000 acres impacted, or as agreed to by the Department prior to construction.~~

Data collected will include:

- Vascular plant species observed;
- Percent cover of each species observed~~vegetation~~ including noxious weeds; ~~and~~
- Percent cover of covered substrate (litter, moss, rock, biotic crust) and bare soil; ~~.~~
- Professional opinion and description of whether the vegetative cover is ideal or representative for the area~~,~~;
- Evidence of grazing, erosion, or other disturbance; and
- Photo of each quadrat and surrounding habitat.

Photographs, ~~and~~ GIS data, and a map of baseline locations must be provided to ODOE in the baseline monitoring report. ~~included.~~

~~Baseline locations must be provided on maps.~~

~~Revegetation Monitoring~~

~~The Certificate Holder will monitor revegetated areas as described below, unless the landowner converted an area to a use that precludes meeting revegetation success criteria such as cropland. The Certificate Holder should coordinate grazing timing and intensity with the landowner so that it does not preclude revegetation success. Revegetated areas will be monitored by a qualified investigator in May or June annually for 5 years, beginning the first year after seeding.~~

~~Temporary Disturbance Areas~~

~~Reference and Revegetation Transects~~

~~Establish 50-meter reference and revegetation transects for each temporarily disturbed wildlife habitat subtype and category with at least 0.5 acres of temporary disturbance as described below. Establish one reference transect for every temporarily disturbed wildlife habitat subtype and category. Reference transects are intended to be representative of baseline conditions for the revegetation effort.~~

~~Establish revegetation transects randomly in every wildlife habitat subtype and category that will be temporarily disturbed by construction using existing habitat mapping. Transect locations and/or~~

~~lengths may need to be adjusted to account for linear features whose disturbance footprint may be too narrow or too short to meaningfully place a transect. Determine the number of transects as follows:~~

~~Less than 0.5 acres of temporary disturbance = 0 transects~~

~~0.5 to 5 acres of temporary disturbance = 1 transect~~

~~6 to 10 acres of temporary disturbance = 2 transects~~

~~For each additional 10 acres of disturbance, one additional transect will be added (e.g., 11-20 acres of disturbance = 3 transects, 21-30 acres = 4 transects, etc.)~~

~~Temporary Disturbance Area Monitoring Methods~~

~~Vegetation will be measured quantitatively using the line-point intercept (LPI) method combined with a belt transect to document species richness and sagebrush density, where necessary (Elzinga et al. 1998; MacKinnon et al. 2011). The LPI method is described in detail in the Monitoring Manual for Grassland, Shrubland, and Savanna Ecosystems, Volume I (Herrick et al. 2021). The surveyor will drop a narrow pin perpendicular to the ground at 1-meter intervals along a 50-meter transect and record up to four plant species that intercept the pin in order of interception as well as the soil surface type (bare soil, litter, rock, moss, or biotic crust) where the pin touches the ground. Once all 50 points have been collected, the surveyor will walk back along the transect and record any additional species observed within 1 meter on either side of the transect. The surveyor will take a photo from the transect start point, looking down the length of the transect. For transects in sagebrush shrub-steppe habitat, the surveyor will record the number of sagebrush individuals by size class (i.e., less than 1 foot tall, between 1 and 2 feet tall, and greater than 2 feet tall) occurring within 1 meter on either side of the 50-meter transect.~~

~~Following field surveys, foliar cover will be determined by multiplying the number of top hits for each species by two. Cover of bare soil will be determined by counting every point in which bare soil was recorded as a surface type and no plants were intercepted and multiply this number by two. Species richness will be determined by counting all species that were recorded at a point or along the belt transect. Sagebrush density per square meter will be calculated by dividing the number of sagebrush plants counted on a transect (100 square meters total) by 100.~~

*~~Permanent~~ ~~Monitoring in~~ Disturbance Areas*Post-Revegetation Methods and Monitoring Frequency

Following implementation of revegetation efforts, the Certificate Holder or EMC will monitor revegetated ~~Permanent~~ Disturbance Areas by walking a meander survey to document the success of revegetation using photos and spatial data collection~~inside and outside the fenceline (as applicable) as described below.~~ Revegetated areas will be monitored ~~by a qualified investigator annually~~by the EMC ~~for 5 years~~, beginning the first year after seeding, with additional monitoring as necessary if revegetation not successful. ~~It is recommended to combine monitoring of vegetation with soils and weeds. If success criteria are met in the first 5 years, then long-term vegetation monitoring will be determined in consultation with ODOE to document and manage vegetation to reduce wildfire risk.~~

Commented [A20]: ODOE: If you guys have time, can you put all the timelines into a table, similar as was done for the weeds? The edits in the plan should make all the soil, veg and weed monitoring align for years 1-5 and then weeds 5+

Commented [A21R20]: TT: Table D-2 added below.

~~The Certificate Holder will monitor Permanent Disturbance Areas~~ to assess the following:

- Dominant species composition;
- Relative cover of desirable and undesirable forbs and grasses;
- Percent cover of bare soil;
- Degree of erosion;
- Presence of noxious weeds ~~(see weed monitoring)~~; and
- Qualitative assessment of overall vigor of vegetation within revegetated areas.

Photographs and GIS data must be provided.

~~The Environmental Monitoring Contractor (EMC) will monitor revegetated Permanent Disturbance~~

~~The EMC will visit and document the baseline locations and conduct a meandering survey.Areas with a meander survey beginning within 60 days of the completion of initial revegetation.~~

~~During the meander survey, the EMC will walk in revegetated Permanent Disturbance Areas and document the assessment items listed above using photos and spatial data collection. Areas of erosion and significant patches of bare soil will be mapped and photographed. The EMC will record dominant species, overall percent cover of forbs and grasses, and general notes about plant vigor.~~

Revegetation

~~M~~monitoring will be conducted at least once per season during the first two years following construction. Revegetation monitoring will be conducted in May or June annually in years three through five ~~After the first complete year of monitoring, the Certificate Holder will consult with ODOE to determine if the monitoring cycle can be reduced based on revegetation progress. After 5 years of monitoring, the Certificate Holder will design a long-term monitoring plan in consultation with ODOE.A~~and then ~~annually~~ every five years for the life of the Facility (Table D-2)~~during the growing season, April-May~~.

The Certificate Holder will monitor all revegetated areas, unless the landowner converted an area to a use that precludes meeting revegetation success criteria such as cropland (if applicable).

Table D-2. Revegetation Monitoring Schedule

Year	Frequency	Activity
Prior to construction	Once	Quantitative baseline vegetation monitoring.
Years 1 – 2	Seasonal (spring, summer, fall)	Qualitative meandering vegetation survey of Disturbance Areas beginning the first year after seeding.
Years 3 – 5	Annual (May – June)	Qualitative meandering vegetation survey of Disturbance Areas.
Years 5+	Every 5 years	Qualitative meandering vegetation survey of Disturbance Areas.

~~The Certificate Holder must coordinate any approved grazing timing and intensity with the landowner and ODFW so that it does not preclude revegetation success.~~

Revegetation Records

The EMC will maintain records of revegetation efforts in Disturbance Areas and update ODOE monthly as revegetation work occurs. Revegetation records will include:

a. Date construction phase was completed.

a. Description and photos of the affected area;

a. Date revegetation was initiated;

a. Description of the revegetation effort, including methods and timing;

a. Supporting figures representing the location, acres affected, and pre-disturbance condition of the revegetation area; and

a.

Revegetation Environmental Monitoring Reports

Revegetation An environmental monitoring reportssummary will be prepared and submitted to ODOE annually to present results of soil compaction testing, noxious weed surveys, and revegetation monitoring for 5 years following revegetation. The first environmental monitoring report summary will include a detailed description and timeline of reclamation and revegetation methods that were implemented following construction including species, amounts (pounds/acre), and locations of seed applications and dates reclamation and revegetation work was performed. Annual monitoring reports will include:

a. Maps of revegetated areas and disturbance levels;
b. Monitoring methods;
c. Local climatic data (i.e., precipitation, temperature) for the monitoring year and deviation from the historical average;
d. Results of monitoring efforts (soil compaction, noxious weeds, and revegetation);
e. Photos of Temporary Disturbance Area transects and rRepresentative overview photos of revegetated Disturbance aAreas;
f. Assessment of whether revegetated areas are trending toward meeting success criteria described in Appendix E;
g. Assessment of factors impacting the ability of revegetated areas to trend towards meeting the success criteria; and
h. Recommendations for remedial actions, if any. If applicable, provide recommendations for reseeding, weed control, or other remedial measures for Disturbance aAreas (either permanently or temporarily disturbed) that are not showing progress toward meeting success criteria. Include adaptive management measures taken in the next monitoring report.
g.

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Appendix ~~F~~E. Revegetation and Soil Stabilization Methods

Soil Management

[To be updated based on BMPs from 1200-C permit]

Soil Stabilization

- The Engineering, Procurement, and Construction Contractor (EPC) will use appropriate erosion and sediment control practices (i.e., seeded or unseeded hydromulch, tackifier, weed-free erosion control blankets, weed-free or locally sourced straw mulch) to maintain topsoil during construction in Temporary and Permanent Disturbance Areas.
- After grading is complete but prior to installation of Facility Components, apply temporary or permanent soil stabilization.
- If seeding is used for temporary soil stabilization, seed areas with less than 70 percent vegetative cover with a non-invasive, non-persistent cover crop such as winter wheat or sterile triticale. Select cover crop based on the time of year; for example, winter wheat or sterile triticale can be seeded from fall to early spring, while peas should be seeded in spring. Tillage radish and sunflowers can be seeded in spring to reduce compaction but are not suitable options for soil stability. Establishment of a cover crop will stabilize soils and suppress noxious weed infestations to reduce erosion and facilitate revegetation of desired plant species.

Soil Reclamation

In areas where soil is removed during construction, the following measures will be taken where appropriate:

- During construction, excavated topsoil will be stockpiled separately from subsoil and replaced in proper order with topsoil on the surface to maintain soil productivity. Stockpiled soil will be put back in place prior to revegetation activities.
- Topsoil and other soils from noxious weed infested areas will not be moved outside infested areas and will be returned to their previous location during reclamation activities to eliminate the transport of weed seeds, roots, or rhizomes. Noxious weed occurrences will be flagged and monitored for compliance.

Soil Preparation

- Ensure that soils from weed infested areas are treated with pre- or post-emergent herbicide as needed prior to initiation of revegetation efforts, depending on location-specific conditions.
- Prior to final regrade and revegetation efforts, any weeds that have grown during periods of construction dormancy should be treated as described in Appendix ~~G~~F.
- Perform soil preparation using methods described below. Consider location-specific factors including slope, soil type, size of area, and erosion potential when determining methods.

- Soil Roughening: Also known as imprinting, tracking, or track walking, soil roughening is a temporary erosion control practice and seedbed preparation technique implemented when grading a slope (EPA 2021). This technique involves creating grooved soil surface with depressions running parallel to the hill contour to promote seed germination and provide moderate erosion control while vegetation is established. Tracking with heavy equipment may compact the soil and inhibit root penetration; this can be mitigated by using lighter-weight equipment and not tracking saturated soil. Soil roughening should be done prior to applying hydromulch, straw mulch, or installing erosion best management practices. Seed and mulch roughened areas as soon as possible to obtain optimum seed germination and growth (ODOT 2023).
- Deep Tilling: Reduce soil compaction by fracturing restrictive soil layers in areas where compaction levels inhibit plant growth (NRCS 2022). Deep tillage is only suitable in areas outside of solar arrays and where solar infrastructure is not present (i.e., temporary roads) and should be conducted after construction and prior to revegetation when soil moisture is at 30-50 percent of field capacity.
- Decompaction: Areas with intact vegetation (typically in areas with Level 1 or 2 disturbance) will not be decompacted to avoid additional soil disturbance and erosion risk. Where baseline soil compaction testing ~~in areas with Level 3 and 4 disturbance~~ demonstrates that soils are compacted greater than 300 pounds per square inch (psi), then remediation activities may be completed in those areas prior to the construction contractor moving to a new location or off-site as described in Table F-1. ~~Areas with intact vegetation (typically in areas with Level 1 or 2 disturbance) will not be decompacted to avoid additional soil disturbance and erosion risk.~~ Locations where baseline monitoring indicated that soils were compacted more than 300 psi prior to construction will only be decompacted as needed based on field assessment of likely vegetation success (see Table ~~F~~E-1).
    - Remediation activities may include mechanical scarification (e.g., tilling or ripping the soil) to an appropriate depth to reduce the potential effects of compaction, to maintain soil productivity, and reduce the potential for erosion on compacted soils. Dry soils should be de-compacted using an agricultural disc, soil ripper, or similar equipment.

- Prepare salvaged topsoil into a firm, fine-textured seedbed before seeding or planting (ODOT 2023). Loosen the top 1 to 2 inches of the soil surface by shallow tilling with a disc, followed by harrow or drag if necessary and where feasible with construction equipment. If soil is assessed as too soft by the Revegetation Contractor or the Environmental Monitoring Contractor (EMC), firm with a roller or cultipacker.

Table ~~F~~E-1. Decompaction Actions by Disturbance Level

Disturbance Level	Baseline Soil Compaction Level	
	Under 300 psi	Over 300 psi
1 – Mowing	If intact, living vegetation present, then no action; confirm vegetation success in next growing season. If bare soil, revegetate as described in the following section.	If intact, living vegetation present, then no action; confirm vegetation success in next growing season. If bare soil, decompact prior to revegetation.
2 – Overland Drive and Crush	If intact, living vegetation present, then no action; confirm vegetation success in next growing season. If bare soil, revegetate as described in the following section.	If intact, living vegetation present, then no action; confirm vegetation success in next growing season. If bare soil, decompact prior to revegetation.
3 – Clear and Cut	Revegetate as described in the following section.	Decompact prior to revegetation.
4 – Clear and Cut with Soil Removal	Revegetate as described in the following section.	Decompact prior to revegetation.

Revegetation Methods

- The Certificate Holder will restore ~~temporarily d~~Disturbance~~d a~~Areas by re-establishing slope, surface stability, and drainage features, as needed, followed by soil preparation and seeding ~~as described below~~.
- Revegetation will begin as soon as feasible after completion of each construction phase. Seeding and planting will be done in a timely manner and in the appropriate season to facilitate germination and establishment of seeded species.
- Following seeding, stabilize seeded areas to facilitate establishment by applying seedless, certified weed-free hydromulch containing a tackifier or crimped weed-free straw.
- Cropland outside the Solar Components fence~~line~~ will be returned to landowner control and will not be revegetated by the Certificate Holder.
- Revegetation methods for each disturbance level were developed to tailor revegetation to specific conditions (Table ~~F~~E-2).

Table ~~F~~E-2. Revegetation Methods by Disturbance Level

Disturbance Level	Soil Reclamation	Site Preparation	Seeding
1 – Mowing	No soil disturbance. Retain existing vegetation to prevent erosion.	Weed control.	Seed if necessary to achieve success criteria.
2 – Overland Drive and Crush	No soil disturbance. Retain existing vegetation and implement erosion control practices.	Weed control.	Seed if necessary to achieve success criteria.
3 – Clear and Cut	Track or decompact soil as necessary. Implement erosion control practices.	Weed control. Seed cover crop if necessary to stabilize soil. Prepare firm, fine-textured seedbed prior to seeding.	Required
4 – Clear and Cut with Soil Removal	Stockpile topsoil separately from subsoil and stabilize during construction. Regrade and replace subsoil then topsoil prior to seeding. Track or decompact soil as necessary. Implement erosion control practices.	Weed control. Regrade and add soil amendments if necessary. Seed cover crop if necessary to stabilize soil. Prepare firm, fine-textured seedbed prior to seeding.	Required

Seed Mix and Shrub Planting

The NW Dryland Standard Mix from Nutrien Ag Solutions was used to revegetate the Wheatridge Renewable Energy Facility (WREF) III. A similar seed mix will be used to revegetate ~~temporarily disturbed wildlife habitat and Permanent~~ Disturbance Areas ~~within~~ at the Wagon Trail Solar II Facility (Facility; Table ~~F~~E-3). Initial seeding will use a grass-only mix to maximize flexibility for weed control. Forbs may be seeded after two or three years if revegetation areas are not trending towards meeting the success criteria ~~for native forbs. Shrub planting may be proposed for revegetation of temporarily disturbed shrub-steppe habitat, if applicable.~~ The Certificate Holder will make all attempts to procure the approved seed mix or obtain approval from ODOE prior to making substitutions if species are not available at the time of procurement.

Table ~~F~~E-3. Revegetation Seed Mix

Common Name	Scientific Name	Percent Pure Seed
'Columbia' bluebunch wheatgrass	*Pseudoroegneria spicata*	30
'Sierra Vista' sheep fescue	*Festuca ovina*	20
'Sodar' streambank wheatgrass	*Elymus lanceolatus* ssp. *lanceolatus*	20
'Sherman' big bluegrass	*Poa secunda* ssp. *juncifolia*	19
'Secar' Snake River wheatgrass	*Elymus wawawaiensis*	10

Seeding Methods

Four common seed application methods that may be used for revegetation include broadcast seeding, drill seeding, imprint seeding, and hydroseeding; each of these are discussed further below. Other seeding methods may be proposed for review and approval prior to revegetation efforts. When feasible for ~~Permanent~~ Disturbance Areas within the ~~Solar Components~~Solar Micrositing Area, the area will be seeded after grading is complete but before placement of Solar Components to provide flexibility in seed application methods. In those instances where seeding occurs prior to installation of components, follow-up seeding will occur in areas temporarily disturbed by component installation and any areas that are deficient in vegetation after construction is complete.

Broadcast Seeding

Broadcast seeding is the application of seed directly to the ground surface. This method may be chosen for areas with shallow and rocky soils, and the type of broadcast spreader depends on the size of the area to be seeded and the terrain. In this method, seed is broadcast at 20-24 pounds of pure live seed per acre, or twice the recommended rate for drill seeding. Immediately following seed application, hydromulch or certified weed-free straw would be applied at a rate of approximately 2 tons per acre. Broadcast seeding will not be employed if winds exceed 5 miles per hour. If certified weed-free straw is unavailable, the Certificate Holder or EPC will identify a local source of straw. The local source of the straw will be approved by the County Weed Department and the Oregon Department of Fish and Wildlife (ODFW) prior to purchase. This straw will either be crimped into the ground or applied with a tackifier.

Drill Seeding

Drill seeding can be used for large areas with deep soils and moderate to gentle terrain to accommodate mechanical equipment. This method provides the advantage of planting the seed at a uniform depth and may provide better soil to seed contact. Using a range seed drill, seeds will be sown at 12-14 pounds pure live seed per acre or according to application rates recommended by the seed supplier. Drill seeding will be difficult after Solar Components have been installed, so it will primarily be used if seeding occurs after grading is complete but before components are installed, or in areas that were temporarily disturbed during construction that do not have any permanent infrastructure (e.g., temporary access roads, laydown areas).

Imprint Seeding

Imprint seeding is a no-till drill seeding method used to restore grasslands in areas with low annual precipitation. Seeds will be sown at 12 pounds pure live seed per acre or according to application rates recommended by the seed supplier. The seeder consists of a heavy metal drum roller with V-shaped, angled teeth and a seed agitator box. The teeth create V-shaped troughs with a depth of 4-7 inches to collect rainwater. The rolling drum presses the seed into the soil, insuring good seed-to-soil contact. The troughs collect rainwater for seed germination and seedling growth. Imprint seeders can be used on steep slopes and do not require seed bed preparation before seeding.

Seeding can occur on soils with light to moderate vegetative cover, with the vegetation acting as a mulch, preventing soil erosion until seedlings are established. Imprint seeders do not work well in areas with shrubs or heavy vegetation cover. Heavily compacted soils may need to be ripped or de-compacted before seeding.

Hydroseeding

Hydroseeding is most applicable for areas where drill or broadcast seeding machinery cannot access; this usually includes steep slopes or narrow terrain but can be used in all terrains. Soil bed preparation is crucial for growth success and frequently includes tracking perpendicular to the slope to create micro conditions for seed. Flat grading and compaction are not recommended. Seeding rates increase by 30 to 50 percent of broadcast seeding rates (i.e., 30 pounds pure live seed per acre) per consultation with ODFW. Prior to hydroseeding, the tackifier will be reviewed and approved in consultation with ~~the Oregon Department of Energy (~~ODOE~~)~~. Fertilizer should not be used when hydroseeding wildlife habitat.

~~Revegetation Records~~

~~The EMC will maintain records of revegetation efforts in all Temporary and Permanent Disturbance Areas and update ODOE monthly as revegetation work occurs. Revegetation records will include:~~

- ~~b. Date construction phase was completed;~~
- ~~c. Acreage of each disturbance level;~~
- ~~d. Description and photos of the affected area;~~
- ~~e. Date revegetation was initiated;~~
- ~~f. Description of the revegetation effort, including methods and timing;~~
- ~~g. Supporting figures representing the location, acres affected, and pre-disturbance condition of the revegetation area; and~~
- ~~h. Confirmation from the landowner that temporary disturbances in cropland have been satisfactorily restored.~~

~~Success Criteria for Temporary Disturbance Areas~~

~~Reclamation of Temporary Disturbance Areas on agricultural lands will be considered complete after the land is returned to farm operations and landowners provide written confirmation that they are satisfied that any impacts to soil productivity have been addressed. The Certificate Holder will provide evidence that landowners are satisfied after one crop cycle.~~

~~In wildlife habitat, the Certificate Holder will make reasonable efforts to restore vegetation and soils to their pre-disturbance condition. The following success criteria will be evaluated using monitoring methods described in Appendix E:~~

- ~~a. **Native Shrubs**: For habitat subtypes with sagebrush, sagebrush density averaged across revegetation transects by habitat subtype and category should be at least 50 percent of corresponding reference transects within 5 years. For all habitat subtypes, shrub species~~

~~richness on revegetation transects should at least equal shrub species richness on reference transects.~~

b. ~~**Native and Desirable Forbs**: Cover of native and desirable (i.e., non-native species included in the seed mix) forbs, averaged across revegetation transects by habitat subtype and category, will be at least 75 percent of corresponding reference transects within 5 years.~~

c. ~~**Native and Desirable Grasses**: Cover and richness of native and desirable (i.e., non-native species included in the seed mix) grasses, averaged across revegetation transects by habitat subtype and category, will be at least 85 percent of corresponding reference transects within 5 years.~~

d. ~~**Noxious Weeds**: Presence and cover of noxious weeds on revegetation transects is 75 percent or less than that of corresponding reference transects.~~

~~Permanent Disturbance Area~~Operations Vegetation Management

During operation of the Facility, vegetation ~~will be managed to minimize fire risk and erosion by maintaining low growing vegetation under the Solar Components. See the applicable wildfire mitigation plan.~~ will be managed in accordance with the Facility Wildfire Mitigation Plan and applicable provisions of the 2025 Oregon Fire Code, Section 1205.5.1 (Oregon State Fire Marshall 2025):

> *"A clear brush free area of 10 feet shall be required around the perimeter of the ground-mounted photovoltaic arrays or as determined by the fire code official. A maintained vegetative surface or noncombustible base, approved by the fire code official, shall be installed and maintained under the photovoltaic arrays and associated electrical equipment installations."*

A summary of vegetation management and vegetative free areas is provided below:

- Vegetation within the Solar Components fence will be limited to a height of 10-12 inches, with a minimum clearance of 12 inches from electrical equipment.
- Vegetation height will be maintained by mowing, chemical spray, grazing, or other vegetation management techniques.
- A minimum 10-foot non-combustible, vegetation-free defensible space will be maintained along the fenced perimeter of the Solar Components.
- Vegetation along service roads will be managed by mowing or other vegetation removal.
- The Certificate Holder may keep or use domestic sheep, goats, or other livestock at the Facility for vegetation control or other purposes as the Facility is not in a risk area for disease transmission to Bighorn sheep.

~~*Use of Domestic Sheep and Goats for Vegetation Management*~~

~~The Certificate Holder may keep or use domestic sheep, goats, or other livestock at the Facility for vegetation control or other purposes. A Grazing Management Plan will be developed prior to grazing livestock at the Facility to describe practices and controls that will be implemented to prevent zoonotic disease transmission to wild sheep populations. ODOE may impose additional requirements to prevent zoonotic disease transmission based on consultation with ODFW. These requirements would not apply to landowners grazing livestock outside the Facility Components in accordance with their leases.~~

Success Criteria for ~~Permanent~~ Disturbance Areas

The Certificate Holder will establish uniform (i.e., evenly distributed, without large bare areas) perennial, non-invasive vegetation that provides 70 percent or more cover on all exposed areas within the ~~Solar Components~~Disturbance Area in compliance with the soil protection standard (Oregon Administrative Rule [OAR] 345-022-0022); National Pollutant Discharge Elimination System 1200-C permit requirements; and County requirements.

~~*Use of Domestic Sheep and Goats for Vegetation Management*~~

~~The Certificate Holder may keep or use domestic sheep, goats, or other livestock at the Facility for vegetation control or other purposes. A Grazing Management Plan will be developed prior to grazing livestock at the Facility to describe practices and controls that will be implemented to prevent zoonotic disease transmission to wild sheep populations. ODOE may impose additional requirements to prevent zoonotic disease transmission based on consultation with ODFW. These requirements would not apply to landowners grazing livestock outside the Facility Components in accordance with their leases.~~

~~Integrated Vegetation Management~~

~~To support reclamation success and reduce wildfire risk throughout all phases (i.e., both construction and operations) of the Facility, vegetation management will be consistent with the Construction Wildfire Mitigation Plan, Operations Wildfire Management Plan, and Grazing Management Plan. In the interim, while those plans are being finalized, this section establishes minimum vegetation management and fire prevention requirements that will apply during construction and operation of the Facility. Vegetation will be managed in accordance with the facility Wildfire Mitigation Plan and applicable provisions of the 2025 Oregon Fire Code, Section 1205.5.1 (Oregon State Fire Marshall 2025):~~

~~*"A clear brush free area of 10 feet shall be required around the perimeter of the ground-mounted photovoltaic arrays or as determined by the fire code official. A maintained vegetative surface or noncombustible base, approved by the fire code official, shall be installed and maintained under the photovoltaic arrays and associated electrical equipment installations."*~~

~~A summary of vegetation management, vegetative free areas, fire breaks will be provided in the Final VSMP below:~~

~~XX~~

~~XX~~

~~These measures are intended to minimize ignition potential, maintain defensible space, support consistent vegetation control, and outline inspection practices that will contribute to long-term fire resiliency. At a minimum, the following criteria will be met:~~

~~Vegetation Height and Clearance~~

~~Vegetation within the fenceline will be limited to a height of 10-12 inches, with a minimum clearance of 12 inches from electrical equipment. Vegetation near, at, or taller than the maximum height shall be removed or mowed.~~

~~Vegetation exceeding this height will be mowed or removed prior to local Oregon Department of Forestry (ODF)- or County-issued fire restrictions.~~

~~At no time will vegetation come into contact with electrical infrastructure, inverters, or cable runs.~~

~~Vegetation height will be maintained by mowing, chemical spray, grazing, or other vegetation management techniques. A Grazing Management Plan will be developed if necessary.~~

~~A minimum 10-foot non-combustible, vegetation-free defensible space will be maintained along the fenced perimeter of the Facility Components.~~

~~Vegetation along service roads will be managed by mowing or other vegetation removal.~~

~~a. **Fuel and Debris Management**~~

- ~~Vegetation and debris removed from the Facility will be disposed of off-site and will not be stored at the Facility.~~
- ~~The Certificate Holder and contractors will prevent accumulation of combustible materials or "burn piles."~~
- ~~Inspections will ensure that fence lines, service roads, and work areas remain clear of dry vegetation, woody debris, or stored materials that could create fuel continuity during fire season.~~
- ~~All newly constructed or maintained service roads within the Facility will maintain a minimum 16-foot width of graveled, all-weather surface to facilitate emergency response access.~~

~~b. **Designated Noncombustible Areas**~~

- ~~All-weather service roads will be compacted soil or gravel and maintained in good condition.~~
- ~~A graveled or earthen surface buffer will be maintained within the fenced perimeter of the inverter/transformer pads, and BESS.~~
- ~~A graveled perimeter will be maintained around parking areas and the operations and maintenance building.~~
- ~~Parking and laydown areas will consist of compacted soil, gravel, or other non-combustible material to reduce ignition potential from vehicles and equipment.~~

~~c. **Standards and Continuous Improvement:** Vegetation management and fire prevention measures will be reviewed annually to ensure continued compliance with applicable codes and evolving best practices, including:~~

- ~~North American Electric Reliability Corporation (NERC) FAC-003-0 – Vegetation Management Standard for Transmission Lines~~
- ~~Oregon Fire Code and National Fire Protection Association (NFPA) Standards relevant to energy facilities~~
- ~~OAR Chapter 477 and 629-043 – ODF Fire Prevention Standards~~
- ~~OAR 860-024 – Public Utility Commission (PUC) Electrical Safety Standards~~
- ~~American Clean Power (ACP) and Avian Power Line Interaction Committee (APLIC) industry best practices~~

~~The Certificate Holder will evaluate new technologies, standards, and operational lessons learned each year to incorporate applicable improvements into this VSMP or the future Operations Wildfire Management Plan.~~

Adaptive Management

After each monitoring visit, the EMC will report to the Certificate Holder regarding revegetation progress. If applicable, the EMC will make recommendations to the Certificate Holder for reseeding,

weed control, or other adaptive management for areas that are not showing progress toward meeting the success criteria. The Certificate Holder will include the EMC's recommendations for adaptive management and measures taken in that year's monitoring report. ODOE may require reseeding or other remedial measures in cases where success criteria have not been met.

References

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Appendix ~~G~~F. Weed Control Plan

Regulatory Framework

The Oregon Department of Agriculture (ODA) and the Morrow County Weed Department maintain lists and classifications of noxious weeds. Although not all listed noxious weeds occur in the vicinity of the Facility, the Certificate Holder and its contractors should be aware of the entire list while monitoring and controlling weeds.

State of Oregon

In Oregon, a noxious weed is defined under Oregon Revised Statutes (ORS) 569.175 as "a terrestrial, aquatic, or marine plant designated by the State Weed Board under ORS 569.615 as among those representing the greatest public menace and as a top priority for action by weed control programs." Noxious weeds have been declared by ORS 569.350 as a menace to public welfare, and control of these plants is the responsibility of private landowners and operators, as well as county, state, and federal governments.

The Oregon State Weed Board (OSWB) was created by ODA under ORS 569.600. OSWB provides recommendations for noxious weed control at the state level and is responsible for updating the State Noxious Weed List. The OSWB and the ODA classify noxious weeds in Oregon in accordance with the ODA Noxious Weed Classification System; there are three designations under the State's system (ODA 2025):

- **A-Listed Weed:** A weed of known economic importance which occurs in the state in small enough infestations to make eradication or containment possible; or is not known to occur, but its presence in neighboring states makes future occurrence in Oregon seem imminent.
  - **Recommended Action:** Focus on prevention of new infestations through vector control, certification programs, education, outreach and surveys. New and existing infestations are prioritized for eradication or intensive control when and where found. Regionally focused, species-specific Statewide Management Strategies for A-listed weeds may be developed as necessary.
- **B-Listed Weed:** A weed of economic importance that is regionally abundant but may have limited distribution in some counties.
  - **Recommended Action:** Limited to intensive control at the state, county, or regional level as determined on a site-specific, case-by-case basis. Where implementation of a fully integrated statewide management plan is not feasible, biological control (when available) shall be the primary control method.
- **T-Designated Weed:** A designated group of weed species selected from the B list as a focus for prevention and control by the Noxious Weed Control Program. T-designated noxious weeds are determined by the OSWB and management actions are prioritized and informed by species-specific T-List Statewide Management Strategies created and maintained by the ODA. Action against these weeds will receive priority in accordance with the recommendations of the Statewide Management Strategy.

Morrow County

The Morrow County noxious weed list defines weeds of significance with two categories (Morrow County 2026):

- **A List:** Noxious weeds. Any plant that is determined by the weed advisory board, and so declared by the County Board of Commissioners to be injurious to public health, crops, livestock, land or property under provisions of Oregon State Statute and thus mandated for control.
- **B List:** Weeds of Economic Importance. Weeds of limited distribution in the county and subject to intensive control or eradication where feasible.

Noxious Weeds Identified at the Facility

Noxious weed data from 2019 to 2025 was reviewed to develop a list of noxious weeds mapped within the Facility (Table GF-1). Table GF-1 will be updated with results from pre-construction surveys as described in. See Appendix ED.

The eCertificate hHolder may be responsible for managing weedy and invasive species that are not listed on the state or County's weed list, particularly if the species is a concern for wildfire such as invasive annual grasses. Weedy and invasive species requiring management will be identified by the Certificate Holder in consultation with ODOE and the County Weed Department.

Table GF-1. Noxious Weeds Observed at the Facility

Scientific Name	Common Name	Status	
		State	County
Aegilops cylindrica	jointed goat grass	B	B
Bassia (Kochia) scoparia	kochia	B	B
Centaurea diffusa	diffuse knapweed	B	B
Centaurea solstitialis	yellow starthistle	B	A
Centaurea stoebe ssp. *micranthos*	spotted knapweed	B(T)	B
Centromadia (*Hemizonia*) *pungens*	common spikeweed	Not Listed	A
Chondrilla juncea	rush skeletonweed	B(T)	A
Onopordum acanthium	Scotch thistle	B	A
Secale cereale	cereal rye	Not Listed	B
Sources: ODA 2025a. Morrow County 2026.			

Weed Management

Noxious weed control methods for the Weed Management Area (i.e., the disturbance area associated with the Facility Components plus a 10-foot buffer) described in this VSMP were developed utilizing information from the ODA Noxious Weed Control Program and the Morrow

County Weed Department. Management of noxious weeds will be considered throughout all stages of construction and operation of the Facility Components and will include:

- **Prevention:** Implement measures to prevent the spread of noxious weeds during construction, operation, and maintenance activities.
- **Control:** Treat noxious weed populations with their appropriate control methods, at appropriate time intervals.
- **Monitoring:** Assess noxious weed changes within the Weed Management Area over time and ensuring that legacy as well as new weed populations are not increasing their distribution.

The Certificate Holder's objective is to prevent the introduction of new noxious weed populations and spread of existing noxious weed populations. The methods described above in this VSMP and supplemented below will be implemented to minimize the spread of noxious weeds during construction activities. New noxious weeds detected within the Weed Management Area during post-construction revegetation will be considered a result of construction activities and will be controlled accordingly.

Management Objectives

Management objectives will be based on the classification status of a species and frequency of observations (Table ~~G~~F-2). Classification status will be determined based on the highest status identified by the state or county weed list unless recommended otherwise by the County. Management objectives for unlisted species will be determined on a case-by-case basis based on need for control (e.g., fire control, etc.)

Table ~~G~~F-2. Management Objectives

Weed Classification	Years		
	0	1-5	6+
A or B(T)	Begin control prior to construction and continue throughout construction.	Intensive control with the goal to eradicate within first 5 years of operations. Prevent new infestations.	Intensive control and eradication for life of Facility. Prevent new infestations.
B	Begin control prior to construction on a case-by-case basis and continue throughout construction.	Intensive control on a case-by-case basis with the goal to eradicate within first 5 years of operations. Prevent new infestations.	Monitor and manage to prevent new populations or spread of existing populations.
Invasive Annual Grasses	Monitor and manage to minimize wildfire risk.	Monitor and manage to minimize wildfire risk.	Monitor and manage to minimize wildfire risk.

Prevention

The following best management practices will be implemented to prevent the spread of noxious weeds during construction activities, revegetation efforts, and operation and maintenance activities.

- Flag areas of noxious weed infestations prior to construction, where appropriate, to alert construction personnel;
- Limit vehicle access to designated routes, whether existing roads or newly constructed roads, and the outer limits of construction disturbances per the final design for the Facility;
- Limit vehicle traffic in areas with noxious weeds;
- Require construction vehicles to pass through a wheel wash station the first time they enter the Facility or return to the Facility from another project;
- Clean vehicles and equipment associated with ground disturbance and movement of topsoil utilizing a mobile wash station after performing work in noxious weed-infested areas and prior to performing work in non-infested areas;
- Topsoil and other soils from noxious weed-infested areas will not be moved outside of the infested areas and will be returned to its previous location during reclamation activities;
- Treat soils from infested areas with a pre- or post-emergent herbicide as needed prior to initiation of revegetation efforts, depending on site-specific conditions;
- Limit movement of topsoil and other soils from non-infested areas to eliminate the transport of weed seeds, roots, or rhizomes;
- Provide information regarding target noxious weed species at the operations and maintenance building;
- Treat noxious weeds in weed management areas via biological, mechanical, or chemical control (see Section 5.3);
- Prevent conditions favorable for noxious weed germination and spread by revegetating temporarily disturbed areas as soon as possible;
- Monitor weed management areas for noxious weeds after construction (see Section 6.0), during the normal course of revegetation maintenance of temporary workspaces, and implementing control measures as appropriate;
- Revegetate disturbance areas with appropriate, local native seed or native plants; when these are not available, non-invasive, and non-persistent non-native species may be used; and
- Inspect and certify that the seed and straw mulch used for Facility rehabilitation and revegetation are free of noxious weed seed and propagules.

Control Methods

Control of noxious weeds and other invasive weed species within weed management areas will be implemented through biological, mechanical, or chemical control measures. The control method used will depend on the weed species and size of infestation, time of year, proximity to intact native habitats, and resources available (Tu et al. 2001). Generally, mechanical control is best suited for small infestations of tap-rooted weeds that can be hand pulled or large occurrences in areas where

mowing or soil disturbance is acceptable. Chemical control is used for most occurrences of perennial weeds with rhizomes or stolons and large occurrences of any weed in areas where mowing or soil disturbance are not recommended. Successful noxious weed control programs typically combine multiple treatment strategies (USEPA 2008).

Biological

Biological control involves the use of prescribed insects, fungi, and livestock to control noxious weeds to achieve management objectives. Biological control methods are typically targeted to a specific species or plant to control its persistence. They are also used for maintenance in targeted areas for vegetation management control in height and density that includes mitigating fire risk and erosion. Biological control is environmentally friendly and should be the first consideration when applicable. ~~The Certificate Holder may keep or use domestic sheep, goats, or other livestock at the Facility for vegetation control or other purposes.~~

Use of Domestic Sheep and Goats for Vegetation Management

~~The Certificate Holder may keep or use~~ ~~domestic sheep, goats, or other livestock at the Facility for vegetation control or other purposes.~~ If the ~~c~~Certificate ~~h~~Holder uses or keeps domestic sheep, goats, or other livestock for vegetation control or other purposes, a Grazing Management Plan will be developed prior to grazing livestock at the Facility to describe practices and controls that will be implemented to prevent zoonotic disease transmission to wild sheep populations. ODOE may impose additional requirements to prevent zoonotic disease transmission based on consultation with ODFW. These requirements would not apply to landowners grazing livestock outside the Facility Components in accordance with their leases.

Commented [A22]: ODOE: I'm leaving this in. If sheep grazing is added later, it will have to be reviewed

Mechanical

Mechanical treatment will be the preferred method of treatment for existing noxious weed populations where appropriate within the Weed Management Area. Mechanical control methods rely on removal of plants, seed heads, and/or cutting roots with a shovel or other hand tools or equipment that can be used to remove, mow, or disc noxious weed populations. Hand removal of plants is also included under this treatment method. Mechanical methods are useful for smaller, isolated populations of noxious weeds in areas of sensitive habitats. Additionally, hand removal of small infestations can minimize soil disturbance, allowing desirable species to remain and limiting conditions favorable for noxious weeds.

Some rhizomatous plants can spread by discing or tillage because they reproduce vegetatively from small root fragments. As such, implementation of discing will be species-specific and avoided in areas where it will be counter-productive. If discing is employed in areas that will be revegetated following construction, subsequent seeding will be conducted to re-establish desirable vegetative cover that will stabilize the soils and slow the potential re-invasion of noxious weeds. Discing, tilling, or other mechanical treatments that disturb the soil surface within native habitats will also be avoided in favor of herbicide application, which is an effective means of reducing the size of noxious weed populations as well as preventing the establishment of new infestations.

Chemical

Chemical control can effectively remove noxious weeds through use of selective herbicides when mechanical control is not feasible. The specific herbicide used and the timing of application will be chosen based on the specific noxious weed being treated, as appropriate herbicides differ between species and types of plants (i.e., dicots such as rush skeletonweed versus monocots such as jointed goatgrass).

Herbicides will be applied to identified, treatable, noxious weed infestations. The Certificate Holder or their contractors will coordinate with the County Weed Department to determine which populations are treatable and will notify landowners of proposed herbicide use on their lands prior to application. If a noxious weed population is deemed to be untreatable (e.g., too widespread and established in an area to successfully control), the Certificate Holder will implement the applicable prevention measures discussed in this VSMP, subject to approval by the Oregon Department of Energy (ODOE) and the County Weed Department. Herbicide application will be performed within the appropriate season to achieve desired results, as approved by ODOE and the County Weed Department. No weed treatment will occur in agricultural lands without landowner permission.

Herbicide Application and Handling

Herbicide application will occur within the appropriate season and during the appropriate timeframe to achieve desired results, as approved by ODOE and the County Weed Department. Herbicide application will adhere to U.S. Environmental Protection Agency and ODA standards. Only those herbicides that are approved by the U.S. Environmental Protection Agency and ODA will be used. In general, application of herbicides will not occur when the following conditions exists:

- Wind velocity exceeds 15 miles per hour for granular application, or exceeds 10 miles per hour for liquid applications;
- Snow or ice covers the foliage of target species; or
- Adverse weather conditions are forecasted within the next few days.

Hand application methods (e.g., backpack spraying) may be used in roadless areas or in rough terrain. Vehicle-mounted sprayers (e.g., handgun, boom, and injector) will be used mainly in open areas that are readily accessible by vehicle. Calibration checks of equipment will be conducted prior to spraying activities, as well as periodically throughout use, to ensure that appropriate application rates are achieved.

Herbicides will be transported and used in accordance with all manufacturers~~'~~ label recommendations and warnings.

~~with the following stipulations:~~

- ~~Only the quantity needed for that day's work will be transported.~~
- ~~Concentrate will be transported in approved containers only, and in a manner that will prevent spilling, stored separately from food, clothing, and safety equipment.~~

- ~~Mixing will be done at a distance greater than 200 feet from open or flowing water, wetlands, or other sensitive species' habitat. No herbicides will be applied at these areas unless authorized by the appropriate regulatory agencies.~~
- ~~All herbicide equipment and containers will be inspected daily for leaks.~~
- ~~Herbicide use will be in accordance with all manufacturers' label recommendations and warnings.~~

Herbicide Spills and Cleanups

All appropriate precautions will be taken to avoid herbicide spills. In the event of a spill, cleanup will be immediate. Contractors will keep spill kits in their vehicles to allow for quick and effective response to spills. Herbicide spills will be managed in accordance with the ~~f~~Facility SPCC.

~~Items included in the spill kit will be:~~

- ~~Protective clothing and gloves;~~
- ~~Adsorptive clay, "kitty litter," or other commercial adsorbent;~~
- ~~Plastic bags and a bucket;~~
- ~~A shovel;~~
- ~~A fiber brush and screw-in handle;~~
- ~~A dustpan;~~
- ~~Caution tape;~~
- ~~Highway flares (use on existing hard-top roads only); and~~
- ~~Detergent.~~

~~Response to an herbicide spill will vary with the size and location of the spill, but general procedures include:~~

- ~~Stopping the leak;~~
- ~~Containing the spilled material;~~
- ~~Traffic control;~~
- ~~Dressing the clean-up team in protective clothing;~~
- ~~Cleaning up and removing the spilled herbicide, as well as the contaminated adsorptive material and soil; and~~
- ~~Transporting spilled herbicide and contaminated material to an authorized disposal site.~~

Herbicide Spill Reporting

All herbicide contractors will have readily available copies of the appropriate material safety data sheets for the herbicides used at their disposal and will keep copies of the safety data sheets in the

application vehicle. If an herbicide spill of any size occurs, the appropriate agency and spill coordinators will be notified promptly. In case of a spill into wetlands and waterbodies, the appropriate federal, state, and county agencies will be notified immediately. All herbicide spills equal to or greater than 200 pounds or 25 gallons of pesticide residue will be reported to the Oregon Emergency Response System in accordance with applicable laws and requirements (Oregon Administrative Rules 340-142-0050). The Certificate Holder will report all herbicide spills to ODOE by phone or email within 72 hours with follow-up reporting as appropriate. Incidents will also be summarized in the annual operations report.

Special Considerations

Special consideration will be provided to perennial, intermittent, and ephemeral streams/draws during treatment activities. No herbicide will be sprayed where the drift can enter standing water or saturated soil. It will be the herbicide applicators' responsibility to ensure that no herbicide or drift enters standing water, regardless of the season when the herbicide is applied. Similar considerations will be made when in proximity to agricultural fields.

~~***Monitoring and Reporting***~~

~~See Appendix E.~~

~~Weed inspections will occur within the Weed Management Area through visual inspection while driving or walking. During the construction phase, the Environmental Monitoring Contractor (EMC) will conduct periodic monitoring of noxious weeds. Noxious weeds observed during construction will be treated with mechanical or chemical treatments or other best management practices, as applicable. If construction extends into the growing season prior to the commercial date of operations and formal post-construction weed monitoring, the EMC will conduct informal but comprehensive weed surveys to inform adaptive management. In addition, weed monitoring may be conducted by the EMC as part of routine construction environmental monitoring monthly from April to October.~~

~~The EMC will conduct annual post-construction noxious weed monitoring within the Weed Management Area starting the first growing season after construction to map the extent of all noxious weed occurrences and identify areas for treatment. Results will be summarized in annual monitoring reports that describe treatments performed, treatment efficacy, recommendations to improve efficacy (if necessary), and any new noxious weed occurrences. Reports will be submitted to ODOE, ODFW, and the County annually. The Certificate Holder will be responsible for treating all noxious weeds observed within the Weed Management Area.~~

~~Based on the success of control efforts after the second year of monitoring, the Certificate Holder will consult with ODOE and the County Weed Department to determine if the monitoring cycle can be reduced for Year 3 through Year 5. After 5 years of monitoring, the Certificate Holder will design a long-term weed control plan in consultation with ODOE and the County Weed Department. The Certificate Holder will maintain ongoing communication with individual landowners, the County Weed Department, and ODOE regarding noxious weeds within the Weed Management Area. Landowners may also contact the Certificate Holder directly to report the presence of noxious~~

~~weeds related to Solar Component activity. The Certificate Holder will control reported noxious weeds on a case-by-case basis and prepare a summary of measures taken for that landowner. During the Facility operational period, the Certificate Holder will control noxious weeds as described in the long-term weed control plan. The Certificate Holder will report the investigator's findings and recommendations regarding weed control in the Facility's annual report required by Oregon Administrative Rule 345-026-0080.~~

Treatment Plan

Table ~~G~~F-3, below, provides a treatment plan for noxious and invasive weeds (listed by ODA and Morrow County) in the Weed Management Area, including management objectives and treatment guidelines. ~~This table will be updated in each year's annual monitoring report.~~ Specific herbicide application rates will be determined in consultation with the County Weed Department and the Weed Control Contractor. Table F-3 will be updated based on the actions taken for the previous season or year and submitted to the Department consistent with the ~~plan~~VSMP. Records of herbicide types, frequency and timing of application, and application methods shall be maintained and provided to ODOE in applicable monitoring reports.

Commented [A23]: ODOE: Captured this with the edit below and adding column to Table F-3

Table GF-3. Treatment Plan and Tracking for Noxious and Invasive Weed Controls

Scientific Name	Common Name	State/County Status	Management Objective	Treatment Guidelines[1]	Treatment Actions, Frequency, and Timing Compliance Tracking
Aegilops cylindrica	jointed goatgrass	B/B	Monitor and manage to prevent new populations or spread of existing populations.	Mechanical: Timing is critical, mow after flowering but before seeds reach soft boot stage. Early mowing will result in new tiller growth. Requires multiple mowings throughout the growing season over several years. **Chemical:** Apply to actively growing plants in late winter or spring before flowering or pre-emergent herbicide in fall. Biocontrol: None	
Bassia (Kochia) scoparia	kochia	B/B	Monitor and manage to prevent new populations or spread of existing populations.	**Mechanical**: Mow prior to flowering to prevent seed production. Hand pull small populations. Chemical: Apply post emergent to seedlings and small plants. Biocontrol: None	
Centaurea diffusa	diffuse knapweed	B/B	Monitor and manage to prevent new populations or spread of existing populations.	Mechanical: Manually remove entire plant, including taproot, prior to flowering. **Chemical:** Apply to actively growing plants in fall or spring from rosette to bolting stage. Biocontrol: Agents include several seed feeding flies and weevils and a root-boring beetle.	
Centaurea solstitialis	yellow starthistle	B/A	Intensive control with the goal to eradicate within first 5 years of operations. Prevent new infestations.	Mechanical: Manually remove entire plant including taproot. **Chemical:** Post-emergent herbicide application to rapidly growing plants prior to flowering (rosette to bolting stage). Biocontrol: Agents include two seed weevils, a seed fly, and a rust.	
Centaurea stoebe ssp. *micranthos*	spotted knapweed	B(T)/B	Intensive control with the goal to eradicate within first 5 years of operations. Prevent new infestations.	Mechanical: Manually remove entire plant, including taproot, prior to flowering. **Chemical:** Apply to actively growing plants in fall or spring from rosette to bolting stage. Biocontrol: 12 approved biocontrol agents established in Oregon.	
Centromadia (*Hemizonia*) *pungens*	common spikeweed	Not Listed/A	Intensive control with the goal to eradicate within first 5 years of operations. Prevent new infestations.	Mechanical: Dig or hand pull in spring prior to flowering. **Chemical:** Apply post emergent with surfactant to seedling in spring through early summer, before flowering. Biocontrol: None	
Chondrilla juncea	rush skeletonweed	B(T)/A	Intensive control with the goal to eradicate within first 5 years of operations. Prevent new infestations.	Mechanical: Regenerates from root fragments. Manually remove entire plant, including taproot, prior to flowering. Will require multiple efforts during the growing season for more than one year. **Chemical:** Apply to rosettes in spring immediately before or during bolting. Biocontrol: Agents include a gall midge, gall mite, rust fungus, and root-mining moth.	

Commented [A24]: ODOE: Added to turn this more into a compliance checklist for tracking, consistent with the representations and other tracking in this plan

Scientific Name	Common Name	State/County Status	Management Objective	Treatment Guidelines[1]	Treatment Actions, Frequency, and Timing Compliance Tracking
Onopordum acanthium	Scotch thistle	B/A	Intensive control with the goal to eradicate within first 5 years of operations. Prevent new infestations.	Mechanical: Pull prior to flowering, cut off root below soil surface. Tilling will control emerged plants but stimulate germination. Follow up tilling with herbicide application to treat seedlings. Sheep and goats will eat young plants and flower heads. **Chemical:** Treat from rosette to bolting stage in fall or spring. Most effective on small rosettes. Biocontrol: None	
Secale cereale	cereal rye	Not listed/B	Monitor and manage to prevent new populations or spread of existing populations.	**Mechanical**: Repeated mowing in spring prior to seed set or tillage combined with herbicide application in fallow fields. Hand pull prior to seed set. Chemical: Treat prior to seed set. Herbicide more effective if applied one year after mowing to reduce thatch buildup. Biocontrol: None	
Invasive annual grasses such as cheatgrass (*Bromus tectorum*)		Not listed	Monitor and manage to minimize wildfire risk.	Mechanical: Repeated mowing (every 3 weeks) to 2 inches in spring can eliminate seed production in areas where herbicide application is unacceptable. **Chemical:** Apply pre-emergent herbicide prior to germination. Post emergent in fall or early spring/summer to rapidly growing plants prior to seed set. Biocontrol: None	
Sources: Becerra-Alvarez 2025, DiTomaso et al. 2013, ODA 2025b. 1. Preferred treatment method in bold.					

Commented [A24]: ODOE: Added to turn this more into a compliance checklist for tracking, consistent with the representations and other tracking in this plan

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ESTERSON Sarah * ODOE

From: Grace, Jordan <JORDAN.GRACE@tetratech.com>
Sent: Friday, April 10, 2026 5:22 PM
To: MCVEIGH-WALKER Chase * ODOE; ESTERSON Sarah * ODOE
Cc: Jaberi, Sarah; Twitchell, Sara; Curtiss, Sarah Stauffer
Subject: WREFIII RFA1 - Certificate Holder Public Comment Responses
Attachments: NextEra_WTII_HMA_Figure1_Easement_11i17i_20260128.pdf; NextEra_WTII_HMA_Figure2_Project_WTII_Proposed_11i17i_20260410.pdf; Attachment-1_WTSII_HMP_20260203_redline_to-ODOE.docx; WREFIII-RFA1_Public Comment Evaluation for CH.xlsx

Chase,

Attached please find the certificate holder's public comment responses for WREFIII RFA1.

Thank you,

Jordan Grace (he/him)
Mobile **+1 (714) 580-9006**

Comment ID	Commenter	Comment Text	ISSUE ID/Short Issue Description	Comment Summary	Location of Topic in Proposed Order	Certificate Holder Reply	Triggers Requested Revisions to PO (Y/N)	Certificate Holder Commitment
WREFIIIAMD1Doc13 Proposed Order Comments (Tallman) [Written] 2026-03-19 WREFIIIAMD1Doc13-1 Proposed Order Comments (Tallman) [with Attachments] 2026-03-19	Jonathan Tallman	Omitted due to excessive length and unrelated nature	N/A - issues raised do not relate to the facility, the requested amendment to the facility, or any standards that apply to the requested amendment.	N/A - comments to do not relate to the facility, the requested amendment to the facility, or any standards that apply to the requested amendment.	N/A	comments to do not relate to the facility, the requested amendment to the facility, or any standards that apply to the requested amendment.	N	None
WREFIIIAMD1Doc12 Proposed Order Comments (ODSL) 2026-03-18	Daniel Evans (ODSL)	1. The name, address and telephone number of the contact person assigned to review the application for your agency. DSL reviewed the wetland delineation for this project footprint, as DSL file # WD2019-0008. It was expired on 4/18/2024. No jurisdictional Waters of This Statewere within the project footprint, therefore there is no further application review required. 2. Comments on aspects of the proposed facility that are within the particular responsibility or expertise of your agency. No jurisdictional Waters of This State were within the project footprint, therefore there is no further application review required. 3. A list of statutes, administrative rules and local government ordinances administered by your agency that might apply to construction oroperation of the proposed facility and a description of any information needed for determining compliance. Wetland delineations are reviewed per OAR 141-090. Wetland Removal-Fill applications, when required, are reviewed per OAR 141-085. 4. A list of any permits administered by your agency that might apply to construction or operation of the proposed facility and a description of anyinformation needed for reviewing a permit application. None needed 5. Recommendations regarding the size and location of analysis areas (see below for more information). None 6. A list of studies that should be conducted to identify potential impacts of the proposed facility and mitigation measures. None	ODSL permits	ODSL confirmed no jurisdictional waters of the state and no further application review required	N/A	Certificate Holder acknowledges ODSL's confirmation of no jurisdictional waters of the state and no further application review required	N	None

WREFIIIAMD1Doc14 Proposed Order Comments (ODFW) 2026-03-25	Lindsay Somers (ODFW)	ODFW requests that the following information be added to the Habitat Mitigation Plan for Wagon Trail Solar II, in accordance with OAR 635-415-0020(8). Section 1.0 Introduction - The location, physical and operational characteristics, and duration of the proposed development action. - A map of the proposed development including the latitude and longitude, township, range, section, quartersection and county. Section 2.0 Legal Instrument - Description of the legal protections and assurances regarding the duration of any conservation easements, demonstrate consistency with the duration of project impacts. Section 7.0 Implementation Schedule - A clearly defined schedule for reporting on the progress toward achieving the mitigation goals and standards, the overall efficacy of mitigation measures in conjunction with associated monitoring efforts, and any modification of mitigation measures. In addition to the required components mentioned above, ODFW recommends inclusion of the following components. -WREF III and WTS II: A defined data sharing protocol for monitoring and survey results. -WTS II, HMP, Table 4. Calculating Mitigation for Temporary Disturbance: ODFW requests clarification that the temporary impacts detailed in Table 4 are outside the facility perimeter fencing. All impacts within the perimeter of a solar facility are considered permanent impact. -WTS II, HMP, Section 6.2 Habitat Enhancement Actions: Consistent with previous review of Wheatridge III, ODFW recommends that additional proposed habitat enhancement actions be considered to achieve no net loss in either habitat quantity or quality to category 3 and 4 habitat. Actions such as sagebrush planting, native grass seeding/forb planting, and annual grass treatment should be included as needed to ensure the habitat quality at the Habitat Mitigation Area is equivalent to that of the impacted habitat and maintained as such.	Habitat Mitigation Plan	ODFW requested additional information and mitigation be added to the HMP	Attachment B	Certificate Holder has addressed ODFW and ODOE comments in an updated redline HMP, which is included as Attachment 1	N	Certificate Holder commitments are outlined in the updated redlined HMP, included as Attachment 1

~~Wheatridge Renewable Energy Facility~~Wagon Trail Solar II~~I~~

Draft Habitat Mitigation Plan

Prepared for

~~Wheatridge Wind~~Wagon Trail Energy Center, LLC

~~245 W. Main Street, Suite 200~~

~~Ione, Oregon 97843~~

~~Prepared by:~~

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~~**February** **April** **2020**~~**2026**

Document History

Date	Description
March 2020	Approved at the March 13, 2020, Energy Facility Siting Council meeting as part of the Wheatridge Energy Facility III Site Certificate.
February 2026	Amended in response to General Comment #2 of the Oregon Department of Energy's Request for Additional Information for the Wheatridge Renewable Energy Facility III Preliminary Request for Amendment 1.
April 2026	Amended by ODOE and the Certificate Holder in response to comments from the Oregon Department of Fish and Wildlife on ~~RFA1 and~~ the Proposed Order for the Wheatridge Renewable Energy Facility III Amendment 1.

~~(Approved at March 13, 2020 EFSC Meeting as part of the WREFII Site Certificate)~~

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Appendix A. Monitoring Report Outline

1.0 Introduction

~~The Wheatridge Renewable Energy Facility III is an approved, but not yet constructed, 150 megawatt (MW) solar photovoltaic energy generation facility that would use or occupy up to 900 acres within an Approved Site Boundary of approximately 2,294 acres in Morrow county, Oregon.~~ This draft Habitat Mitigation Plan (HMP) was prepared by Wagon Trail Energy Center, LLC (Certificate Holder), a wholly owned, indirect subsidiary of NextEra Energy Resources, LLC (NEER or Certificate Holder Owner) to provide~~s~~ concepts for meeting the habitat mitigation needs of ~~the~~ Wagon Trail Solar II Facility ~~amended (~~Facility).

The Facility is composed of 100 megawatts (MW) of authorized solar energy and 26 distributed battery storage sites within a 1,935-acre Site Boundary in Morrow County, Oregon. The Facility constitutes the undeveloped portion of the previously approved Wheatridge Renewable Energy Facility III. Details on physical and operational characteristics, and duration of the proposed development action, will be updated in the finalized HMP, prior to construction.

The Certificate Holder conducted habitat categorization surveys and other biological studies to define habitat categorization of the Facility in accordance with the Oregon Department of Fish and Wildlife's (ODFW) Fish and Wildlife Habitat Mitigation Policy, Oregon Administrative Rule (OAR) 635-415-0000 through 0025. ~~Northwest Wildlife Consultants (NWC) has conducted habitat categorization surveys and other biological studies that inform habitat categorization in accordance with the Oregon Department of Fish and Wildlife's (ODFW) Fish and Wildlife Habitat Mitigation Policy, Oregon Administrative Rule (OAR) 635-415-0000 through 0025. NWC has also identified potential mitigation opportunities and potential habitat enhancement actions.~~

The Certificate Holder's goal is to reduce and eliminate the impact of the Facility over time by preserving and maintaining in-kind habitat in the Columbia Basin Ecoregion. ~~to achieve a net benefit to Category 2 habitat, and no net loss of Categories 3 and 4 through the concepts proposed in this draft HMP. The proposed concepts were discussed with personnel from the ODFW on August 20, 2012 and on July 11, 2014. The March 30, 2015 HMP Draft Concepts included habitat impact acreages known as of early spring 2015. This February 2020 version was approved at the March 13, 2020 Council meeting, through request by certificate holder to amend the previously finalized HMP for Wheatridge Wind Energy Facility. The actual acres of temporary and permanent impacts and the associated mitigation requirements will be determined based on the final design and included in a final HMP prior to construction.~~

~~Pre-Construction Compliance~~

~~This draft HMP for the Facility will show compliance with Site Certificate condition PRE-FW-01 and PRE-FW-4, which read:~~

> ~~***PRE-FW-01*** *Prior to final site design and facility layout, the certificate holder shall conduct a field-based habitat survey to confirm the habitat categories of all areas that will be affected by facility components, as well as the locations of any sensitive resources such as active raptor*~~

~~*and other bird nests. The 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 also include an updated version of Table FW-1 Potential Temporary and Permanent Impacts by Habitat Category and Type of the final order, showing the acres of expected temporary and permanent impacts to each habitat category, type, and sub-type. The preconstruction survey shall be used to complete final design, facility layout, and micrositing 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. In classifying the affected habitat into habitat categories, the certificate holder shall consult with the department and ODFW. The certificate holder shall not begin construction of the facility until the habitat assessment, categorization, and impact assessment has been approved by the department, in consultation with ODFW. The certificate holder shall not construct any facility components within areas of Category 1 habitat and shall avoid temporary disturbance of Category 1 habitat.*~~

~~***PRE-FW-04** Before beginning construction the certificate holder shall prepare and receive approval from the department of a final Habitat Mitigation Plan. The final Habitat Mitigation Plan shall be based on the final facility design and shall be approved by the department in consultation with ODFW. The Council retains the authority to approve, reject or modify the final HMP.*~~

- ~~*a. The final Habitat Mitigation Plan and the department's approval must be received prior to beginning construction. The department shall consult with ODFW on the final plan. The certificate holder shall implement the requirements of the approved plan during all phases of construction and operation of the facility.*~~
- ~~*b. The certificate holder shall calculate the size of the habitat mitigation area according to the final design configuration of the facility and the estimated areas of habitat affected in each habitat category, in consultation with the department, as per the pre-construction survey results and impact assessment calculations called for in Fish and Wildlife Condition 1.*~~
- ~~*c. The certificate holder shall acquire the legal right to create, enhance, maintain, and protect the habitat mitigation area, as long as the site certificate is in effect, by means of an outright purchase, conservation easement or similar conveyance and shall provide a copy of the documentation to the department prior to the start of*~~

~~*construction. Within the habitat mitigation area, the certificate holder shall improve the habitat quality as described in the final Habitat Mitigation Plan.*~~

~~*d. The certificate holder shall provide a habitat assessment of the habitat mitigation area, based on a protocol approved by the Department in consultation with ODFW, which includes methodology, habitat map and available acres by habitat category and subtype in tabular format.*~~

~~*e. The final HMP shall include an implementation schedule for all mitigation actions, including securing the conservation easement, conducting the ecological uplift actions at the habitat mitigation area, revegetation and restoration of temporarily impacted areas, and monitoring. The mitigation actions shall be implemented according to the following schedule, as included in the HMP:*~~

~~*i. Restoration and revegetation of temporary construction-related impact area shall be conducted as soon as possible following construction.*~~

~~*ii. The certificate holder shall obtain legal authority to conduct the required mitigation work at the compensatory habitat mitigation site before commencing construction. The habitat enhancement actions at the compensatory habitat mitigation site shall be implemented concurrent with construction.*~~

~~*f. The final HMP shall include a monitoring and reporting program for evaluating the effectiveness of all mitigation actions, including restoration of temporarily impacted areas and ecological uplift actions at the habitat mitigation area.*~~

~~*g. The final HMP shall include mitigation in compliance with the Council's Fish and Wildlife Habitat standard, including mitigation for temporary impacts to Category 4 habitat (shrub-steppe habitat); and, mitigation for all Category 2 habitat impacts that meet the mitigation goal of no net loss of habitat quality or quantity, plus a net benefit of habitat quality or quantity.*~~

~~*h. The final HMP 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.*~~

2.0 Legal Instrument

Prior to construction, the Cc~~e~~rtificate H~~h~~older shall provide a draft of the legal instrument to ODOE for review and approval, in consultation with ODFW. The Oregon Department of Energy (ODOE) and ODFW review will ensure, at a minimum, that the legal instrument demonstrates or includes the following:

- References and is consistent with the HMP;
- A map and description of all existing structures, impervious surfaces, and access road networks within the Habitat Mitigation Area (HMA);
- Identification of and restrictions on conflicting uses within the HMA, including, but not limited to new roads and associated infrastructure, transmission lines and energy development, land division, and establishment of a feedlot;
- Identification of allowable uses that demonstrate consistency with the HMP wildlife habitat goals; and
- Specifies that ODOE has authority to conduct inspections pursuant to OAR 345-026-0050 to ensure that habitat mitigation area(s) are being managed consistent with the HMP, with reasonable written notice to the property owner and ~~Applicant~~Certificate Holder.

~~2.0~~3.0 Habitat Categories and Habitat Types

~~In compliance with~~Condition PRE-FW-01, a~~A~~ pre-construction habitat survey will be conducted ~~in~~ to verify habitat subtypes and habitat categories of all areas to be affected by ~~WREFIII facilities~~the Facility.

The ODFW Fish and Wildlife Habitat Mitigation Policy provides a framework to categorize habitats based on type, quality, availability, and usefulness/importance to wildlife, and establishes mitigation goals and implementation standards for each. Table 1 defines each of the six habitat category types as presented in the ODFW Habitat Mitigation Policy.

Table 1. ODFW Habitat Categories

Category Type	Definition[1]	Mitigation Goal
1	Irreplaceable, essential habitat for a fish or wildlife species, population, or a unique assemblage of species and is limited on either a physiographic province or site-specific basis, depending on the individual species, population or unique assemblage.	The mitigation goal for Category 1 habitat is no loss of either habitat quantity or quality.
2	Essential habitat for a fish or wildlife species, population, or unique assemblage of species and is limited either on a physiographic province or site-specific basis depending on the individual species, population or unique assemblage.	The mitigation goal if impacts are unavoidable is no net loss of either habitat quantity or quality and to provide a net benefit of habitat quantity or quality.
3	Essential habitat for fish and wildlife, or important habitat for fish and wildlife that is limited either on a physiographic province or site-specific basis, depending on the individual species or population.	The mitigation goal is no net loss of either habitat quantity or quality.
4	Important habitat for fish and wildlife species.	The mitigation goal is no net loss of either habitat quantity or quality.

Category Type	Definition[1]	Mitigation Goal
5	Habitat for fish and wildlife having high potential to become either essential or important habitat.	The mitigation goal, if impacts are unavoidable, is to provide a net benefit in habitat quantity or quality.
6	Habitat that has low potential to become essential or important habitat for fish and wildlife.	The mitigation goal is to minimize impacts.
1. Source: OAR 635-415-0025.		

~~3.0 Micrositing~~

~~Sensitive resources were avoided during development of the site boundary based on baseline surveys performed in support of the Application for Site Certificate (ASC; Wheatridge Wind Energy 2015). Pre-construction surveys will be performed to inform constraints mapping to be used by the Certificate Holder during micrositing within the approved site boundary.~~

~~Condition CON-FW-02 stipulates that no ground-disturbing activity should occur within 0.25 miles of state sensitive raptor nests during seasonal restrictions. Condition PRE-TE-03 states that the Certificate Holder will avoid ground disturbance where Laurent's milkvetch (*Astragalus collinus* var. *laurentii*) occurs.~~

4.0 Temporary and Permanent ~~Impacts~~Disturbance

~~Impacts~~ Disturbance ~~The~~ The area within a perimeter fenceline for a solar facility is assumed to be permanent ~~impact~~disturbance. ~~may be permanent or temporary.~~ Permanent ~~impacts~~ disturbances are defined as ~~those impacts~~ disturbances that will exist for the life of the Facility. Temporary ~~impacts~~ disturbances are ~~those impacts~~disturbances outside of the perimeter fenceline that will last for a time less than the life of the Facility. The duration of temporary ~~impacts~~ disturbance to habitat will vary by habitat subtype. For example, the recovery period for agricultural areas that were temporarily disturbed could be as short as 1 to 3 years, grasslands generally recover within 3 to 7 years, and shrublands may require 10 to 50 years to recover (with ~~the~~ longer recovery periods associated with disturbances ~~in~~ to mature sagebrush habitats). The Certificate Holder will restore temporary ~~impacts~~ disturbance areas consistent with the V~~Rev~~egetation and Soil Management Plan.

~~As described in Exhibit P,~~ Category 1 habitat would include~~s~~ habitat within 785 feet of documented Washington ground squirrel (*Urocitellus washingtoni*) colonies, if found during surveys. Category 1 habitat occurs within the Site Boundary, based on surveys previously conducted for the Facility, but the Facility is designed and microsited to avoid Category 1 habitat. Therefore, there are no ~~impacts~~disturbances to Category 1 habitat. ~~Category 2 habitat occurs in the Site Boundary and will be impacted by the Facility.~~ Category 2 habitat ~~is~~ would be associated with ~~ODFW mule deer winter range (ODFW 2012) and~~ areas of potential Washington ground squirrel use, if found during surveys. Areas of potential ground squirrel use are adjacent to and within 4,921 feet (1.5 kilometers

[km]) of ground squirrel colonies, excluding Category 1 habitat, but not occupied by any squirrels either for burrowing or foraging, which is of similar habitat type and quality to the adjacent Washington ground squirrel Category 1 habitat. Category 3, 4, and 6 habitat will also be impacted by the Facility, while Category 5 habitat is not identified in the Site Boundary. Table 2 shows the acres of permanent and temporary impacts disturbance acres in each habitat category by habitat subtype for Wheatridge West, Wheatridge East, Transmission Intraconnection Line, and the Solar facilitiesthe Facility. Figure 2 provides a visual representation of Table 2. The categorization of habitat is likely to change prior to construction of the Facility to reflect the conditions at that time including updated mapping of WGS colony locations.

Table 2. Temporary and Permanent Impacts Disturbance by Habitat Category and Habitat Subtype

Habitat Category and Habitat Subtype	Acres in Site Boundary	Impacts Disturbance (acres)[1]	
		Temporary	Permanent
Category 1	**Solar Facilities**		
Grassland-Native Perennial	20.9	N/A	N/A
Subtotal Category 1	**20.9**	**N/A**	**N/A**
Category 2			
Developed-Revegetated or Other Planted Grassland		0.7	0.0
Grassland-Exotic Annual		0.6	3.0
Grassland-Native Perennial	70.7	0.43	1.3
Shrub-steppe-Basin Big Sagebrush		0.0	0.0
Shrub-steppe-Rabbitbrush/Snakeweed		0.0	0.0
Subtotal Category 2	**70.7**	**0.31.7**	**4.31.3**
Category 3			
Developed-Revegetated or Other Planted Grassland	141	0.00.7	0.0<0.1
Grassland-Native Perennial	56.2	0.7	0.0N/A
Shrub-steppe-Basin Big Sagebrush		0.0	0.0
Shrub-steppe-Rabbitbrush/Snakeweed		0.0	0.0
Subtotal Category 3	**197**	**0.71.3**	**0.0<0.1**
Category 4			
Grassland-Exotic Annual	316	0.30.7	7654.0
Grassland-Native Perennial		0.0	0.0
Shrub-steppe-Rabbitbrush/Snakeweed		0.0	0.0
Subtotal Category 4	**316**	**0.73**	**7654.0**
Category 6			
Developed-Dryland Wheat	1,284	4.56	812.6577
Developed-Irrigated Agriculture		0.0	0.0

Habitat Category and ~~Habitat~~ Subtype		Acres in Site Boundary	~~Impacts~~ Disturbance (acres)[1]	
			Temporary	Permanent
Developed-Other		45.9	1.84	0.82
Subtotal Category 6		**1,330**	**6.30**	**~~812.7~~578**
Total ~~for Solar Facilities 901.8~~		**1,935**	**8.7**	**~~893.1~~633**
~~Grand Total~~	**~~2,270.4~~**		**~~1,206.2~~**	**~~1,064.3~~**

1. Totals in this table may not be precise due to rounding. N/A = not applicable; <0.1 = greater than zero but less than 0.05

5.0 Methods for Calculating Mitigation

Table 3 shows methods for calculating mitigation for permanent ~~impacts~~ disturbance and Table 4 shows ~~the~~ methods for calculating mitigation for temporary ~~impacts~~disturbance. The Certificate Holder is not proposing compensatory mitigation under the ODFW Fish and Wildlife Habitat Mitigation Policy for ~~impacts~~disturbance to Category 6 habitat.

Table 3. Calculating Mitigation for Permanent ~~Impacts~~Disturbance

Habitat Category	~~Impact~~ Disturbance Acres	Mitigation Ratio	Mitigation Need	Mitigation Description
Category 2	~~1~~1.3	2:1	2.6	The mitigation goal for Category 2 habitat is "no net loss" and "net benefit." Accordingly, mitigation for permanent ~~impacts~~disturbance ~~on~~ to Category 2 habitat needs to demonstrate a net benefit in quality or quantity.
Category 3 and Category 4	54.0~~1~~	1:1	54.0	The mitigation goal for Category 3 & 4 habitat is "no net loss" in quantity or quality.
Category 6	578~~1~~	0:1	0	The mitigation goal for ~~impacts~~disturbance ~~on~~ to Category 6 habitat is minimization; no compensatory mitigation proposed.
Total	633	-	56.6	

Table 4. Calculating Mitigation for Temporary ~~Impacts~~Disturbance

Habitat Category	Habitat Subtype	~~Impact~~ Disturbance Acres	Mitigation Ratio[1]	Mitigation Need	Mitigation Description
Category 2	Grassland-Native Perennial~~, Grassland-Exotic Annual, Developed-Revegetated or Other Planted Grassland~~	~~1~~0.3	0:1	0	The mitigation goal for Category 2 habitat is "no net loss" and "net benefit." All areas of temporary disturbance would be restored at the site of impact to meet the "no net loss" requirement. The proposed mitigation ratio for permanent ~~impacts~~disturbance ~~(Table 6)~~ to grasslands would meet the "net benefit" requirement for all ~~impacts~~disturbance to Category 2 grasslands.
Category 3	~~Shrub-steppe-Basin Big SagebrushShrub-steppe-Rabbitbrush/Snakeweed~~ Grassland-Native Perennial, Developed-Revegetated or Other Planted Grassland	~~11~~1.3	~~10.5~~0:1	0	The mitigation goal for Category 3 and 4 habitat is "no net loss" in quantity or quality. Depending on the habitat subtype temporarily disturbed, the proposed mitigation ratio would result in an equal or lesser amount of acreage of mitigation than what is impacted by the project. Combined with restoration of temporary disturbances, the proposed mitigation ratio is intended to account for the temporary loss of habitat functionality and meet the "no net loss" goal. Temporary disturbances to Category 3 and Category 4 Grasslands are not mitigated beyond restoration.
Category 4	~~Shrub-steppe-Rabbitbrush/Snakeweed~~Grassland-Exotic Annual	~~11~~0.7	~~0.5~~0:1	0	
Category 6	Developed-Dryland Wheat, Developed-Other	~~1~~6.3	0:1	0	The mitigation goal for Category 6 habitat is minimization; no compensatory mitigation is proposed.
Total		8.7	-	0	

Habitat Category	Habitat Subtype	~~Impact~~ Disturbance Acres	Mitigation Ratio[1]	Mitigation Need	Mitigation Description
1. Acres mitigation per acre disturbed. A ratio of 0:1 means no mitigation acreage (because the habitat will be restored).					
~~1. Mitigation ratios follow recommendations included in the August 27, 2019 comment letter from ODFW to ODOE regarding the Draft Proposed Order for RFA4.~~					

~~6.0 Estimated Mitigation for the Facility~~

~~Prior to construction, the certificate holder shall provide an estimate, in tabular format, of the acres of temporary and permanent impacts shown in Table 2 with the mitigation ratios shown in Table 3 and Table 4 to estimate mitigation requirements.~~

~~7.0~~6.0 Habitat Mitigation Area

The ~~Habitat Mitigation Area (~~HMA~~)~~ is the area where the Certificate Holder is proposing to perform enhancement and preservation actions ~~that are in addition to the revegetation of areas of temporary disturbance associated with the~~to address the mitigation need for the Facility (Tables 3 and 4). The HMA must be large enough and have the characteristics to meet the standards set in OAR 635-415-0025.

According to ODFW standards, areas appropriate for mitigation of Category 2 and Category 3 habitat ~~impacts~~disturbance must provide "in-kind" mitigation ~~which creates similar structure and function to that being disturbed and also~~that is ~~be~~ "in-proximity" to the ~~Project~~ Facility and has~~ve~~ potential for habitat enhancement. The Certificate Holder identified privately ~~-~~owned land that contains native and revegetated uplands of interest and importance for conservation. The Certificate Holder also looked for land that is within designated mule deer winter range. The Certificate Holder identified up to 79.6 acres that are available as mitigation for the Facility (Figure 1). The Certificate Holder has a previously executed conservation easement for 460 acres, of which 380 acres are accounted for across four different HMAs (Figure 1), resulting in 79.6 acres remaining in the executed conservation easement to use as an HMA to fulfill other mitigation requirements in part or whole.~~has secured an option agreement for up to 300 acres to be placed into a conservation easement where the HMA will be located. Once finalized, the executed conservation easement will be provided to ODOE.~~

~~7.1~~6.1 Habitat Assessment and Mitigation Accounting

The Certificate Holder ~~has~~ identified ~~a 187.9-acre parcel~~79.6 acres of suitable in-kind and in-proximity habitat that is available for mitigation for Facility impacts on 2,100 acres of private land (Table 5; i.e., within the Olex Property Boundary depicted in Figure 1) along Rock Creek in Gilliam County. The Certificate Holder ~~within which they~~ will establish an HMA for the Facility within this area, alongside HMAs established for the Wheatridge Renewable Energy Facility I, II, III, and East (Figure 1). The primary habitat subtypes consist of Category 2 Native Perennial Grassland and Shrub-steppe Mosaic. The total number of acres to be set aside in the HMA will be determined and updated prior to construction when the Facility layout and mitigation needs are finalized.~~within the 187.9-acre parcel that will contain the HMA correspond to Category 3 and Category 4 habitat subtype.~~

Table 5. Habitat Category and Habitat Subtypes within the HMA

Habitat Category	Habitat Subtype	Area (Acres)
2	Native Perennial Grassland and Shrub-steppe Mosaic	77.1
	Old Field	2.5
	Developed	0.1
	TOTAL	79.6

Wildlife species usage of the approximately 2,100-acre property in which the HMA lies has been recorded for the past 11 years and is similar to what has been recorded during surveys of Wheatridge West. There are 152 bird species recorded from the property containing the HMA. This includes special status nesting bird species such as grasshopper sparrow. Several species of raptors, including golden eagle and ferruginous hawk, have been documented hunting on the property containing the HMA and some species nest onsite or in the general area. Mule deer and occasionally elk are observed wintering in the HMA and nearby. ~~Appendix C includes a list of wildlife species observed at the property.~~ Wind-blown ridges and south-facing slopes provide for early green-up big game forage. Other long-term conserved habitat (approximately 324 acres) consisting of Native Perennial Grassland and Shrub-steppe Mosaic, cliffs and escarpments along canyons is nearby (Figure ~~2~~1). The property supports documented Washington ground squirrel use areas and habitat. With the addition of this HMA, a larger more contiguous tract of preserved habitat will be available for wildlife that provides important functionality and connectivity along Rock Creek in the Columbia Plateau.

~~7.2~~6.2 Habitat Enhancement Actions

Habitat designated for mitigation will be conserved and protected from alteration for the life of the Facility. Final detailed enhancement actions and monitoring procedures will be designed in consultation with the ODFW and biologists familiar with the HMA. Besides such legal protection to ensure no development, potential enhancement actions for the HMA include the following.

- **Grazing –** Grazing practices will be compatible with conservation. ~~Modification of grazing practices – w~~Wildlife habitat values have priority and livestock grazing will be reduced or restricted from the HMA to ensure that habitat is maximally useful to wildlife, livestock grazing can be used as a wildlife habitat enhancement tool.
- **Weed Control –** The Certificate Holder will work with the landowner to monitor and control or eradicate State and County-designated noxious weeds impacting wildlife habitat quality. ~~A Weed Plan will be prepared.~~
- **Annual grass treatment and ~~N~~native bunchgrass seeding –** The Certificate Holder will implement annual grass treatment and ~~N~~native bunchgrass~~es will be~~ seeding~~ed~~ in reasonable proportion to the acres of functional Category 2 native grassland and Category 4 annual grassland habitat lost through Facility construction (~~2.6~~55.3 acres). ~~Seeing and planting with native plants – sagebrush and bunch grasses – will occur in reasonable proportion to the acres of functional sagebrush and native grassland habitats lost through Facility construction. Sagebrush seeding and/or planting will provide future cover and browse for wintering mule deer. Specific details for amount and extent to be determined after final Facility impacts are known.~~ Prior to construction, the Certificate Holder will identify areas suitable for treatment. The treatment will include applying herbicide during the appropriate season followed by seeding of native perennial grasses. Pre-construction verification of the quality of habitat disturbed by Facility construction will be used to adapt this enhancement as needed to ensure the habitat quality at the HMA is equivalent to that of

Commented [A1]: ODOE: So there are no specific measures that would address the no net loss in habitat quality for 54 acres of Cat 4. Is ODFW ok with relying only on mgmt not enhancement measures?

Commented [A2R1]: CH: See addition below based on ODFW comment.

the impacted habitat and maintained as such as recommended by ODFW. Native grassland plugs ~~and young shrubs~~ can be planted in sensitive areas where seeding is not appropriate.

- ~~**Annual grass treatment and overseeding** – The Certificate Holder will implement annual grass treatment and overseeding in a reasonable proportion to the acres of Category 4 grassland permanently disturbed from Facility construction (e.g., 54 acres). Prior to construction, the Certificate Holder will identify areas of low diversity of perennial grass species and dense competing annual grass understory suitable for treatment. The treatment will include applying herbicide during the appropriate season followed by seeding of native perennial grasses. Pre-construction verification of the quality of habitat disturbed by Facility construction will be used to adapt this enhancement as needed to ensure the habitat quality at the HMA is equivalent to that of the impacted habitat and maintained as such as recommended by ODFW.~~

- **Fire Control –** A ~~plan for~~ fire response and control plan will be in place and applied to the HMA. It will include fire prevention measures, methods to detect fires, and a protocol for fire response and suppression.

- ~~Wildlife Projects:~~
  - ~~Where old barbed wire fence on the HMA presents potential problems for big game and other wildlife, the Certificate Holder will work with the landowner to remove such fencing.~~
  - ~~Wildlife guzzler as a watering source for wildlife.~~
  - ~~Install burrowing owl artificial burrows. Burrows would be paired and pairs separated by 0.25 mile.~~
  - ~~Install artificial raptor nest platforms (target species is Ferruginous hawk).~~
  - ~~Strategic removal of Washington ground squirrel mammalian predators. An example would be to live-trap and transplant badgers that are disturbing ground squirrel natal sites in the fall and winter.~~

- **Habitat protection** – ~~will involve r~~Restrict~~ing~~ any uses of the mitigation area that would be inconsistent with the goals of no net loss of habitats in Categories 2, 3, and 4 and a net benefit to Category 2 habitat quantity or quality.

Enhancement activities will be performed on an appropriate portion of the HMA to meet the required mitigation goals. ~~The habitat within the HMA is currently of higher quality to most of the habitat to be impacted within mule deer winter range. In addition, the HMA and connected lands support Washington ground squirrel habitat.~~

~~7.3~~6.3 HMA Monitoring

The Certificate Holder will hire a qualified, independent investigator (wildlife biologist, botanist, or revegetation specialist) to conduct monitoring at the HMA and the success of its protection and (within applicable acres) enhancements. Monitoring duration is for the life of the Facility, with

annual monitoring occurring over the first 5 years. After Year 5, a long-term monitoring plan will be developed in consultation with ODOE and ODFW. At a minimum, annual monitoring for the first 5 years will include assessments of:

- Description of the amount and quality of vegetation at the HMA;~~.~~
- ~~Describe~~ Description of year-to-date climate data;
- Success of weed control measures;
- Degree of recovery of native grasses and forbs following disturbances such as habitat enhancement actions, fire, or erosion; and
- ~~Success of sagebrush plantings monitored in a 50- by 100-foot plot within each of the two planting areas (Figure 2). Three 50-foot transects will be established perpendicular to the long side of the plot. The transect monitoring will be of 6-foot wide belt transects with all shrubs occurring within the belt transect being recorded;~~
- Wildlife observed and notes on special status species (wildlife and plants) encountered during routine monitoring~~present.~~;
- ~~Observations of wintering mule deer will be recorded as observed from a distance (so disturbance is kept at a minimum); and~~
- ~~Maintenance needs of guzzler.~~

Percent cover of native grasses in seeded areas will be measured using quadrat surveys (Elzinga et al. 1998, NRCS and BLM 1996, USFS 2006). Using this method, vegetative cover will be documented within 3-foot by 3-foot quadrats placed at 10-foot intervals along a 100-foot transect. Within each quadrat, the percent cover of vegetative species, bare ground, and litter will be recorded.

Methods and results of all monitoring will be reported to ODOE and ODFW, along with a report of the mitigation/enhancement measures undertaken since the last monitoring report. A~~n annual~~ monitoring report outline is included as Appendix A~~D~~. This outline is subject to change based on actual executed easement.

~~7.4~~6.4 HMA Success Criteria

The goal of ~~the~~ habitat mitigation described herein is to protect and enhance a sufficient quantity of habitat to meet ODFW standards of no net loss of habitat Category 3 and Category 4 and a net gain in habitat quantity and quality of Category 2. Habitat protection alone—apart from enhancement—is not sufficient to meet the net-benefit criterion for Category 2 habitat. The entire HMA is within Category 2 mule deer winter range, so modifying the category through habitat enhancement actions is not possible. However, habitat enhancement actions will be implemented, and progress can be monitored against baseline conditions to determine success. It is also assumed that the Category 2 habitat in the HMA is currently functioning at a higher quality than the Category 2 habitat being disturbed at the Facility because the HMA contains a greater acreage of contiguous native grassland and shrub-steppe mosaic compared to what is being impacted by the Facility ~~(122 acres at the HMA~~

~~versus approximately 60 acres impacted by the Facility)~~. Table ~~5~~ 6 shows ~~the~~ success criteria for the habitat enhancement actions proposed in Section ~~8~~6.2.

Table 665. HMA Success Criteria

Habitat Enhancement Action	Success Criteria
Grazing practices compatible with conservation	The Easement terms state that grazing, nature study, and other land uses are permitted provided that conservation and wildlife habitat values and wildlife use shall take precedence and priority where such uses are or may be deemed incompatible. Under the current ownership, no grazing is expected. If grazing is used in the future, monitoring of shrub recruitment and recruitment of other desirable shrub-steppe species can occur through photo point monitoring and qualitative observations.
~~County-designated noxious w~~Weed control	Control of ~~County-designated~~ noxious weeds at the HMA. Photo point monitoring will show that known sites of noxious weeds are not expanding or have been reduced or eliminated. Chemical control is the most likely method to be used; however, mechanical control methods may also be used depending on site-specific conditions.
Annual- grass treatment and ~~N~~native bunchgrass seeding~~Planting of sagebrush.~~	Successful annual grass treatment and seeding of native bunchgrasses on an appropriate acreage to be determined prior to construction. Seeding of native bunchgrasses will be considered successful if percent cover of native grasses increases within 5 years of treatment as measured along transects.~~Successful establishment of sagebrush on 1.9 acres of the HMA in two areas (Figure 2). Photo point monitoring will show successful shrub establishment where planted. The average density or frequency of the shrub component should be at least 50 percent of the reference site established at the Facility for revegetation monitoring.~~
~~Annual- grass treatment and overseeding~~	~~Successful annual grass treatment and overseeding on an appropriate acreage to be determined prior to construction. Annual grass treatment and overseeding will be considered successful if percent cover of native grasses increases within 5 years of treatment as measured along transects~~
Fire response plan	Deliver a fire response plan for the HMA to the North Gilliam County Rural Fire Protection District.
Modification of winter human activities	Minimize human disturbance on the HMA from December 1 to March 31. Schedule routine ranch activities to be performed during other times of the year. There are no public roads or access points in or adjacent to the HMA. Ensure that signage where public roads intersect with access points to the property within which the HMA is located are clearly marked as private property with no trespassing.
~~Removal of old barbed wire fences~~	~~Removal and disposal of approximately 0.25-miles of old barbed wire fencing will be deemed successful through photographic documentation.~~
~~Installation of a wildlife guzzler~~	~~This action will be deemed successful after installation is complete. Monitoring reports will confirm continued operation and describe any maintenance activities performed to keep the guzzler in operation.~~

~~8.0~~7.0 Implementation Schedule

~~As required by proposed condition~~ ~~Condition~~ ~~PRE-FW-04 (c),~~ Table ~~6~~ 7 includes a schedule for implementation of all mitigation actions, including those covered in other ~~pre-construction~~ compliance plans. Reporting on the progress towards achieving the mitigation goals and standards will occur annually for the first 5 years, and will describe the overall efficacy of mitigation measures in conjunction with associated monitoring efforts, including whether the success criteria identified in Table 6 have been met and whether there have been any modification of mitigation measures. The Certificate Holder will consult with ODOE and ODFW to design a long-term monitoring schedule after 5 years.

Table 7~~6~~. Mitigation Implementation Schedule

Mitigation Action	Schedule	Associated Plan
Restoration and revegetation of temporary construction-related impacts at the Facility.	As soon as possible following construction. Late fall seeding, just before the soil freezes, is typical when seeding grasses in the Columbia basin shrub-steppe ecoregion. Seeding can occur through ~~early spring~~late winter.	~~Revegetation~~ Vegetation and Soil Management Plan
Monitoring revegetation success at the Facility.	Annually for the first 5 years. Annual monitoring is anticipated to occur in spring~~the fall, with the annual monitoring report being provided the following spring~~. The Certificate Holder will consult with ODOE and ODFW to design a long-term monitoring schedule.	Vegetation and Soil Management~~Revegetation~~ Plan
Monitoring weed control in the Facility revegetation areas.	Annually for the first ~~five~~ 5 years. Early detection is paramount for successful weed control. Therefore, monitoring may occur earlier in the growing season and again during revegetation monitoring. Reporting on noxious weeds will be included in the revegetation annual monitoring report. The Certificate Holder will consult with ODOE and ODFW to design a long-term monitoring schedule.	Vegetation and Soil Management ~~Noxious Weed Control~~ Plan
Securing the conservation easement establishing the HMA.	Prior to commencing construction.	Habitat Mitigation Plan
Performing habitat enhancement actions at the HMA.	Concurrently with construction.	Habitat Mitigation Plan
Monitoring habitat enhancement actions at the HMA.	Annually for the first 5 years. Annual monitoring is anticipated to occur in ~~the fall, with the annual monitoring report being provided the following~~ spring. T~~hen t~~he Certificate Holder will consult with ODOE and ODFW to design a long-term monitoring schedule.	Habitat Mitigation Plan

Commented [A3]: ODOE: Don't know why this is in the HMP

Commented [A4R3]: CH: We've sometimes included this (including in the approved HMP) because success of revegetating temporarily disturbed areas influences mitigation. But, these first three rows can be removed if that's preferred.

OAR 635-415-0005(18) mentions restoration as a component of the Mitigation Plan, but for EFSC projects we typically show these other factors as part of other plans or exhibits so perhaps they are not essential here if ODOE and ODFW don't want to see these items duplicated.

(18) "Mitigation Plan" means a written plan or statement that thoroughly describes the manner in which the impact of a development action will be reduced or eliminated over time, avoided, and/or minimized; and the affected environment, including fish and wildlife habitat, monitored, restored, rehabilitated, repaired and/or replaced or otherwise compensated for in accordance with OAR 635-415-0010 of these rules.

Commented [A5]: ODOE: Don't know why this in the HMP

Commented [A6]: ODOE: Don't know why this is in the HMP

~~9.0~~8.0 Amendment of the HMP

The final HMP may be amended from time to time by agreement of the Certificate Holder and the Energy Facility Siting Council (EFSC). Such amendments may be made without amendment of the ~~site~~ Site ~~certificate~~Certificate. EFSC authorizes ODOE to agree to amendments to this plan. ODOE shall notify EFSC of all amendments, and EFSC retains the authority to approve, reject, or modify any amendment of this plan agreed to by ODOE.

~~10.0~~9.0 References

Elzinga, C. L., D.W. Salzer, and J.W. Willoughby. 1998. Measuring and Monitoring Plant Populations. Bureau of Land Management, National Business Center. Denver, CO.

NRCS and BLM (Natural Resources Conservation Service and Bureau of Land Management). 1996. Revised in 1997 and 1999. Sampling Vegetation Attributes. Interagency Technical Reference 1734-4. Denver, CO.

~~EFSC (Oregon Energy Facility Siting Council). 2017a. Final Order: In the Matter of the Application for a Site Certificate for the Wheatridge Wind Energy Facility. April 2017.~~

~~EFSC. 2017b. Site Certificate for the Wheatridge Wind Energy Facility. April 27, 2017.~~

~~ODFW (Oregon Department of Fish and Wildlife). 2012. Elk and Deer Winter Range for Eastern Oregon, East of the Crest of the Cascades. GIS data files (2). Available online at: https://nrimp.dfw.state.or.us/DataClearinghouse/default.aspx?p=202&XMLname=885.xml~~

USFS (U.S. Forest Service). 2006. FIREMON: Fire Effects Monitoring and Inventory System. General Technical Report RMRS-GTR-164-CD. U.S Forest Service, Rocky Mountain Research Station.

Confidential Figure

Figure 2

Appendix A. Monitoring Report Outline

Wagon Trail Solar II

Figure 1
Conservation Easement Areas

GILLIAM COUNTY, OR

- Olex Property Boundary
- WREF I HMA (7.6 Acres)
- WREF II HMA (62.4 Acres)
- WREF III HMA (50.3 Acres)
- WREF East HMA (259.7 Acres)
- Available for HMA (79.6 Acres)
- Local Roads

Habitat Subtype

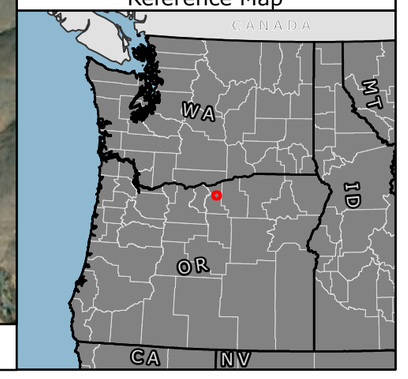
- Developed
- Escarpment
- Exotic Annual Grassland
- Exotic Annual Grassland with Native Perennials
- Native Perennial Grassland and Shrub-steppe Mosaic
- Revegetated or Other Planted Grassland
- Old Field

CONFIDENTIAL

TETRA TECH

NEXTera ENERGY RESOURCES

Reference Map



1:15,000

WGS 1984 UTM Zone 11N

0 0.5 1 Miles

NOT FOR CONSTRUCTION

\\tt.local\GIS\US\CES\Projects\PDX\NextEra\WheatridgeMapsIa_Permitting\RFA1_WREFIII_RAIsNEER_WTII_HMA_20260128.aprx

Wheatridge Renewable Energy Facility III
Request for Amendment 1

Figure 2
Temporary and Permanent Disturbances
by Habitat Category

MORROW COUNTY, OR

OR33T0010N0260E
Sec:6

OR33T0010N0260E
Sec:8

OR33T0010N0260E
Sec:9

OR33T0010N0260E
Sec:10

OR33T0010N0260E
Sec:7

OR33T0010N0250E
Sec:13

OR33T0010N0260E
Sec:18

OR33T0010N0260E
Sec:17

OR33T0010N0260E
Sec:16

OR33T0010N0250E
Sec:24

OR33T0010N0260E
Sec:19

OR33T0010N0260E
Sec:20

OR33T0010N0260E
Sec:30

OR33T0010N0260E
Sec:29

Proposed Wagon Trail Solar II Site Boundary

Disturbance Type*
- Permanent
- Temporary

Habitat Category
- 2
- 3
- 4
- 6

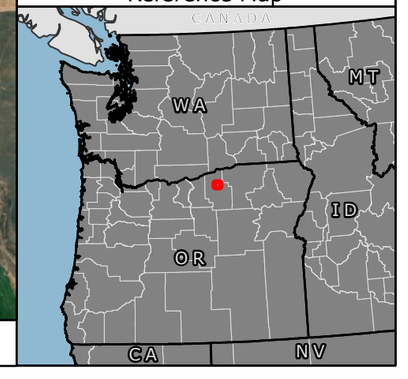
*Temporary and permanent disturbances are estimates and will be confirmed during HMP finalization, prior to construction

Latitude: 45.56878888
Longitude: -119.60054489

TETRA TECH

NEXTera ENERGY RESOURCES

Reference Map



1:27,000

WGS 1984 UTM Zone 10N

0 0.5 1 1.5 2 Miles

NOT FOR CONSTRUCTION

\\tt.local\GIS\US\CES\Projects\PDX\NextEra\Wheatridge\Maps\a_Permitting\RFA1_WREFIIINEER_WREFIII_RFA1_20250807.aprx

From: Jonathan Tallman
Sent: Friday, April 17, 2026 11:55 AM
To: MCVEIGH-WALKER Chase * ODOE
Cc: CORNETT Todd * ODOE; ESTERSON Sarah * ODOE; Patrick G Rowe
Subject: Re: ODOE Responses to Public Comments on Proposed Order on Request for Amendment 1 of the Site Certificate for the Wheatridge Renewable Energy Facility III.

April 17, 2026

Chase McVeigh-Walker

Senior Siting Analyst

Oregon Department of Energy

550 Capitol Street NE

Salem, OR 97301

Re: Wheatridge Renewable Energy Facility III (WREFIII) RFA1 – Reply to Department Response on Issue GS-01

Dear Mr. McVeigh-Walker:

I submit this reply in response to the Department's April 10, 2026 evaluation of Issue GS-01.

I understand the Department's position that WREFIII does not include any 230-kV transmission lines, that EFSC does not require an applicant to explain its interconnection location as part of the facility, and that EFSC does not have authority over UEC's Highway 730–Olson Road transmission line in this proceeding. I also understand the Department's statement that my prior comments have been included in the record.

My point, however, is narrower than the Department's characterization of my concern. I am not asking EFSC to adjudicate the separate condemnation dispute involving UEC's Highway 730–Olson Road transmission line in this amendment proceeding. Rather, I ask that the record clearly state whether no broader offsite transmission, interconnection, or load-serving assumptions are being relied upon in support of RFA1's requested deadline extension and certificate split.

If the Department's position is that none of those broader assumptions are part of the basis for approval, then I respectfully request that this be stated expressly in the record. If broader infrastructure assumptions are being relied upon, then I request that the record identify them clearly and explain how they fit within the Department's analysis.

This clarification matters because related public records affecting my property have not always used consistent descriptions for nearby transmission infrastructure. In related proceedings, the Olson Road 230-kV line has been described as a new electrical source into the Boardman area extending from the planned Highway 730 Switchyard to the planned Olson Road Substation. Other records have described the surrounding infrastructure in generalized growth terms, while sworn testimony in related matters has pointed to more specific major-load drivers. My concern is that, where project rights are being extended and restructured, the administrative record should be clear about whether any surrounding transmission, interconnection, or load assumptions are being relied upon, or whether they are being expressly disclaimed.

Accordingly, I respectfully request that the record reflect the following clarification:

My concern is not a request for EFSC to resolve the separate UEC transmission dispute in this RFA1 proceeding. My concern is that the record should clearly disclose whether any broader offsite transmission, interconnection, or load-serving assumptions are being relied upon, or not relied upon, in support of the requested amendment.

If the Department and certificate holder contend that no such offsite assumptions are relevant to RFA1, I ask that they say so expressly. If they contend such assumptions are relevant, I ask that they identify the supporting record citations.

I also respectfully request that this reply be preserved in the record with enough detail to reflect the substance of the issue raised, rather than only a generalized notation that I commented.

Thank you for your consideration.

Respectfully submitted,

Jonathan Tallman

On Fri, Apr 10, 2026 at 3:25 PM MCVEIGH-WALKER Chase * ODOE <Chase.MCVEIGH-WALKER@energy.oregon.gov> wrote:

> Good afternoon,
>
> You are receiving this message because you provided comments on the Proposed Order on Request for Amendment 1 of the Site Certificate for the Wheatridge Renewable Energy Facility III. The Department's responses to all comments provided on the record are attached (Department Response). In the Department's Response, we have included an explanation of how the document is organized, and how to locate the issues identified by the Department as having been raised in your comments. The certificate holder, Wheatridge Solar Energy Center, LLC, will be providing its responses directly to commenters by 5:00 pm (Pacific) Today (April 10, 2026), as required by OAR 345-027-0367.
>
> On Monday, April 13, 2026, the Department will create an OneDrive folder that will include all copies of all comments provided on the Proposed Order. Once created, the Department will send out an email that will include an "Amendment Comment Review Process Doc Navigation Help Letter" to provide more information on how to access the OneDrive, the Department's file management system, and how to navigate PDF documents. The OneDrive will be accessed via the links sent in the Monday email, or by accessing the Wheatridge Renewable Energy Facility project page.

Please “reply all” to this email message when providing any replies to either the Department’s or certificate holder’s responses to your comments. Reply and sur-reply documents from the certificate holder and participants can also be uploaded directly to the OneDrive.

Replies must be received by **5:00 pm (Pacific) on April 17, 2026**, to be included in the record. Participants to the public comment process may request more time to submit their replies. The Council Chair may grant a requested extension on a showing of good cause. Please note the Department will only consider replies to issues raised in your own comments in preparing the draft Final Order.

Thank you,
-Chase

Chase McVeigh-Walker
Senior Siting Analyst
Pronouns: he/him/his
550 Capitol St. NE | Salem, OR 97301
P: 971-600-5323
P (In Oregon): 800-221-8035
Stay connected!

From: Grace, Jordan
Sent: Friday, April 24, 2026 7:20 AM
To: MCVEIGH-WALKER Chase * ODOE; ESTERSON Sarah * ODOE
Cc: Jaberi, Sarah; Twitchell, Sara; Curtiss, Sarah Stauffer
Subject: RE: WREFIII RFA1 - Certificate Holder Public Comment Responses
Attachments: WREFIII-RFA1_Public Comment Evaluation for CH_Sur-reply.xlsx

---

Hi Chase,

Attached please find the Certificate Holder's sur-reply to Mr. Tallman's public comment response.

Thank you,

Jordan Grace (he/him)
Mobile **+1 (714) 580-9006**

From: MCVEIGH-WALKER Chase * ODOE <chase.mcveigh-walker@energy.oregon.gov>
Sent: Tuesday, April 21, 2026 8:39 AM
To: Grace, Jordan <JORDAN.GRACE@tetratech.com>; ESTERSON Sarah * ODOE <Sarah.ESTERSON@energy.oregon.gov>
Cc: Jaberi, Sarah <sarah.jaberi@nexteraenergy.com>; Twitchell, Sara <sara.twitchell@nexteraenergy.com>; Curtiss, Sarah Stauffer <sarah.curtiss@stoel.com>
Subject: RE: WREFIII RFA1 - Certificate Holder Public Comment Responses

⚠ **CAUTION:** This email originated from an external sender. Verify the source before opening links or attachments. ⚠

Good morning Jordan,

Yes, Mr. Tallman provided a response on Friday (see attached). Sorry for not getting this over to you sooner.

Regards,
-Chase

OREGON DEPARTMENT OF ENERGY

Chase McVeigh-Walker
Senior Siting Analyst
Pronouns: he/him/his
550 Capitol St. NE | Salem, OR 97301
P: 971-600-5323
P (In Oregon): 800-221-8035



From: Grace, Jordan <JORDAN.GRACE@tetratech.com>
Sent: Monday, April 20, 2026 5:51 PM
To: MCVEIGH-WALKER Chase * ODOE <chase.mcveigh-walker@energy.oregon.gov>; ESTERSON Sarah * ODOE <sarah.esterson@energy.oregon.gov>
Cc: Jaberi, Sarah <sarah.jaberi@nexteraenergy.com>; Twitchell, Sara <sara.twitchell@nexteraenergy.com>; Curtiss, Sarah Stauffer <sarah.curtiss@stoel.com>
Subject: Re: WREFIII RFA1 - Certificate Holder Public Comment Responses

Chase,

Checking in on the public comments. Did ODOE receive public commenter responses to the Certificate Holder comment responses?

Thank you,

Jordan Grace (he/him) | Environmental Planner
Direct **+1 (503) 727-8074** | Mobile **+1 (714) 580-9006** | jordan.grace@tetratech.com

---

From: Grace, Jordan
Sent: Friday, April 10, 2026 5:22:06 PM
To: MCVEIGH-WALKER Chase * ODOE <chase.mcveigh-walker@energy.oregon.gov>; ESTERSON Sarah * ODOE <sarah.esterson@energy.oregon.gov>
Cc: Jaberi, Sarah <sarah.jaberi@nexteraenergy.com>; Twitchell, Sara <sara.twitchell@nexteraenergy.com>; Curtiss, Sarah Stauffer <sarah.curtiss@stoel.com>
Subject: WREFIII RFA1 - Certificate Holder Public Comment Responses

Chase,

Attached please find the certificate holder's public comment responses for WREFIII RFA1.

Thank you,

Jordan Grace (he/him)
Mobile **+1 (714) 580-9006**

Comment ID	Commenter	Comment Text	ISSUE ID/Short Issue Description	Comment Summary	Location of Topic in Proposed Order	Certificate Holder Reply	Commenter Response to Certificate Holder Reply	Certificate Holder Sur-reply	Triggers Requested Revisions to PO (Y/N)	Certificate Holder Commitment
WREFIIIAMD1Doc13 Proposed Order Comments (Tallman) [Written] 2026-03-19 WREFIIIAMD1Doc13-1 Proposed Order Comments (Tallman) [with Attachments] 2026-03-19	Jonathan Tallman	Omitted due to excessive length and unrelated nature	N/A - issues raised do not relate to the facility, the requested amendment to the facility, or any standards that apply to the requested amendment.	N/A - comments to do not relate to the facility, the requested amendment to the facility, or any standards that apply to the requested amendment.	N/A	Comments to do not relate to the facility, the requested amendment to the facility, or any standards that apply to the requested amendment.	Excerpt of commenter's main ask: "My concern is that the record should clearly disclose whether any broader offsite transmission, interconnection, or load-serving assumptions are being relied upon, or not relied upon, in support of the requested amendment. If the Department and certificate holder contend that no such offsite assumptions are relevant to RFA1, I ask that they say so expressly. If they contend such assumptions are relevant, I ask that they identify the supporting record citations."	Issues related to offsite transmission, interconnection, and load service are not relevant to the Request for Amendment.	N	None

Attachment 3: Department's evaluation of Public Comments

Table 1: List of Issues and Commenters

Issue ID	Issue Summary	Commenter	Changes Incorporated into Draft Final Order
General Standard of Review (OAR 345-022-0000)			
Issue GS-01	Requests that the record reflect contested easement for UEC's Highway 730-Olson Road transmission line on his property because it is part of EFSC's baseline approval for the facility.	Jonathan Tallman	No
Organizational Expertise (OAR 345-022-0010)			
Issue OE-01	Requests to amend Condition GEN-OE-02(a) to Clarify Reporting of Incidental Wildlife Observations	Certificate Holder	Yes, minor changes to findings or conditions.
Soil Protection (OAR 345-022-0022)			
Issue SP-01	Requests to amend the draft Vegetation and Soil Management Plan (Conditions PRE-SP-05, CON-SP-04, PRO-SP-02 and OPR-SP-02)	Certificate Holder	Yes, changes to Section III.D. and draft Vegetation and Soil Management Plan.
Fish and Wildlife Habitat (OAR 345-022-0060)			
Issue FW-01	Requested that the draft Habitat Mitigation Plan (HMP) include additional information about the facility site, legal instrument, monitoring and that it include additional enhancement actions to address permanent impacts to Category 3 and 4 habitat.	Oregon Department of Fish and Wildlife (ODFW, Lindsey Somers	Yes, changes to Section III.H. and draft Habitat Mitigation Plan.
Removal Fill Law (OAR 141-085-0050 – 0785)			
Issue RF-01	No jurisdictional Waters of the State are within the project footprint.	Oregon Department of State Lands (DSL), Daniel Evans	Yes, changes to Section IV.B.1 and removal of recommended Removal Fill Condition 1.

Table of Contents

I. Introduction 1

II. Public Comment Process Overview 1

III. Evaluation of Issues by Standard 2

III.A. General Standard of Review (OAR 345-022-0000) 2

Issue GS-01 (Tallman): Requests that the record reflect contested easement for UEC's Highway 730-Olson Road transmission line on his property because it is part of EFSC's baseline approval for the facility. 2

III.B. Organizational Expertise (OAR 345-022-0010) 3

Issue OE-01 (Certificate Holder): Requests to amend Condition GEN-OE-02(a) to Clarify Reporting of Incidental Wildlife Observations 3

III.C. Soil Protection (OAR 345-022-0022) 4

Issue SP-01 (Certificate Holder): Requests to amend the draft Vegetation and Soil Management Plan (Conditions PRE-SP-05, CON-SP-04, PRO-SP-02 and OPR-SP-02) 4

III.D. Fish and Wildlife Habitat (OAR 345-022-0060) 6

Issue FW-01 (ODFW): Draft Habitat Mitigation Plan Revisions 6

III.B. Removal Fill Law (OAR 141-085-0500 through 141-085-0785) 9

Issue RL-01 (DSL, Daniel Evans): Confirmed that no wetlands or waters of the state exist within the site boundary and no further delineation is needed. 10

I. Introduction

Wheatridge Solar Energy Center, LLC (certificate holder) filed Request for Amendment 1 of the Site Certificate for the Wheatridge Renewable Energy Facility III (RFA1) to the Energy Facility Siting Council (EFSC or Council) seeking authorization to extend the construction deadline for the unbuilt components; split the approved facility into two facilities, each with their own site certificate and certificate holders; and, amend several conditions consistent with the site certificate split.

On February 27, 2026, the Oregon Department of Energy (Department or ODOE) issued its Proposed Order on RFA1. On the same date, in accordance with OAR 345-027-0367(4), the Department issued a Public Notice, initiating a 35-day comment period, to conclude on April 3, 2026. The Notice also established deadlines for the subsequent comment evaluation process, including:

- April 10, 2026, for the Department and certificate holder responses to comments;
- April 17, 2026, for commenters to reply to Department/certificate holder responses; and,
- April 24, 2026, for the Department/certificate to file sur-replies.

Participants in the public comment process may request more time to submit their response, reply, and sur-reply to the Council or Council Chair, who shall grant the extension on a showing of good cause.

II. Public Comment Process Overview

The Council adopted changes to the Site Certificate Amendment comment process (OAR 345-027-0367) in September 2025, effective October 2025. This is the first amendment request under the new rules.

The purpose of the rule changes was to make the site certificate amendment review process more efficient and effective, improve the public comment process and increase the public's understanding of how to participate in the process. As presented above, the new process includes a step for the certificate holder and the Department to respond to comments; allows for those commenters to then reply; and then concludes with an opportunity for the Department and certificate holder to offer sur-reply.

The rules require that the certificate holder respond to all comments received during the comment period; the Department does not have the same obligation but may choose to respond. As presented in the document below, the Department has provided responses to commenters in a manner that provides organization for the public, the Department and the Council.

The intent of this new comment process is for each commenter to receive feedback from the Department and the certificate holder on the nature of their comments – specifically, whether they were raised with sufficient specificity so that the commenters can then reply with additional information or clarification. Where comments were raised with sufficient specificity, the process is intended to provide each commenter with feedback on whether those issues warrant remedy or change to a recommended finding of fact or recommended new or amended condition, and provide an opportunity for commenters to further explain and provide factual reasoning to support the Department and Council's evaluation of whether the certificate holder has met their burden of proof that they either can or have satisfied the requirements of applicable Council standards and other laws.

III. Evaluation of Issues by Standard

III.A. General Standard of Review (OAR 345-022-0000)

Issue GS-01 (Tallman): Requests that the record reflect contested easement for UEC's Highway 730-Olson Road transmission line on his property because it is part of EFSC's baseline approval for the facility.

Comment ID: WREFIIIAMD1Doc13 Proposed Order Comments (Tallman) [Written] 2026-03-19; WREFIIIAMD1Doc13-1 Proposed Order Comments (Tallman) [with Attachments] 2026-03-19
Response ID: WREFIIIAMD1Doc16 ODOE Public Comment Evaluation Cover Letter and Response 2026-04-10; WREFIIIAMD1Doc17 Cert Holder Responses 2026-04-10
Reply ID: WREFIIIAMD1Doc18 Public Comments Responses (Tallman) 2026-04-17
Sur-Reply ID: WREFIIIAMD1Doc19 Proposed Order Public Comment CH Sur-Reply 2026-04-24

Comment Summary
Mr. Tallman requests that EFSC update the record to disclose that a portion of UEC's 230 kilovolt (kV) Highway 730-Olson Road transmission line route depended on contested condemnation rights and advance occupancy for this property rather than a clean, voluntary, and undisputed easement. He suggests that updating the record is necessary because it is part of the baseline for EFSC approval of this facility and the amendment

Department Evaluation
Wheatridge Renewable Energy Facility III (WREFIII) does not include any 230 kV transmission lines. The EFSC process does not require that an applicant explain its interconnection location or include, as part of its facility, the interconnection location. Moreover, EFSC does not have authority over UEC's 230 kV Highway 730-Olson Road transmission line; this line is not part of the review or approval process for this proceeding.

In response to Mr. Tallman's comments, the Department did not recommend any changes be made, explaining that his comments are reflected on the record, and therefore the intent of his comments had been addressed.

In the certificate holders response to Mr. Tallman's comments, they believed that the comments did not relate to the facility, the requested amendment to the facility, or any standards that apply to the requested amendment. Therefore, the comments wouldn't trigger revisions to the Proposed Order.

In Mr. Tallman's reply, he requested that the record "clearly state whether no broader offsite transmission, interconnection, or load-serving assumptions are being relied upon in support of RFA1's requested deadline extension and certificate split."

In its sur-reply, the certificate holder maintained its response that issues raised in Mr. Tallman's comments are related to offsite transmission, interconnection, and load service, which are not relevant to the Request for Amendment.

Because Mr. Tallman's comments did not provide sufficient specificity, nor object to any recommended findings of fact, conclusions of law or conditions of approval identified in the Proposed Order, the Department maintains its recommendation that no changes are needed in the draft Final Order. Mr. Tallman's initial comments, and replies to the Department's response are included in Attachment 2 of the draft Final Order.

III.B. Organizational Expertise (OAR 345-022-0010)

Issue OE-01 (Certificate Holder): Requests to amend Condition GEN-OE-02(a) to Clarify Reporting of Incidental Wildlife Observations

Comment ID: WREFIIIAMD1Doc15 Proposed Order Comments (Certificate Holder) 2026-04-03
Response ID: WREFIIIAMD1Doc16 ODOE Public Comment Evaluation Cover Letter and Response 2026-04-10; WREFIIIAMD1Doc17 Cert Holder Responses 2026-04-10

Comment Summary
Certificate holder requests to modify Condition GEN-OE-02 sub(a) of the draft WTSII Site Certificate to more accurately reflect the intent of the wildlife response and reporting system section of the removed Wildlife Monitoring and Mitigation Plan (WMMP).

Department Evaluation
In the Proposed Order, the Department recommended Condition GEN-OE-02 be amended to include reporting of incidental wildlife observations, which was incorporated from the Wildlife Monitoring and Mitigation Plan (WMMP). The certificate holder's proposed changes to recommended Amended Organizational Expertise Condition 6 (GEN-OE-02) are presented in red-font, underline strikethrough below:

> **Certificate Holder's Proposed Changes to Recommended Amended Organizational Expertise Condition 6 (GEN-OE-02)** (in <u>underline</u>, ~~strikethrough~~):
> The certificate holder shall, as soon as reasonably possible:

a. Report incidents of livestock or ~~incidental~~ wildlife ~~observations~~ injury or fatality discovered within the Facility boundaries.

…

The Department agrees with the certificate holder's proposed change from reporting of "incidental wildlife observation" to reporting of "wildlife injury or fatality" provides useful clarity.

The Department questions the changes related to reporting of livestock injury or fatality and recommends that any reporting related to injury or fatality from use of livestock at the site for vegetation management be established in the Vegetation and Soil Management Plan under Conditions PRE-SP-05, CON-SP-04, PRO-SP-02 and OPR-SP-02.

The Department questions the certificate holder's proposed area reference, "within the Facility boundaries," as the facility site boundary may be much larger than the final design footprint and perimeter fenceline of the facility. The Department recommends using the phrase "within the perimeter fenceline" to establish the area for which observations apply. The Department recommends the following changes in response to the comments:

Department's Recommended Amended Organizational Expertise Condition 6 (GEN-OE-02) (in underline, strikethrough):
The certificate holder shall, as soon as reasonably possible:

b. Report incidents of ~~incidental~~ wildlife ~~observations~~ injury or fatality discovered within the facility perimeter fenceline.

…

For the reasons provided above and because the certificate holder did not provide a reply to the Department's recommended changes to Organizational Expertise Condition 6 (GEN-OE-06), the Department maintains its recommended changes to the Condition, as provided above. The Department's recommended change in condition language is included in Attachment A of the draft Final Order.

III.C. Soil Protection (OAR 345-022-0022)

Issue SP-01 (Certificate Holder): Requests to amend the draft Vegetation and Soil Management Plan (Conditions PRE-SP-05, CON-SP-04, PRO-SP-02 and OPR-SP-02)
Comment ID: WREFIIIAMD1Doc15 Proposed Order Comments (Certificate Holder) 2026-04-03
Response ID: WREFIIIAMD1Doc16 ODOE Public Comment Evaluation Cover Letter and Response 2026-04-10; WREFIIIAMD1Doc17 Cert Holder Responses 2026-04-10

Comment Summary
The certificate holder requests changes to the draft Vegetation and Soil Management Plan (VSMP) including removal of Appendix C (NPDES 1200-C and ESCP), to shorten the document and reduce duplicative submittals; and to revise various other elements of the plan including

clarifying the baseline preconstruction and monitoring and reporting methods. The substantive changes are evaluated below.

Department Evaluation
The Department agrees that the 1200-C and ESCP do not need to be attached to the VSMP as they are required through other conditions (PRE-SP-04 and GEN-SP-01) and therefore would be a duplicate submittal and, as the certificate holder notes, is a living document and would require frequent updating of the VSMP to ensure that the attachments are current. The final VSMP updated prior to construction will, however, include a summary of the BPMs outlined in the 1200-C and ESCP.

In the draft VSMP Table 5, certificate holder requests to remove specificity in the timing of initial post-revegetation monitoring for soil compaction, noxious weed and revegetation from "within 60-days of completion of revegetation" to a more general "once per season." The certificate holder did not explain this change. The Department requested that the certificate holder explain why this change is requested. However, the certificate holder did not provide response to the request. The Department recommends Council find that the following changes to the draft VSMP Table 5 resolve and clarify when the initial (first) monitoring will occur, "Initiate within 90 days from reseeding "and then maintain "and conduct once per season in the first two years following construction" This changes the timing trigger to the action of reseeding and allows enough time for vegetation to grow to begin monitoring. Attachment C to the draft Final Order includes the redline version of the VSMP that captures changes from the Proposed Order, comment evaluation, and recommendations for the draft Final Order. The changes for the Draft final order are in track changes and highlighted yellow.

In the draft VSMP Table 5, certificate holder requests to modify the requirement for annual vegetation/weed monitoring to allow for re-evaluation of the management and monitoring after year 5. The certificate holder explained that this change was requested to ensure the level of monitoring and reporting was adaptive to site conditions at the time, which should be reduced overtime. The Department concurs with the requests to allow for modified monitoring, albeit still annual, but modified approach.

In the draft VSMP Table A-1, certificate holder request to remove reference to the County Weed Department as a potential weed control contractor for the site. In response, the Department affirms that many certificate holders contract with County Weed Departments to conduct weed treatment at their site and is viewed as a practical and qualified entity to conduct weed treatment. While the Department does not have issues with removing reference to the County Weed Department as a potential contractor, it is noted that this seems like an unnecessary limitation identified by the certificate holder.

In the draft VSMP Appendix D, Environmental Monitoring Methods, the certificate holder requests to establish the components of revegetation records (date, acreage impacted per disturbance level, description/photos of impacted areas; reclamation methods; revegetation

dates; revegetation conditions). The Department agrees that these changes are sufficient for monitoring and reporting on revegetation.

In the draft VSMP Appendix D, Environmental Monitoring Methods, the certificate holder requests to revise preconstruction and construction requirements for noxious weed surveys, monitoring and reporting. The certificate holder did not explain this change. The Department requested that the certificate holder explain why this change is requested. The certificate holder did not provide response. However, the Department reviewed the changes and emphasizes that they are made to support the overall re-organization of the VSMP, and that monitoring methods were moved from other sections of the VSMP into Appendix D. The certificate holder had expressed concerns to the field monitoring methods/transects and methodologies described in the VSMP attached to the Proposed Order. The Department agrees that the revisions to the soil, revegetation, and weed monitoring protocols and record management add clarification for monitoring locations on site and what must be tracked for reporting. The Department recommends Council accept these changes.

In the draft VSMP Appendix E, Revegetation and Soil Stabilization Methods, the certificate holder provides specifics for its plan to maintain vegetative free areas, as presented below:

- Vegetation within the Solar Components fence will be limited to a height of 10-12 inches, with a minimum clearance of 12 inches from electrical equipment.
- Vegetation height will be maintained by mowing, chemical spray, grazing, or other vegetation management techniques.
- A minimum 10-foot non-combustible, vegetation-free defensible space will be maintained along the fenced perimeter of the Solar Components.
- Vegetation along service roads will be managed by mowing or other vegetation removal.
- The certificate holder may keep or use domestic sheep, goats, or other livestock at the Facility for vegetation control or other purposes as the Facility is not in a risk area for disease transmission to Bighorn sheep.

The Department recommends Council adopt the above described revisions to the draft VSMP for the reasons provided in the draft Final order and provided above.

III.D. Fish and Wildlife Habitat (OAR 345-022-0060)

Issue FW-01 (ODFW): Draft Habitat Mitigation Plan Revisions
Comment ID: WREFIIIAMD1Doc14 Proposed Order Comments (ODFW) 2026-03-25
Response ID: WREFIIIAMD1Doc16 ODOE Public Comment Evaluation Cover Letter and Response 2026-04-10; WREFIIIAMD1Doc17 Cert Holder Responses 2026-04-10

Comment Summary
ODFW requested that the draft Habitat Mitigation Plan (HMP) for Wagon Trail Solar II include the following:

- detailed location and operational characteristics of the development action;
- a map with specific coordinates and sections;
- require submittal of a legal instrument (easement or similar);
- schedule for reporting progress and efficacy of mitigation measures;
- A data sharing protocol for monitoring and survey results;
- Clarification that temporary impacts are outside the fenceline for solar facilities; and
- additional habitat enhancement actions to address Category 3 and 4 permanent impacts.

Department Evaluation
The Department agrees that the HMP should include a description of the location, physical and operational characteristics, and duration of the proposed development action. Because this information is already part of the administrative record for the proceeding for this facility, the Department proposes the following updates to the draft HMP Section 1.0:

> This draft Habitat Mitigation Plan (HMP) was prepared by Wagon Trail Energy Center, LLC (Certificate Holder), a wholly owned, indirect subsidiary of NextEra Energy Resources, LLC (NEER or Certificate Holder Owner) to provide concepts for meeting the habitat mitigation needs of Wagon Trail Solar II Facility (WTSII or Facility). WTSII is a 100 megawatt (MW) solar photovoltaic power generating facility. The facility is located entirely within Morrow County, bisected by Oregon Highway 207, approximately 5 miles northeast of Lexington and approximately 7 miles northwest of Heppner.

The Department agrees that the HMP should include a figure of the facility site. Because this information is already part of the administrative record for the proceeding for this facility, the Department proposes to include Figure 3: Proposed Site Boundary (WTSII) from Request for Amendment 1 for the Wheatridge Renewable Energy Facility III, as an additional Figure (Figure 2) of the draft HMP.

The Department agrees that the HMP must include a requirement to finalize a legal instrument, subject to ODOE review, in coordination with ODFW. The Department recommends that "Plan Finalization Requirements" and "Pre-construction HMP Finalization" procedures be added to the draft HMP as Sections 2.0, 2.1, and 2.2 (respectively), as follows:

> **2.0 Plan Finalization Requirements**
>
> 2.1 Legal Instrument
> Prior to construction and as part of plan finalization, the certificate holder shall provide a draft of the legal instrument to ODOE for review and approval, in consultation with ODFW. ODOE and ODFW review will ensure, at a minimum, that the legal instrument demonstrates or includes the following:
>
> - References and is consistent with the HMP;

- A map and description of all existing structures, impervious surfaces, and access road networks within the HMA;
- Identification of and restrictions on conflicting uses within the HMA, including, but not limited to new roads and associated infrastructure, transmission lines and energy development, land division, and establishment of a feedlot;
- Identification of allowable uses that demonstrate consistency with the HMP wildlife habitat goals;
- Specifies that ODOE has authority to conduct inspections pursuant to OAR 345-026-0050 to ensure that habitat mitigation area(s) are being managed consistent with the HMP, with reasonable written notice to the property owner and Applicant; and
- Includes a term specifying the duration of the agreement, which shall extend for the operational lifetime of the facility and through completion of facility decommissioning.

2.2 Pre-construction HMP Finalization

As required by Fish and Wildlife Habitat Condition 10 (PRE-FW-04), prior to construction, this draft HMP will be finalized based on the following:

- Provide ODOE and ODFW with a map of the HMA, including the latitude and longitude, township, range, section, quartersection, and county;
- Submit a habitat assessment conducted at the HMA
- Designate the location(s) of where the physical and operational Enhancement actions are to occur; and
- Develop additional enhancement actions, success criteria, monitoring and reporting to achieve Category 3 and 4 habitat mitigation goals;

The Department requested that ODFW clarify their comments about Section 7.0 of the draft HMP stateing "A clearly defined schedule for reporting on the progress toward achieving the mitigation goals and standards, the overall efficacy of mitigation measures in conjunction with associated monitoring efforts, and any modification of mitigation measures." While ODFW refers to Section 7, monitoring, reporting and evaluative criteria are established in Sections 6.3 and 6.4. The Department requested that ODFW clarify the revisions being sought to Sections 6.3 and 6.4 related to monitoring and reporting.

ODFW did not provide a response to the Departments clarification request. However, the Department recommends the monitoring, reporting, and evaluation of success criteria provided in Sections 6.2, 6.3, and 6.4 be consolidated into a single table (Table 6) of the draft HMP (Attachment B of the draft Final Order).

In its response to ODFW comments, the certificate holder indicates that a Figure identifying the temporary and permanent disturbances by habitat category, and a monitoring report outline will be included in the draft HMP, as Figure 2 and Appendix A respectively. The Department

recommends Council include Figure 2 and Appendix A in the draft HMP, and adopt both the Department's changes, as described above, and described in the draft Final Order.

To the extent ODFW seeks to ensure that long-term monitoring and reporting will occur under the HMP, the Department identified that the condition imposing the HMP is designated as a "preconstruction" condition. In response, the Department proposes the following condition requiring that, during operations, the certificate holder implement the treatment, monitoring and reporting requirements of the HMP:

> **Department's Recommended Fish and Wildlife Condition 12 (OPR-FW-01)** (in underline, strikethrough):
> During operation of the solar facility, the certificate holder shall implement the Habitat Mitigation Plan finalized under Condition PRE-FW-04. The HMP may be amended from time to time, subject to Department approval.

The Department has a data sharing protocol with ODFW, in that all habitat and species related compliance documents received from the certificate holder are shared with or made available upon request to ODFW. The Department sought ODFW clarification about what data or what other means beyond the current protocol is referred but did not receive a response.

The Department agrees that temporary and permanent impacts should be clearly defined, with permanent impacts being defined as the area within the perimeter fenceline for the facility.

The Department agrees that additional habitat enhancement actions must be included in the HMP Section 6.2 to address Category 3 and 4 permanent impacts, as presented below:

- Native grass seeding, forb planting, Sagebrush Planting and annual grass treatment – The Certificate Holder shall conduct native grass seeding, annual grass treatment, and the planting of Forbs and Sagebrush, as recommended by ODFW, in the HMA to ensure the habitat quality is equivalent to that of the impacted habitat of the facility. The recommended native grass seeding, annual grass treatment, Forb and Sagebrush planting shall be maintained through the life of the facility.

The Department requested ODFW review the proposed updated language (above) and confirm whether additional clarification is needed, or if the Department's proposed updates satisfy their comments.

ODFW did not reply to the Department's comments, requesting clarification to HMP revisions, and review of the Department's proposed updated HMP language. Therefore, the Department recommends Council incorporate the revisions to the HMP, as proposed above. An updated HMP is included as Attachment B of the Draft Final Order.

III.B. Removal Fill Law (OAR 141-085-0500 through 141-085-0785)

Issue RL-01 (DSL, Daniel Evans): Confirmed that no wetlands or waters of the state exist within the site boundary and no further delineation is needed.
Comment ID: WREFIIIAMD1Doc12 Proposed Order Comments (ODSL) 2026-03-18
Response ID: WREFIIIAMD1Doc16 ODOE Public Comment Evaluation Cover Letter and Response 2026-04-10; WREFIIIAMD1Doc17 Cert Holder Responses 2026-04-10

Comment Summary
Oregon Department of State Lands (DSL) Daniel Evans identified that a wetland delineation for the project footprint had previously been reviewed and found to have no jurisdictional wetlands or waters of the state. He indicated that even though DSL's prior jurisdictional determination expired on April 18, 2024, no further review is required.

Department Evaluation
In the Proposed Order Section IV.B.1., the Department recommended that Council impose a new condition to address the expired wetland delineation, as presented below:

> **Recommended Removal Fill Condition 1 (PRE-RFL-01)**: Prior to construction of the facility, facility component or phase, the certificate holder shall conduct a desktop evaluation to determine if wetlands or waters of the state (WOS) are present within the site boundary. If the desktop evaluation shows that wetlands or WOS are within proximity to ground disturbance, the certificate holder must conduct a field survey and submit a wetland delineation report to DSL for a DSL concurrence letter and demonstrate that impacts to wetland or WOS would be less than 50 cubic yards or that a removal fill permit may be necessary.

DSL's comments appear to suggest that the recommended condition is unnecessary. The Department requested that DSL confirm whether the above condition is necessary based on DSL's prior jurisdictional determination. The Department did not receive a reply from DSL regarding the relevance of imposing the condition above. If imposed, the certificate holder would be required to conduct a desktop survey prior to construction and would submit a wetland delineation if the desktop survey shows wetlands or WOS within proximity of ground disturbance.

Given DSL's comments that clarified no further review would be required, despite the expiration of DSL's prior jurisdictional determination, the Department recommends Council not impose Condition PRE-RFL-01.[1]

[1] This recommendation is further supported by the outcome of compliance with existing Fish and Wildlife Habitat Condition 8 (PRE-FW-03). This condition requires, prior to construction, the certificate holder to "flag all environmentally sensitive areas as restricted work zones. Restricted work zones shall include but not be limited to …wetlands and waterways that are not authorized for construction impacts". Compliance with Condition PRE-FW-03 would inherently require the certificate holder to evaluate whether any wetlands and waterways are present within proximity to construction impacts. Furthermore, the certificate holder has to then identify and flag any that are not authorized for construction.

Wheatridge Renewable Energy Facility III (WREFIII)
Attachment A: Draft First Amended Site Certificate (red-line)

Attachment A: Draft First Amended Site Certificate (red-line)

ENERGY FACILITY SITING COUNCIL

OF THE

STATE OF OREGON

DRAFT

Draft First Amended Site Certificate for the Wheatridge Renewable Energy Facility III

ISSUANCE DATE(S)

Site Certificate	**November 19, 2020**
First Amended Site Certificate	**DATE, 2026**

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Attachments

Attachment A	Facility Site Boundary Map

Acronyms and Abbreviations

ASC	Application for Site Certificate
BMP	Best Management Practice
Council or EFSC	Oregon Energy Facility Siting Council
Department or ODOE	Oregon Department of Energy
DOGAMI	Oregon Department of Geology and Mineral Industries
ESCP	Erosion and Sediment Control Plan
HMP	Habitat Mitigation Plan
NEER	NextEra Energy Resources, LLC
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
NRHP	National Register of Historic Places
WGS	Washington Ground Squirrel
WMMP	Wildlife Monitoring and Mitigation Plan
WREFI	Wheatridge Renewable Energy Facility I
WREFII	Wheatridge Renewable Energy Facility II
WREFIII	Wheatridge Renewable Energy Facility III
WREFE	Wheatridge Renewable Energy Facility East

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1.0 Introduction and Site Certification

This site certificate is a binding agreement between the State of Oregon (State), acting through the Energy Facility Siting Council (Council), and Wheatridge Solar Energy Center, LLC (certificate holder), a wholly-owned indirect subsidiary of NextEra Energy Resources, LLC (NEER, certificate holder owner). As authorized under Oregon Revised Statue (ORS) Chapter 469, the Council issues this site certificate authorizing certificate holder to construct, operate and retire the Wheatridge Renewable Energy Facility III (facility) at the below described site within Morrow County subject to the conditions set forth herein.

Both the State and certificate holder must abide by local ordinances, state law and the rules of the Council in effect on the date this site certificate is executed. However, 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)).

The findings of fact, reasoning and conclusions of law underlying the terms and conditions of this site certificate are set forth in the following documents approved for the Wheatridge Wind Energy Facility, incorporated herein by this reference: (~~1~~a) the *Final Order on the Application for Site Certificate for the Wheatridge Wind Energy Facility* issued on April 28, 2017 (hereafter, *Final Order on the Application*); (~~2~~b) *Final Order on Request for Transfer* issued on July 27, 2017; (~~3~~c) *Final Order on Request for Amendment 3* issued on November 16, 2018; (~~4~~d) *Final Order on Request for Amendment 2* issued on December 14, 2018; *Final Order on Request for Amendment 4* issued on November 22, 2019; and (~~5~~e) *Final Order on Request for Amendment 5* issued May 22, 2020. In addition, the findings of fact, reasoning and conclusions of law underlying the terms and conditions of this site certificate are set forth in the following documents approved for the Wheatridge Renewable Energy Facility II (WREFII), incorporated herein by this reference: (1) *Final Order on Request for Amendment 1* issued November 19, 2020; and the *Final Order on Request for Amendment 1 of the Wheatridge Renewable Energy Facility III (WREFIII) Site Certificate* issued on DATE, 2026.

In interpreting this site certificate, any ambiguity will be clarified by reference to the following ~~documents approved for WREFII~~, in order of priority: (1) Final Order on Request for Amendment 1 of the WREFIII Site Certificate; (2) *Final Order on Request for Amendment 1 of the WREFII Site Certificate*; ~~and for the Wheatridge Wind Energy Facility, in order of priority:~~ (~~2~~3) *Final Order on Request for Amendment 5;* (~~3~~4) *Final Order on Request for Amendment 4;* (~~4~~5) *Final Order on Request for Amendment 2*; (~~5~~6) *Final Order on Request for Amendment 3*; (~~6~~7) *Final Order on Request for Amendment 1*; (~~7~~8) *Final Order on the Application*, and (~~6~~9) the record of the proceedings that led to the above referenced orders.

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)). This site certificate does not address, and is not binding with respect to, matters that are not included in and governed by this site certificate, and such matters include, but are not limited to: employee health and safety; building code compliance; wage and hour or other labor regulations; local government fees and charges; other design or operational issues that do not relate to siting the facility (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 definitions in ORS 469.300 and OAR 345-001-0010 apply to the terms used in this site certificate, except where otherwise stated, or where the context clearly indicates otherwise.

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. In addition, each state agency or local government agency that issues a permit, license or other approval for this facility shall continue to exercise enforcement authority over such permit, license or other approval (ORS 469.401(3)). For those permits, licenses, or other approvals 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)).

The certificate holder must construct, operate and retire the facility in accordance with all applicable rules as provided for in Oregon Administrative Rule (OAR) Chapter 345, Division 26. After issuance of this site certificate, the Council shall have continuing authority over the site and may inspect, or direct the Oregon Department of Energy (Department) to inspect, or request another state agency or local government to inspect, the site at any time in order to ensure that the facility is being operated consistently with the terms and conditions of this site certificate (ORS 469.430).

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 duration of this site certificate shall be the life of the facility, subject to termination pursuant to OAR 345-027-0410 or the rules in effect on the date that termination is sought, or revocation under ORS 469.440 and OAR 345-029-0100 or the statutes and rules in effect on the date that revocation is ordered. The Council shall not change the conditions of this site certificate except as provided for in OAR Chapter 345, Division 27.

2.0 Facility Location

The Wheatridge Renewable Energy Facility III (WREFIII), is a solar facility generating up to ~~1~~50 MW of solar energy. The energy facility and its related or supporting facilities are located within Morrow

County. The site boundary, as defined in OAR 345-001-0010, encompasses approximately ~~2,294~~359 acres of private land and includes ~~two~~ solar array facilities and distributed energy storage within micrositing corridors, related or supporting facilities, including 34.5 kV collector lines above or below ground within a perimeter fence and outside a fenced area ~~in two routes~~, service roads, ~~5 acre substation,~~ and ~~41~~ 15 distributed battery storage sites for lithium-ion batteries proposed by the certificate holder, as approved by the Council.[1] Shared (WREFI, WREFII and WREFIII) Related or Supporting Facilities is discussed further in Section 3.3 below.

WREFIII components are located entirely within Morrow County, bisected by Oregon Highway 207, approximately 5 miles northeast of Lexington and approximately 7 miles northwest of Heppner. Previously approved facility components that are shared between WREFII and WREFIII include a collector substation, access roads, temporary laydown areas and the O&M building, all of which are reflected in both WREFII and WREFIII site certificates. WREFE does not share any related or supporting facilities with WREFII or WREFIII, however would include areas of overlapping site boundary. Portions of the 230-kV Intraconnection Line may have overlapping site boundaries with WREFI, WREFII, and WREFIII.

2.1 Site Boundary

The site boundary encompasses a total of ~~2,294~~359 acres of privately owned land. Table 1 identifies the Public Land Survey System sections in which the site boundary is located.

Table 1. Location of Site Boundary by Township, Range and Section

Township	Range	Section(s)
~~1N~~	~~25E~~	~~13, 24~~
1N	26E	~~6, 7, 8, 9, 16, 17,~~ 18, 19~~, 20, 21, 29, 30~~

For this facility, the certificate holder requested that the site boundary represent the "micrositing corridor" for the placement of facility components to allow some flexibility in specific component locations and design in response to site-specific conditions and engineering requirements to be determined prior to construction. The Council permits final siting flexibility within a micrositing corridor when the certificate holder demonstrates that requirements of all applicable standards have been satisfied by adequately evaluating the entire corridor and location of facility components anywhere within the corridor.

2.2 Micrositing Corridors

The certificate holder requested flexibility to locate components of the energy facility and its related or supporting facilities within a micrositing corridor to allow adjustment of the specific location of components, while establishing outer boundaries of potential construction for purposes of evaluating potential impacts.

Micrositing corridors for solar facility components, as presented in Figure 1 *Solar Micrositing Corridors* of this amended site certificate~~, include the area for Solar Array 1 and Solar Array 2~~, which includes private access roads, service roads, a 34.5 kV collection system, gates and perimeter security fence.

[1] Energy facility site, as defined in OAR 345-001-0010(54), means all land upon which an energy facility is located or proposed to be located.

3.0 Facility Description

The facility includes solar energy generation components, each with related or supporting facilities. The energy generation capacity of the facility at full build out by the specified construction completion deadlines is ~~1~~50 MW. Solar energy facility components are further described in Section 3.2 and 3.2.1 of this site certificate.

As presented in the ASC, the facility will be constructed in phases. In accordance with ORS 469.300(6), preconstruction conditions may be satisfied for the applicable phase, facility component or for the facility, as applicable, based on final design and configuration.

3.1 Solar Energy Facility Components

The construction commencement deadline for the 150 MW solar energy facility and its related or supporting facilities must begin by November 22, 2022 (under General Standard Condition 1 (GEN-GS-01) and construction of these components must be completed on or before November 22, 2025 (under General Standard Condition 2 (GEN-GS-02).

Solar energy facility components ~~include up to two solar arrays~~are located ~~within Wheatridge West~~, entirely within Morrow County, on Exclusive Farm Use zoned land. The solar arrays consist of photovoltaic panels mounted onto tracking modules and arranged in strings within the solar micrositing corridors. Strings of modules are connected by electrical collector lines and inverters that convert the direct current power generated by panels to alternating current power. Transformers placed near the inverters step up power to 34.5 kV for transmission to ~~the Wheatridge West substation~~WREFII. The maximum layout including total number of modules, configuration, dimensions, total energy generating capacity and mounting system of solar array components shall be substantially as described in Request for Amendment 4.

Photovoltaic Modules and Racking

Each solar module is approximately 6 feet by 3 feet, placed on a nonspecular, galvanized steel rack. Each set of approximately 70 racked modules is mounted approximately 5 feet off the ground on a single-axis tracker that would rotate 60 degrees to the east and west. Each tracker is supported by steel posts; post depth varies depending on soil conditions, but the posts are typically placed 8 feet below the surface. The maximum of height of the modules at full tilt would be approximately 16 feet.

Combiner Boxes, Inverters and Transformers

The current produced by solar modules is in the form of direct current (DC). Within each module block, several DC electrical conduits (cables on the back of the modules) aggregate electricity produced from each of the modules into a combiner box. Approximately 18 combiner boxes are located throughout each module block for a total of approximately ~~740~~ 348 combiner boxes. The photovoltaic modules are arranged into blocks, with each block connecting via collector lines to approximately ~~41~~ 15 modular inverter enclosures. Inverters convert DC current into alternating current (AC) power to then be transmitted to the grid. The inverter AC output voltage (480 volts) is stepped up to a higher voltage (34.5 kilovolts [kV]) by approximately ~~41~~ 15 pad-mounted transformers designed to integrate with the inverter.

3.1.1 Related or Supporting Facility to Solar Energy Facility Components

Related or supporting facilities associated with the solar facility must begin construction by the dates described in General Standard Condition 1 (GEN-GS-01) and construction must be completed, substantially as described below, by the deadline established in General Standard Condition 2 (GEN-GS-02).

Electrical Collection System

Electricity generated from the solar energy facility components are aggregated via underground 34.5 kV cables to an above- or belowground 34.5 kV collector line that interconnect to ~~Wheatridge West~~WREFII collector substation. Underground AC electrical cables are buried to a minimum of 3 feet. Overhead collector lines are supported by a wooden or steel monopole structure, with foundations extending 6 feet in depth and structure height of approximately 60 feet above ground. The collection system also includes up to 13 miles of underground ~~two~~ 34.5 kV collector line ~~routes outside of the perimeter fenceline; one route extends approximately 2.32 miles from Solar Array 1 to Wheatridge West collector substation. The second collector line interconnects Solar Array 1 to Solar Array 2 and extends approximately 0.66 miles along Bombing Range Road~~.

Service Roads, Gates, and Fencing

Service roads, approximately 16-feet wide and 3.2 miles total, located within and around the perimeter of the proposed solar arrays, and within the solar micrositing corridors, to facilitate access for construction and maintenance purposes. Vegetation is cleared and maintained along perimeter roads to provide a vegetation clearance area extending 100-feet wide for fire safety. Internal roads are all-weather, compacted gravel and approximately 20 feet wide, with an internal turning radius of 28 feet. Vegetation maintenance along solar array interior roads includes mowing to a height no more than 3 inches.

The perimeter service road is bordered by 5.6 miles of ~~a~~ 7 or 8-foot-high chain-link security fence. There is also a locked security entrance gates to allow vehicle and pedestrian access.

~~*Wheatridge West Collector Substation Expansion*~~

~~Wheatridge West collector substation (by Strawberry Lane) includes 10 acres, 5 of which accommodate electrical equipment such as an additional transformer, switches, protective relay and metering equipment needed to handle the power generated by the solar energy facility components.~~

Battery Storage System Sites – Distributed Locations (AC Coupled)

Solar energy facility components include approximately ~~41~~ 15 distributed sites of sites of lithium-ion batteries housed within concrete containers or similar containment throughout and within the solar array fencelines. Each container measures up to 12 feet wide, 36 feet long and 10 feet tall. Lithium-ion battery storage systems are modular systems. Each module contains multiple smaller battery cells, each measuring up to 3.2 by 7 centimeters. Modules are contained in anchored racks within the concrete containers; typically, each rack houses 12 battery modules along with a switchgear assembly. Cooling equipment is located either on top of the concrete containers or along the side.

3.2 Shared (WREFI, WREFII ~~and,~~ WREFIII and WTSII) Related or Supporting Facilities

Previously approved facility components that are shared between WREFII and WREFIII include a collector substation, access roads, temporary laydown areas and the O&M building, all of which are reflected in both WREFII and WREFIII site certificates. WREFE does not share any related or supporting facilities with WREFII or WREFIII, however would include areas of overlapping site boundary. Portions of the 230-kV Intraconnection Line may have overlapping site boundaries with WREFI, WREFII, ~~and~~ WREFIII and WTSII. Sharing of facility components, or use by multiple facilities, is allowable in the EFSC process when the compliance obligation and applicable regulatory requirements for the shared facilities is adequately covered under the relevant/applicable ~~both~~ site certificates, including under normal operational circumstances, ceasing/termination of operation, emergencies and compliance issues or violations.

The certificate holder is authorized to share related or supporting facilities with the WREFI and WREFII facilities, including the Introduction Line, WREFII ~~Wheatridge West~~ collector substation, O&M building temporary laydown areas, and access roads. These related or supporting facilities are ~~also~~ included in both WREFI and WREFII site certificates. The certificate holder is also authorized to share related or supporting facilities with Wagon Trail Solar II, including access roads. Compliance with site certificate conditions and EFSC standards which apply to these shared related or supporting facilities are ~~shared~~ split accordingly between certificate holders and their associated site certificates. In accordance with Organizational Expertise Condition 11, if either certificate holder substantially modifies a shared related or supporting facility or ceases facility operation, the applicable/relevant ~~both~~ certificate holder is~~s~~ are obligated to submit an amendment determination request or request for amendment to the Department to determine the appropriate process for evaluating the change and ensuring full regulatory coverage under each site certificate, or remaining site certificate if either is terminated, in the future. Additionally, each certificate holder is obligated to demonstrate to the Department that a "Common Facilities Agreement" or similarly legally binding agreement has been fully executed between certificate holders to ensure approval and agreement of access to the shared resources has been obtained prior to operation of shared facilities.

DRAFT

4.0 Site Certificate Conditions

4.1 Condition Format

The conditions in Sections 4.2 through 4.7 of this Site Certificate are organized and coded to indicate the phase of implementation, the standard the condition is required to satisfy, and an identification number (1, 2, 3, etc.)[2]. The table below presents a "key" for phase of implementation:

Key	Type of Conditions/Phase of Implementation
GEN	General Conditions: Design, Construction and Operation
PRE	Pre-Construction Conditions
CON	Construction Conditions
PRO	Pre-Operational Conditions
OPR	Operational Conditions
RET	Retirement Conditions

The standards are presented using an acronym; for example, the General Standard of Review is represented in the condition numbering as "GS"; the Soil Protection standard is represented in the condition numbering as "SP" and so forth.

For example, the coding of Condition GEN-GS-01 represents that the condition is a general condition (GEN) to be implemented during design, construction and operation of the facility, is required to satisfy the Council's General Standard of Review, and is condition number 1.

This site certificate contains conditions initially imposed in the Wheatridge Wind Energy Facility site certificate, as approved in April 2017, and amended in July 2017 (AMD1), November (AMD2) and December 2018 (AMD3), November 2019 (AMD4), and May 2020 (AMD5). Site certificate conditions include a bracketed citation (e.g. [Final Order on ASC (2017), AMD2 (2018), AMD4 (2019)]) which provides reference to the Council order imposing or amending the condition. Bracketed citations dated 2017 through May 2020 represent conditions imposed or amended under the Wheatridge Wind Energy Facility site certificate; bracketed citations dated after May 2020 represent conditions imposed or amended under the Wheatridge Renewable Energy Facility II site certificate.

[2] The identification number is not representative of an order that conditions must be implemented; it is intended only to represent a numerical value for identifying the condition.

4.2 General Conditions (GEN): Design, Construction and Operations

Condition Number	General (GEN) Conditions
STANDARD: GENERAL STANDARD OF REVIEW (GS) [OAR 345-022-0000]	
GEN-GS-01	The certificate holder shall begin construction of solar facility components and its related or supporting facilities, as approved the Fourth Amended Site Certificate, by November 22, 2022~~)~~. On or before November 22, 2022, the certificate holder shall provide written notification to the Department that it has met the construction commencement deadline. Construction is defined in OAR 345-001-0010. [Final Order on ASC (2017), General Standard Condition 1; AMD2 (2018); AMD4 (2019); AMD1 (2020)] [Mandatory Condition OAR 345-025-0006(4)]
GEN-GS-02	The certificate holder shall complete construction of solar facility components and its related or supporting facilities, as approved the Fourth Amended Site Certificate, by November 22, 2025. On or before November 22, 2025, the certificate holder shall promptly notify the Department of the date of completion of construction. [Final Order on ASC (2017), General Standard Condition 2 (2018); AMD2 (2018); AMD4 (2019); AMD1 (2020)] [Mandatory Condition OAR 345-025-0006(4)]
GEN-GS-03	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 on ASC (2017), Mandatory Condition 2] [OAR 345-025-0006(3)]
GEN-GS-04	Except as necessary for the initial survey or as otherwise allowed for wind energy facilities, transmission lines or pipelines under this section, the certificate holder shall not begin construction, as defined in OAR 345-001-0010, or create a clearing on any part of the site until the certificate holder has construction rights on all parts of the site. For the purpose of this rule, "construction rights" means the legal right to engage in construction activities. For wind energy facilities, transmission lines or pipelines, if the certificate holder does not have construction rights on all parts of the site, the certificate holder may nevertheless begin construction, as defined in OAR 345-001-0010, or create a clearing on a part of the site if the certificate holder has construction rights on that part of the site and: a. The certificate holder would construct and operate part of the facility on that part of the site even if a change in the planned route of a transmission line or pipeline occurs during the certificate holder's negotiations to acquire construction rights on another part of the site; or b. The certificate holder would construct and operate part of a wind energy facility on that part of the site even if other parts of the facility were modified by amendment of the site certificate or were not built. [Final Order on ASC (2017), Mandatory Condition 3] [OAR 345-025-0006(5)]
GEN-GS-05	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 on ASC (2017), Mandatory Condition 6] [OAR 345-025-0000(6)]

GEN-GS-06	The Council shall include as conditions in the site certificate all representations in the site certificate application and supporting record the Council deems to be binding commitments made by the applicant. [Final Order on ASC (2017), Mandatory Condition 5] [OAR 345-025-0006(10)]
GEN-GS-07	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. 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 on ASC (2017), Mandatory Condition 6] [OAR 345--025-0006(11)]
GEN-GS-08	The certificate holder shall design, engineer and construct the facility to avoid dangers to human safety presented by seismic hazards affecting the site that are expected to result from all maximum probable seismic events. As used in this rule "seismic hazard" includes ground shaking, ground failure, landslide, liquefaction triggering and consequences (including flow failure, settlement buoyancy, and lateral spreading), cyclic softening of clays and silts, fault rupture, directivity effects and soil-structure interaction. For coastal sites, this also includes tsunami hazards and seismically-induced coastal subsidence. [Final Order on ASC (2017), Mandatory Condition 7] [OAR 345-025-0006(12)]
GEN-GS-09	The certificate holder shall notify the Department, the State Building Codes Division and the Department of Geology and Mineral Industries promptly if site investigations or trenching reveal that conditions in the foundation rocks differ significantly from those described in the application for a site certificate. After the Department receives the notice, the Council may require the certificate holder to consult with the Department of Geology and Mineral Industries and the Building Codes Division and to propose mitigation actions. [Final Order on ASC (2017), Mandatory Condition 8] [OAR 345-025-0006(13)]
GEN-GS-10	The certificate holder shall notify the department, the State Building Codes Division and the Department of Geology and Mineral Industries promptly if shear zones, artesian aquifers, deformations or clastic dikes are found at or in the vicinity of the site. After the Department receives notice, the Council may require the certificate holder to consult with the Department of Geology and Mineral Industries and the Building Codes Division to propose and implement corrective or mitigation actions. [Final Order on ASC (2017), Mandatory Condition 9] [OAR 345-025-0006(14)]
GEN-GS-11	Before any transfer of ownership of the facility or ownership of the site certificate holder, the certificate holder shall inform the department of the proposed new owners. The requirements of OAR 345-027-0400 apply to any transfer of ownership that requires a transfer of the site certificate. [Final Order on ASC (2017), Mandatory Condition 10] [OAR 345-025-0006(15)]
GEN-GS-12	Deleted in *Final Order on Amendment 1* dated November 2020 [Final Order on ASC (2017), Site Specific Condition 1; AMD1 (2020)] [OAR 345-025-0010(5)]]
STANDARD: ORGANIZATIONAL EXPERTISE (OE) [OAR 345-022-0010]	
GEN-OE-01	Any matter of non-compliance under the site certificate is the responsibility of the certificate holder. Any notice of violation issued under the site certificate will be issued to the certificate holder. Any civil penalties under the site certificate will be levied on the certificate holder. [Final Order on ASC (2017), Organizational Expertise Condition 5]
GEN-OE-02	In addition to the requirements of OAR 345-026-0170, within 72 hours after discovery of incidents or circumstances that violate the terms or conditions of the site certificate, the certificate holder must report the conditions or circumstances to the department.

	[Final Order on ASC (2017), Organizational Expertise Condition 6]
GEN-OE-03	During facility construction and operation, the certificate holder shall report to the Department, within 7 days, any change in the corporate structure of the parent company, NextEra Energy Resources, LLC. The certificate holder shall report promptly to the Department any change in its access to the resources, expertise, and personnel of NextEra Energy Resources, LLC. [Final Order on AMD1 (2017), Organizational Expertise Condition 9]
GEN-OE-04	The certificate holder shall: a. Prior to and during construction, as applicable, provide evidence to the Department that a contractual agreement has been obtained for transport and disposal of battery and battery waste by a licensed hauler and requires the third-party to comply with all applicable laws and regulations, including applicable provisions of 49 CFR 173.185. b. Prior to transporting and disposing of battery and battery waste during facility operations, provide evidence to the Department that a contractual agreement has been obtained for transport and disposal of battery and battery waste by a licensed hauler and requires the third-party to comply with all applicable laws and regulations, including applicable provisions of 49 CFR 173.185. [Final Order on AMD2 (2018), Organizational Expertise Condition 10]
GEN-OE-05	The certificate holder is authorized to operationally share related or supporting facilities including the Interconnection Line, WREFII ~~Wheatridge West~~ collector substation, O&M building, access roads, temporary staging areas, all of which are governed either under ~~both~~ WREFI, ~~and~~ WREFII, WREFIII or WTSII site certificates. a. Within 30 days of use by ~~both~~ certificate holders of the shared facilities, the certificate holder must provide evidence to the Department that the certificate holders of the shared facilities have an executed agreement for shared use of any constructed shared facilities. The Shared Use Agreements must allow operation and maintenance personnel and contractors access to the shared facilities of WREFI, WREFII, WREFIII or WTSII. ~~b. If WREFI or WREFII propose to substantially modify any of the shared facilities listed in sub(a) of this condition, each certificate holder shall submit an amendment determination request or request for site certificate amendment to obtain a determination from the Department on whether a site certificate amendment is required or to process an amendment for both site certificates in order to accurately account for any significant change in the decommissioning amount required under Retirement and Financial Assurance Condition 5.~~ ~~c. Prior to facility decommissioning or if facility operations cease, each certificate holder shall submit an amendment determination request or request for site certificate amendment to document continued ownership and full responsibility, including coverage of full decommissioning amount of the shared facilities in the bond or letter of credit pursuant to Retirement and Financial Assurance Condition 5, for the operational facility, if facilities are decommissioned at different times.~~ [Final Order on AMD5 (2020); Organizational Expertise Condition 11; AMD1 (2020); AMD1 (2026)]

STANDARD: STRUCTURAL (SS) [OAR 345-022-0020]	
GEN-SS-01	The certificate holder shall design, engineer, and construct the facility in accordance with the current versions of the latest International Building Code, Oregon Structural Specialty Code, and building codes as adopted by the State of Oregon at the time of construction. [Final Order on ASC (2017), Structural Standard Condition 2]
STANDARD: LAND USE (LU) [OAR 345-022-0030]	
GEN-LU-01	The certificate holder shall design the facility to comply with the following setback distances in Morrow County: a-d. Deleted in Final Order on Amendment 1 dated November 2020. e. Solar facility components shall be setback: 20 feet from property fronting on a local minor collector road rights of way; 30 feet from property fronting on a major collector road right of way; and 80 feet from an arterial road right of way, unless other provisions for combining access are provided and approved by the county. f. East and west sides of solar facility components shall be setback 20 feet from adjacent land uses except that on corner lots or parcels the side yard on the street side shall be a minimum of 30 feet. g. North side of solar facility components shall be setback a minimum of 25 feet from any abutting property or taxlot. [Final Order on ASC (2017), Land Use Condition 1; AMD3 (2018); AMD4 (2019); AMD5 (2020); AMD1 (2020)]
GEN-LU-02	During design and construction of the facility, the certificate holder shall: a. Obtain an access permit for changes in access on Morrow County roads; and b. Improve or develop private access roads impacting intersections with Morrow County roads in compliance with Morrow County access standards. [Final Order on ASC (2017), Land Use Condition 4]
GEN-LU-03	During design and construction, the certificate holder shall implement the following actions on all meteorological towers approved through the site certificate: a. Paint the towers in alternating bands of white and red or aviation orange; or b. Install aviation lighting as recommended by the Federal Aviation Administration. [Final Order on ASC (2017), Land Use Condition 9]
GEN-LU-04	The certificate holder shall design and construct the facility using the minimum land area necessary for safe construction and operation. The certificate holder shall: a. Locate access roads and temporary construction laydown and staging areas to minimize disturbance of farming practices; b. Deleted in *Final Order on Amendment 1* dated November 2020. c. Site solar array collector lines, if aboveground, within or adjacent to an existing road, railroad or transmission line right-of-way; parallel to an existing transmission corridor; or co-located with existing transmission line or each other, unless not technically feasible due to lack of availability, geographic constraints, engineering limitations, or other reasons as agreed upon by the Department consistent with this condition. d. Bury underground communication and electrical lines within the area disturbed by temporary road widening, where possible. [Final Order on ASC (2017), Land Use Condition 11; AMD4 (2019); AMD1 (2020)]
GEN-LU-05 - 10	Deleted in *Final Order on Amendment 1* dated November 2020. [Final Order on ASC (2017), Land Use Conditions 14, 16, 20, 22, 24 and 28]
STANDARD: RETIREMENT AND FINANCIAL ASSURANCE (RT) [OAR 345-022-0050]	

GEN-RF-01	The certificate holder shall prevent the development of any conditions on the site that would preclude restoration of the site to a useful, non-hazardous condition to the extent that prevention of such site conditions is within the control of the certificate holder. [Final Order on ASC (2017), Retirement and Financial Assurance Condition 1] [Mandatory Condition OAR 345-025-0006(7)]
STANDARD: FISH AND WILDLIFE HABITAT (FW) [OAR 345-022-0060]	
GEN-FW-01	During construction and operation, the certificate holder shall impose a 20 mile per hour speed limit on new and improved private access roads, which have been approved as a related and supporting facility to the energy facility. [Final Order on ASC (2017), Fish and Wildlife Habitat Condition 2]
GEN-FW-02	The certificate holder shall construct all overhead collector and transmission intraconnection lines in accordance with the latest Avian Power Line Interaction Committee design standards, and shall only install permanent meteorological towers that are unguyed. [Final Order on ASC (2017), Fish and Wildlife Habitat Condition 6]
STANDARD: SCENIC RESOURCES (SR) [OAR 345-022-0080]	
GEN-SR-01	To reduce visual impacts associated with lighting facility structures, other than lighting on structures subject to the requirements of the Federal Aviation Administration or the Oregon Department of Aviation, the certificate holder shall implement the following measures: a. Outdoor night lighting at the ~~collector substations and~~ battery storage systems must be i. The minimum number and intensity required for safety and security; ii. Directed downward and inward within the facility to minimize backscatter and offsite light trespass; and iii. Have motion sensors and switches to keep lights turned off when not needed. [Final Order on ASC (2017), Scenic Resources Condition 1, AMD2 (2018); AMD1 (2020)]
GEN-SR-02	The certificate holder shall: a. Design and construct the battery storage systems to be generally consistent with the character of agricultural buildings used by farmers or ranchers in the area, and the buildings shall be finished in a neutral color to blend with the surrounding landscape; b-c. Deleted in Final Order on Amendment 1 dated November 2020. d. Finish ~~substation structures and~~ battery storage systems utilizing neutral colors to blend with the surrounding landscape; e. Minimize use of lighting and design lighting to prevent offsite glare; f. Not display advertising or commercial signage on any part of the proposed facility; g. Limit vegetation clearing and ground disturbance to the minimum area necessary to safely and efficiently install the facility equipment; h. Water access roads and other areas of ground disturbance during construction, as needed, to avoid the generation of airborne dust; and i. Restore and revegetate temporary impact areas as soon as practicable following completion of construction. [Final Order on ASC (2017), Scenic Resources Condition 2, AMD2 (2018), AMD1 (2020)]
STANDARD: PUBLIC SERVICES (PS) [OAR 345-022-0110]	
GEN-PS-01	During construction and operation, the certificate holder shall coordinate with its solid waste handler to provide the information solicited through the Oregon Department of Environmental Quality's Recycling Collector Survey to the Morrow County waste shed representative on an annual basis. [Final Order on ASC (2017), Public Services Condition 5]

GEN-PS-02	Deleted in *Final Order on Amendment 1* dated November 2020. [Final Order on ASC (2017), Public Services Condition 11]
GEN-PS-03	Prior to construction and operation of the facility, , the certificate holder must provide employee fire prevention and response training that includes instruction on facility fire hazards, fire safety, emergency notification procedures, use of fire safety equipment, and fire safety rules and regulations. The certificate holder shall notify the department and the first-response agencies listed in the Emergency Management Plan developed to comply with Public Services Condition 13 at least 30 days prior to the annual training to provide an opportunity to participate in the training. Equivalent training shall be provided to new employees or subcontractors working on site that are hired during the fire season. The certificate holder must retain records of the training and provide them to the department upon request. [Final Order on ASC (2017), Public Services Condition 18]
GEN-PS-04	Deleted in *Final Order on Amendment 1* dated November 2020. [Final Order on AMD2 (2018), Public Services Condition 23]
STANDARD: PUBLIC HEALTH AND SAFETY FOR WIND FACILITIES (WF) [OAR 345-024-0010]	
GEN-WF-01	Deleted in *Final Order on Amendment 1* dated November 2020. [Final Order on ASC (2017), Public Health and Safety Standards for Wind Facilities Condition 3]
GEN-WF-02	The certificate holder shall notify the department and the Morrow County Planning Department within 72 hours of any accidents including mechanical failures on the site associated with construction or operation of the facility that may result in public health or safety concerns. [Final Order on ASC (2017), Public Health and Safety Standards for Wind Facilities Condition 5; AMD1 (2020)]

4.3 Pre-Construction (PRE) Conditions

Condition Number	Pre-Construction (PRE) Conditions
STANDARD: ORGANIZATIONAL EXPERTISE (OE) [OAR 345-022-0010]	
PRE-OE-01	Before beginning construction of the facility, facility component or phase, as applicable, 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 changes of major contractors. [Final Order on ASC (2017), Organizational Expertise Condition 1; AMD1 (2020)]
PRE-OE-02	Before beginning construction of the facility, facility component or phase, as applicable, the certificate holder shall notify the department of the identity and qualifications of the construction manager to demonstrate that the construction manager is qualified in environmental compliance and has the capability to ensure compliance with all site certificate conditions. [Final Order on ASC (2017), Organizational Expertise Condition 2, AMD1 (2020)]
PRE-OE-03	Prior to construction of the facility, facility component or phase, as applicable, 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 on ASC (2017), Organizational Expertise Condition 3, AMD1 (2020)]
PRE-OE-04	Before beginning construction of the facility, facility component or phase, as applicable, the certificate holder shall notify the department before conducting any work on the site that does not qualify as surveying, exploration, or other activities to define or characterize the site. The notice must include a description of the work and evidence that its value is less than $250,000 or evidence that the certificate holder has satisfied all conditions that are required prior to beginning construction. [Final Order on ASC (2017), Organizational Expertise Condition 4, AMD1 (2020)]
PRE-OE-05	Prior to construction of the facility, facility component or phase, as applicable, the certificate holder must provide the department and Morrow County with the name(s) and location(s) of the aggregate source and evidence of the source's county permit(s). [Final Order on ASC (2017), Organizational Expertise Condition 7, AMD1 (2020)]
PRE-OE-06	The certificate holder must: a. Prior to construction of solar facility components approved in the Fourth Amended Site Certificate, provide to the Department a list of all third-party permits that would normally be governed by the site certificate and that are necessary for construction and operation (e.g. Water Pollution Control Facilities Permit, Air Contaminant Discharge Permit, Limited Water Use License). Once obtained, the certificate holder shall provide copies of third-party permits to the Department. b. During construction and operation, promptly report to the Department if any third-party permits referenced in sub(b) of this condition have been cited for a Notice of Violation. [Final Order on ASC (2017), Organizational Expertise Condition 8; AMD4 (2019); AMD5 (2020), AMD1 (2020)]

STANDARD: STRUCTURAL (SS) [OAR 345-022-0020]	
PRE-SS-01	Before beginning construction of the facility, facility component or phase, as applicable, the certificate holder must: a. Submit a protocol to the Department and Oregon Department of Geology & Mineral Industries (DOGAMI), for review, with the applicable codes, standards, and guidelines to be used, and proposed geotechnical work to be conducted for the site-specific geotechnical investigation report. b. Following receipt and review of Department and DOGAMI comments on the protocol per (a), the certificate holder shall conduct a site-specific geological and geotechnical investigation, and shall report its findings to DOGAMI and the department. The report shall be used by the certificate holder in final facility layout and design. The department shall review, in consultation with DOGAMI, and confirm that the investigation report includes an adequate assessment of the following information: • Subsurface soil and geologic conditions of the site boundary • Define and delineate geological and geotechnical hazards, and means to mitigate these hazards • Geotechnical design criteria and data for the foundations of substations, O&M buildings, battery storage systems, roads, and other related and supporting facilities • Design data for installation of underground and overhead collector lines, and overhead transmission lines • Investigation of specific areas with potential for slope instability and landslide hazards. Landslide hazard evaluation shall be conducted by LIDAR and field work, as recommended by DOGAMI • Investigations of the swell and collapse potential of loess soils within the site boundary. [Final Order on ASC (2017), Structural Standard Condition 1; AMD2 (2018), AMD1 (2020)]
PRE-SS-02	Prior to construction of the facility, facility component or phase, as applicable, the certificate holder shall include as part of the geotechnical investigation required per Structural Standard Condition 1, an investigation of all potentially active faults within the site boundary. The investigation shall include a description of the potentially active faults, their potential risk to the facility, and any additional mitigation that will be undertaken by the certificate holder to ensure safe design, construction, and operation of the facility. [Final Order on ASC (2017), Structural Standard Condition 3; AMD5 (2020), AMD1 (2020)]
PRE-SS-03	Prior to construction of the facility, facility component or phase, as applicable, the certificate holder shall include as part of the geotechnical investigation required per Structural Standard Condition 1 an investigation of specific areas with potential for slope instability and shall site solar arrays appropriate to avoid potential hazards. The landslide hazards shall be investigated and mapped before final facility layout and design. The landslide hazard evaluation shall be conducted by a combination of LIDAR and field work. [Final Order on ASC (2017), Structural Standard Condition 4, AMD1 (2020)]
PRE-SS-04	Prior to construction of the facility, facility component or phase, as applicable, the certificate holder shall include as part of the geotechnical investigation required per Structural Standard Condition 1, an investigation of the swell and collapse potential of loess soil in the site boundary. Based on the results of the investigation, the certificate holder shall include mitigation measures including, as necessary, over-excavating and replacing loess soil with structural fill, wetting and compacting, deep foundations, or avoidance of specific areas. [Final Order on ASC (2017), Structural Standard Condition 5, AMD1 (2020)]

STANDARD: SOIL PROTECTION (SP) [OAR 345-022-0022]	
PRE-SP-01	Prior to beginning construction, the certificate holder shall provide a copy of a DEQ-approved construction Spill Prevention Control and Countermeasures (SPCC) plan, to be implemented during facility construction. The SPCC plan shall include the measures described in Exhibit I of ASC and in the final order approving the site certificate. [Final Order on ASC (2017), Soil Protection Condition 3]
PRE-SP-02	Prior to construction of the facility, facility component or phase, as applicable, the certificate holder shall ensure that the final Revegetation Plan includes a program to protect and restore agricultural soils temporarily disturbed during facility construction. As described in the final order, agriculture soils shall be properly excavated, stored, and replaced by soil horizon. Topsoil shall be preserved and replaced. The Revegetation Plan shall be finalized pursuant to Fish and Wildlife Habitat Condition 11. [Final Order on ASC (2017), Soil Protection Condition 4, AMD1 (2020)]
PRE-SP-03	Deleted in *Final Order on Amendment 1* dated November 2020. [Final Order on ASC (2017), Soil Protection Condition 7]
STANDARD: LAND USE (LU) [OAR 345-022-0030]	
PRE-LU-01	Before beginning construction of the facility, facility component or phase, as applicable, the certificate holder shall complete the following: a. Pay the requisite fee and obtain a Zoning Permit from Morrow County for all facility components sited in Morrow County; and b. Obtain all other necessary local permits, including building permits. c. Provide the county with a building permit application, a third party technical report which includes: 1. Evaluates fire hazards and; 2. Presents mitigation and recommendations for a fire suppression system designed for the battery storage systems. d. The certificate holder shall provide copies of the third-party technical report and issued permits to the Department. [Final Order on ASC (2017), Land Use Condition 3; AMD2 (2018)]
PRE-LU-02	Before beginning construction of the facility, facility component or phase, as applicable, the certificate holder shall pay the requisite fee and obtain a Conditional Use Permit as required under Morrow County Zoning Ordinance Article 6 Section 6.015. [Final Order on ASC (2017), Land Use Condition 5, AMD1 (2020)]
PRE-LU-03	Before beginning construction of the facility, facility component or phase, as applicable, the certificate holder shall prepare a Weed Control Plan that is consistent with Morrow County weed control requirements to be approved by the department. The department shall consult with Morrow County and ODFW. The final plan must be submitted to the department no less than 30 days prior to the beginning of construction. The certificate holder shall implement the requirements of the approved plan during all phases of construction and operation of the facility. [Final Order on ASC (2017), Land Use Condition 6; AMD5 (2020), AMD1 (2020)]
PRE-LU-04	Before beginning construction of the facility, facility component or phase, as applicable, the certificate holder shall record in the real property records of Morrow County a Covenant Not to Sue with regard to generally accepted farming practices on adjacent farmland. [Final Order on ASC (2017), Land Use Condition 7, AMD1 (2020)]

PRE-LU-05	Prior to beginning construction of the facility, facility component or phase, as applicable, the certificate holder shall consult with surrounding landowners and lessees and shall consider proposed measures to reduce or avoid any adverse impacts to farm practices on surrounding lands and to avoid any increase in farming costs during construction and operation of the facility. Prior to beginning construction, the certificate holder shall provide evidence of this consultation to the department and Morrow County. [Final Order on ASC (2017), Land Use Condition 12; AMD5 (2020), AMD1 (2020)]
PRE-LU-06	Before beginning construction of the facility, facility component or phase, as applicable, the certificate holder shall work with the Morrow County Road Department to identify specific construction traffic related concerns, and develop a traffic management plan that specifies necessary traffic control measures to mitigate the effects of the temporary increase in traffic. The certificate holder must provide a copy of the traffic management plan to the department and Morrow County, and must implement the traffic management plan during construction. [Final Order on ASC (2017), Land Use Condition 13, AMD1 (2020)]
PRE-LU-07	Deleted in *Final Order on Amendment 1* dated November 2020. [Final Order on ASC (2017), Land Use Condition 15; AMD2 (2018)]
PRE-LU-08	Prior to facility construction of the facility, facility component or phase, as applicable, the certificate holder shall install gates and no trespassing signs at all private access roads established or improved for the purpose of facility construction and operation if requested by the underlying landowner. [Final Order on ASC (2017), Land Use Condition 18; AMD4 (2019), AMD1 (2020)]
PRE-LU-09	Deleted in *Final Order on Amendment 1* dated November 2020. [Final Order on ASC (2017), Land Use Condition 21]
STANDARD: RETIREMENT AND FINANCIAL ASSURANCE (RT) [OAR 345-022-0050]	
PRE-RF-01	Before beginning construction of the facility, the certificate holder shall submit to the State of Oregon, through the Council, a bond or letter of credit in a form and amount satisfactory to the Council to restore the site to a useful, non-hazardous condition. The certificate holder shall maintain a bond or letter of credit in effect at all times until the facility has been retired. The Council may specify different amounts for the bond or letter of credit during construction and during operation of the facility. [Final Order on ASC (2017), Retirement and Financial Assurance Condition 4, AMD1] [Mandatory Condition OAR 345-025-0006(8)]
PRE-RF-02	Before beginning construction of solar energy facility components or its related or supporting facilities, the certificate holder shall submit to the State of Oregon, through the Council, a bond or letter of credit naming the State of Oregon, acting by and through the Council, as beneficiary or payee. The initial bond or letter of credit amount for the solar facility components is $9.4 million dollars (Q4 2018 dollars), to be adjusted to the date of issuance based on the line items and unit costs presented in Table 4 of the *Final Order on Amendment 4* (November 2019), and adjusted on an annual basis thereafter, as described in sub-paragraph (2) of this condition: 1. The certificate holder may adjust the amount of the initial bond or letter of credit based on the final design configuration of the facility. Any revision to the restoration costs should be adjusted to the date of issuance as described in (2) and subject to review and approval by the Council. 2. The certificate holder shall adjust the amount of the bond or letter of credit using the following calculation: i. Adjust the amount of the bond or letter of credit (expressed in Q4 2018 dollars for solar facility components)) to present value, 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 and

	using the fourth quarter 2018 index value and the quarterly index value for the date of issuance of the new bond or letter of credit. If at any time the index is no longer published, the Council shall select a comparable calculation to adjust fourth quarter 2018 dollars to present value. ii. Round the result total to the nearest $1,000 to determine the financial assurance amount. 3. The certificate holder shall use an issuer of the bond or letter of credit approved by the Council. 4. The certificate holder shall use a form of bond or letter of credit approved by the Council. The certificate holder shall describe the status of the bond or letter of credit in the annual report submitted to the Council under OAR 345-026-0080. The bond or letter of credit shall not be subject to revocation or reduction before retirement of the facility site. [Final Order on ASC (2017), Retirement and Financial Assurance Condition 5; AMD2 (2018); AMD4 (2019); AMD5 (2020), AMD1 (2020)]
STANDARD: FISH AND WILDLIFE HABITAT (FW) [OAR 345-022-0060]	
PRE-FW-01	Prior to final site design and facility layout, the certificate holder shall conduct a field-based habitat survey to confirm the habitat categories of all areas that will be affected by facility components, as well as the locations of any sensitive resources such as active raptor and other bird nests. The 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 also include an updated version of Table FW-1 Potential Temporary and Permanent Impacts by Habitat Category and Type of the final order, showing 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 micrositing 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 all 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. In classifying the affected habitat into habitat categories, the certificate holder shall consult with the department and ODFW. The certificate holder shall not begin construction of the facility until the habitat assessment, categorization, and impact assessment has been approved by the department, in consultation with ODFW. The certificate holder shall not construct any facility components within areas of Category 1 habitat and shall avoid temporary disturbance of Category 1 habitat. [Final Order on ASC (2017), Fish and Wildlife Habitat Condition 1, AMD1 (2020)]
PRE-FW-02	Prior to construction of the facility, the certificate holder shall finalize and implement the Wildlife Monitoring and Mitigation Plan (WMMP) provided in Attachment F-1 of the *Final Order on Request for Amendment 1 of Wheatridge Renewable Energy Facility II Site Certificate* (November 2020), based on the final facility design, as approved by the department in consultation with ODFW. a. The final WMMP must be submitted and ODOE's concurrence received prior to the beginning of construction. ODOE shall consult with ODFW on the final WMMP. The certificate holder shall implement the requirements of the approved WMMP during all phases of construction and operation of the facility. b. The WMMP 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 the WMMP agreed to by the Department. [Final Order on ASC (2017), Fish and Wildlife Habitat Condition 4; AMD5 (2020), AMD1 (2020)]
PRE-FW-03	Prior to construction of the facility, facility component or phase, as applicable, the certificate holder shall flag all environmentally sensitive areas as restricted work zones. Restricted work zones shall include but not be limited to areas with sensitive or protected plant species, including candidate species, wetlands and waterways that are not authorized for construction impacts, areas with seasonal restrictions, and active state sensitive species bird nests. [Final Order on ASC (2017), Fish and Wildlife Habitat Condition 8, AMD1 (2020)]
PRE-FW-04	Before beginning construction of the facility, facility component or phase, as applicable, the certificate holder shall prepare and receive approval from the department of a final Habitat Mitigation Plan, substantially as presented in Attachment C-1 of the *Final Order on Amendment 1 of the Wheatridge Renewable Energy Facility II Site Certificate* (November 2020). The final Habitat Mitigation Plan shall be based on the final facility design and shall be approved by the department in consultation with ODFW. The Council retains the authority to approve, reject or modify the final HMP. a. The final Habitat Mitigation Plan and the department's approval must be received prior to beginning construction. The department shall consult with ODFW on the final plan. The certificate holder shall implement the requirements of the approved plan during all phases of construction and operation of the facility. b. The certificate holder shall calculate the size of the habitat mitigation area according to the final design configuration of the facility and the estimated areas of habitat affected in each habitat category, in consultation with the department, as per the pre-construction survey results and impact assessment calculations called for in Fish and Wildlife Habitat Condition 1. c. The certificate holder shall acquire the legal right to create, enhance, maintain, and protect the habitat mitigation area, as long as the site certificate is in effect, by means of an outright purchase, conservation easement or similar conveyance and shall provide a copy of the documentation to the department prior to the start of construction. Within the habitat mitigation area, the certificate holder shall improve the habitat quality as described in the final Habitat Mitigation Plan. d. The certificate holder shall provide a habitat assessment of the habitat mitigation area, based on a protocol approved by the Department in consultation with ODFW, which includes methodology, habitat map and available acres by habitat category and subtype in tabular format. e. The final HMP shall include an implementation schedule for all mitigation actions, including securing the conservation easement, conducting the ecological uplift actions at the habitat mitigation area, revegetation and restoration of temporarily impacted areas, and monitoring. The mitigation actions shall be implemented according to the following schedule, as included in the HMP: i. Restoration and revegetation of temporary construction-related impact area shall be conducted as soon as possible following construction. ii. The certificate holder shall obtain legal authority to conduct the required mitigation work at the compensatory habitat mitigation site before commencing construction. The habitat enhancement actions at the compensatory habitat mitigation site shall be implemented concurrent with construction. f. The final HMP shall include a monitoring and reporting program for evaluating the effectiveness of all mitigation actions, including restoration of temporarily impacted areas and ecological uplift actions at the habitat mitigation area. g. The final HMP shall include mitigation in compliance with the Council's Fish and Wildlife Habitat standard, including mitigation for temporary impacts to Category 4 habitat (shrub-steppe habitat); and, mitigation for all Category 2 habitat impacts that meet the mitigation

	goal of no net loss of habitat quality or quantity, plus a net benefit of habitat quality or quantity. h. The final HMP 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. [Final Order on ASC (2017), Fish and Wildlife Habitat Condition 10, AMD1 (2020)]
PRE-FW-05	Before beginning construction of the facility, facility component or phase, as applicable, the certificate holder shall prepare and receive approval of a final Revegetation Plan, provided as Attachment D-1 of the *Final Order on Amendment 1 of the Wheatridge Renewable Energy Facility II Site Certificate* (November 2020), from the Department, in consultation with Morrow County and ODFW. The certificate holder shall implement the requirements of the approved plan during all phases of construction and operation of the facility. [Final Order on ASC (2017), Fish and Wildlife Habitat Condition 11; AMD5 (2020), AMD1 (2020)]
STANDARD: THREATENED AND ENDANGERED SPECIES (TE) [OAR 345-022-0070]	
PRE-TE-01	Prior to construction of the facility, facility component or phase, as applicable, the certificate holder shall determine the boundaries of Category 1 Washington ground squirrel habitat. The certificate holder shall hire a qualified professional biologist who has experience in detection of Washington ground squirrel to conduct pre-construction surveys using a survey protocol approved by the department in consultation with ODFW. The biologist shall survey all areas of suitable habitat within 1,000 feet of any ground disturbing activity. Ground disturbing activity refers to any potential impact, whether permanent or temporary. The protocol surveys shall be conducted in the active squirrel season (March 1 to May 31) prior to construction commencement. The protocol survey is valid for three years. If construction begins within three years of conducting the protocol survey, but not within one year of the protocol survey, the certificate holder shall conduct a pre-construction survey only within areas of suitable Washington ground squirrel habitat where ground disturbing activity would occur. The certificate holder shall provide written reports of the surveys to the department and to ODFW and shall identify the boundaries of Category 1 Washington ground squirrel (WGS) habitat. The certificate holder shall not begin construction within suitable habitat until the identified boundaries of Category 1 WGS habitat have been approved by the department, in consultation with ODFW. The certificate holder shall avoid any permanent or temporary disturbance in all Category 1 WGS habitat. The certificate holder shall ensure that these sensitive areas are correctly marked with exclusion flagging and avoided during construction. [Final Order on ASC (2017), Threatened and Endangered Species Condition 1, AMD1 (2020)]
PRE-TE-02	In accordance with Fish and Wildlife Habitat Condition 4, prior to construction, the certificate holder shall finalize and implement the Wildlife Monitoring and Mitigation Plan (WMMP) provided in Attachment F-1 of the *Final Order on Amendment 1 of the Wheatridge Renewable Energy Facility II Site Certificate* (November 2020), based on the final facility design, as approved by the department in consultation with ODFW. The final WMMP shall include a program to monitor potential impacts from facility operation on Washington ground squirrel. Monitoring shall be of any known colonies and shall be completed on the same schedule as the raptor nest monitoring for the facility. The monitoring surveys shall include returning to the known colonies to determine occupancy and the extent of the colony as well as a general explanation of the amount of use at the colony. If the colony is not found within the known boundary of the historic location a survey 500 feet out from the known colony will be conducted to determine if the colony has shifted over time. Any new colonies that are located during other monitoring activities, such as raptor nest monitoring surveys, shall be documented and the extent of those colonies should be delineated as

	well. These newly discovered colonies shall also be included in any future WGS monitoring activities. [Final Order on ASC (2017), Threatened and Endangered Species Condition 2]
PRE-TE-03	To avoid potential impacts to Laurent's milkvetch, the certificate holder must: i. Conduct preconstruction plant surveys for Laurent's milkvetch within 100-feet of temporary and permanent disturbance from all facility components, unless extent of survey area within suitable habitat from temporary and permanent disturbance is otherwise agreed upon by the Department on consultation with Oregon Department of Agriculture. If the species is found to occur, the certificate holder must install protection flagging around the plant population and avoid any ground disturbance within this zone. ii. Ensure that any plant protection zone established under (i) above is included on construction plans showing the final design locations. iii. If herbicides are used to control weeds, the certificate holder shall follow the manufacturer's guidelines in establishing a buffer area around confirmed populations of Laurent's milkvetch. Herbicides must not be used within the established buffers. iv. If avoidance cannot be maintained, the certificate holder may request that the Department consider an avoidance exception, authorized through Council concurrence as further described below. The exception request must include an impact assessment and mitigation plan for the affected species including but not be limited to: • Literature review and/or field studies that inform the current status of the species within the survey area or region, if survey area does not contain sufficient information to develop a statistically viable approach for determining impact significance; • A description of the individual(s) or population(s) identified within the survey area that would be avoided and impacted; • An evaluation of facility impacts on the survival or recovery of the species, in accordance with the Threatened and Endangered Species standard; • Proposed mitigation measures such as: funded studies that improve understanding of reproductive biology and pollination; development of seed germination, propagation, and transplanting protocols; and/or, compensatory mitigation project including conservation easement(s) and species propagation, protection, and habitat enhancement measures, and/or other proposed mitigation measures that would benefit the affected species. • The Department's review and determination of the exception request shall be conducted in consultation with the Oregon Department of Agriculture, or a third-party consultant. The Department's determination on the exception request must be concurred with by Council. Council retains authority to reject, modify or concur with the exception request. [Final Order on ASC (2017), Threatened and Endangered Species Condition 3; AMD3 (2018); AMD4 (2019)]
STANDARD: HISTORIC, CULTURAL, AND ARCHAEOLOGICAL RESOURCES (HC) [OAR 345-022-0090]	
PRE-HC-01	Before beginning construction, the certificate holder shall provide to the department a map showing the final design locations of all components of the facility, the areas that will be temporarily disturbed during construction and the areas that were surveyed in 2018-2020 for historic, cultural, and archaeological resources. [Final Order on ASC (2017), Historic, Cultural, and Archeological Resources Condition 1, AMD1 (2020)]
PRE-HC-02	Before beginning construction, the certificate holder shall mark the buffer areas established under Historic, Cultural, and Archeological Resources Condition 3 for all identified historic, cultural, or

	archaeological resource sites (including those of unknown age) on construction maps and drawings as "no entry" areas. A copy of current maps and drawings must be maintained onsite during construction and made available to the department upon request. [Final Order on ASC (2017), Historic, Cultural, and Archeological Resources Condition 2, AMD1 (2020)]
PRE-HC-03	Before beginning construction of the facility, facility component or phase, as applicable, the certificate holder shall ensure that a qualified archeologist, as defined in OAR 736-051-0070, trains construction contractors on how to identify sensitive historic, cultural, and archaeological resources present onsite and on measures to avoid accidental damage to identified resource sites. Records of such training must be maintained onsite during construction, and made available to the department upon request. [Final Order on ASC (2017), Historic, Cultural, and Archeological Resources Condition 4, AMD1 (2020)]
STANDARD: PUBLIC SERVICES (PS) [OAR 345-022-0110]	
PRE-PS-01	Prior to construction, the certificate holder shall prepare a Traffic Management Plan that includes the procedures and actions described in this order and the mitigation measures identified in ASC Exhibit U, Section 3.5.4. The plan shall be approved by the department in consultation with the appropriate transportation service providers. The plan shall be maintained onsite and implemented throughout construction of the facility. In addition, the certificate holder shall include the following information in the plan: a. Procedures to provide advance notice to all affected local jurisdictions and adjacent landowners of construction deliveries and the potential for heavy traffic on local roads; b. A policy of including traffic control procedures in contract specifications for construction of the facility; c. Procedures to maintain at least one travel lane at all times to the extent reasonably possible so that roads will not be closed to traffic because of construction vehicles; d. A policy of ensuring that no equipment or machinery is parked or stored on any county road whether inside or outside the site boundary. The certificate holder may temporarily park equipment off the road but within county rights-of-way with the approval of the Morrow County Public Works Department; e. A policy to encourage and promote carpooling for the construction workforce; and f. Procedures to keep state highways and county roads free of gravel that may be tracked out on intersecting roads at facility access points. [Final Order on ASC (2017), Public Services Condition 6, AMD1 (2020)]
PRE-PS-02	Before beginning construction, the certificate holder must enter into Road Use Agreements with the Morrow County Public Works Departments. The Agreements must include, at a minimum, a pre-construction assessment of road surfaces under Morrow County jurisdiction, construction monitoring, and post-construction inspection and repair. A copy of the Road Use Agreements with Morrow County must be submitted to the department before beginning construction. If required by Morrow County, the certificate holder shall post bonds to ensure funds are available to repair and maintain roads affected by the facility. [Final Order on ASC (2017), Public Services Condition 7, AMD1 (2020)]
PRE-PS-03	The certificate holder shall design and construct new access roads and private road improvements to standards approved by Morrow County. Where modifications of county roads are necessary, the certificate holder shall construct the modifications entirely within the county road rights-of-way and in conformance with county road design standards subject to the approval of the Morrow County Public Works Department. [Final Order on ASC (2017), Public Services Condition 8, AMD1 (2020)]

PRE-PS-04	Before beginning construction of the facility, facility component or phase, as applicable, the certificate holder shall: a. Complete the Federal Aviation Administration (FAA) Notice Criteria Tool for solar facility coordinates to determine applicability of the FAA 7460 filing. If the FAA Notice Criteria Tool requires FAA filing, the certificate holder will submit to the FAA and the Oregon Department of Aviation an FAA Form 7460-1 Notice of Proposed Construction or Alteration. b. Submit to the Oregon Department of Aviation the solar facility coordinates for purposes of an aeronautical study and determination. If the Department, in consultation with the Oregon Department of Aviation, determines that the facility would adversely impact an airport's ability to provide service by obstructing the airport's primary or horizontal surface, the department, in consultation with the Oregon Department of Aviation and the certificate holder, shall determine appropriate mitigation, if any, prior to construction. [Final Order on ASC (2017), Public Services Condition 9; AMD1 (2020)]
PRE-PS-05	Prior to construction, the certificate holder shall prepare an Emergency Management Plan that includes the procedures and actions described in this order and in ASC Exhibit U. The certificate holder shall submit the plan to ODOE for review and approval in consultation with the appropriate local fire protection districts (including the City of Heppner Volunteer Fire Department and Ione Rural Fire Protection District) prior to construction. The plan shall be maintained onsite and implemented throughout construction and operation of the facility. Any updates to the plan shall be provided to the department within 30 days. All onsite workers shall be trained on the fire prevention and safety procedures contained in the plan prior to working on the facility. Additional information that shall be included in the plan: a. Current contact information of at least two facility personnel available to respond on a 24-hour basis in case of an emergency on the facility site. The contact information must include name, telephone number(s), physical location, and email address for the listed contact(s). An updated list must be provided to the fire protection agencies immediately upon any change of contact information. A copy of the contact list, and any updates as they occur, must also be provided to the Department, along with a list of the agencies that received the contact information. b. Identification of agencies that participated in developing the plan; c. Identification of agencies that are designated as first response agencies or are included in any mutual aid agreements with the facility; d. A list of any other mutual aid agreements or fire protection associations in the vicinity of the facility; e. Contact information for each agency listed above; f. Communication protocols for both routine and emergency events and the incident command system to be used in the event a fire response by multiple agencies is needed at the facility; g. Access and fire response at the facility site during construction and operations. Fire response plans during construction should address regular and frequent communication amongst the agencies regarding the number and location of construction sites within the site boundary, access roads that are completed and those still under construction, and a temporary signage system until permanent addresses and signs are in place; h. The designated meeting location in case of evacuation; i. Staff training requirements; and j. Copies of mutual aid, fire protection association, or other agreements entered into concerning fire protection at the facility site. [Final Order on ASC (2017), Public Services Condition 13, AMD1 (2020)]

PRE-PS-06	Before beginning construction, the certificate holder shall develop and implement, or require its contractors to develop and implement, a site health and safety plan that informs workers and others onsite about first aid techniques and what to do in case of an emergency. The health and safety plan will include preventative measures, important telephone numbers, the locations of onsite fire extinguishers, and the names, locations and contact information of nearby hospitals. All onsite workers shall be trained in safety and emergency response, as per the site health and safety plan. The site health and safety plan must be updated on an annual basis, maintained throughout the construction and operations and maintenance phases of the facility, and available upon request by the department. [Final Order on ASC (2017), Public Services Condition 20, AMD1 (2020)]
PRE-PS-07	Before beginning construction of the facility, facility component or phase, as applicable, the certificate holder shall ensure that all construction workers are certified in first aid, cardio pulmonary resuscitation (CPR), and the use of an automated external defibrillator (AED). The certificate holder must retain records of the certifications and provide them to the department upon request. The certificate holder shall also ensure that an AED is available onsite at all times that construction activities are occurring. [Final Order on ASC (2017), Public Services Condition 21, AMD1 (2020)]
STANDARD: WASTE MINIMIZATION (WM) [OAR 345-022-0120]	
PRE-WM-01	Prior to construction, the certificate holder shall develop a construction waste management plan, to be implemented during all phases of facility construction, which includes at a minimum the following details: a. Specification of the number and types of waste containers to be maintained at construction sites and construction yards b. Description of waste segregation methods for recycling or disposal. c. Names and locations of appropriate recycling and waste disposal facilities, collection requirements, and hauling requirements to be used during construction. The certificate holder shall maintain a copy of the construction waste management plan onsite and shall provide to the department a report on plan implementation in the 6-month construction report required pursuant to OAR 345-026-0080(1)(a). [Final Order on ASC (2017), Waste Minimization Condition 2, AMD1 (2020)]
PRE-WM-02	Prior to construction, the certificate holder shall investigate and confirm that no surfaces waters, shallow groundwater, or drinking water sources will be adversely impacted by the usage of concrete washout water in the foundations of facility components, and shall submit an investigation report to the department. Prior to construction, the department, in consultation with DEQ, shall review the results of the investigation report and shall verify that the plan to dispose of concrete washout water in the foundations of facility components is unlikely to adversely impact surface waters, shallow groundwater, or drinking water sources. The applicant's investigation shall be based on the anticipated final facility layout and design. If the results of the investigation show that the proposed concrete washout water disposal method would cause adverse impacts to surface water, shallow groundwater, or drinking water sources, the applicant shall propose mitigation measures to reduce potential impacts, for review and approval by the department in consultation with DEQ, prior to construction. [Final Order on ASC (2017), Waste Minimization Condition 3, AMD1 (2020)]

STANDARD: SITING STANDARDS FOR TRANSMISSION LINES (TL) [OAR 345-024-0090]	
PRE-TL-01	Prior to construction, the certificate holder shall schedule a time to brief the OPUC Safety, Reliability, and Security Division (Safety) Staff as to how it will comply with OAR Chapter 860, Division 024 during design, construction, operations, and maintenance of the facilities. [Final Order on ASC (2017), Siting Standard Condition 2]
STANDARD: NOISE CONTROL REGULATION (NC) [OAR 345-035-0035]	
PRE-NC-01	Prior to construction, the certificate holder shall provide to the department: a. Information that identifies the final design locations of all facility components to be built at the facility; b. The maximum sound power level for the facility components including transformers (substation and solar array), invertors, battery storage cooling system 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 transformers, inverters and battery storage cooling systems) would meet the ambient noise degradation test and maximum allowable test at the appropriate measurement point for all potentially-affected noise sensitive properties, or that the certificate holder has obtained the legally effective easement or real covenant for expected exceedances of the ambient noise degradation test described (d) below. d. For each noise-sensitive property where the certificate holder relies on a noise waiver to demonstrate compliance in accordance with OAR 340-035-0035(1)(b)(B)(iii)(III), a copy of the 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 L_{10} and L_{50} by more than 10 dBA at the appropriate measurement point. The legally effective easement or real covenant must: include a legal description of the burdened property (the noise sensitive property); be recorded in the real property records of the county; expressly benefit the property on which the solar energy facility is located; expressly run with the land and bind all future owners, lessees or holders of any interest in the burdened property; and not be subject to revocation without the certificate holder's written approval. [Final Order on ASC (2017), Noise Control Condition 2; AMD3 (2018), AMD1 (2020)]

4.4 Construction (CON) Conditions

Condition Number	Construction (CON) Conditions
STANDARD: SOIL PROTECTION (SP) [OAR 345-022-0022]	
CON-SP-01	During construction, the certificate holder shall conduct all work in compliance with a final Erosion and Sediment Control Plan (ESCP) that is satisfactory to the Oregon Department of Environmental Quality as required under the National Pollutant Discharge Elimination System Construction Stormwater Discharge General Permit 1200-C. [Final Order on ASC (2017), Soil Protection Condition 1]
CON-SP-02	During construction, the erosion and sediment control best management practices and measures as described in ASC Exhibit I, Section 5.2 and listed in the final order approving the site certificate shall be included and implemented as part of the final ESCP. [Final Order on ASC (2017), Soil Protection Condition 2]
STANDARD: LAND USE (LU) [OAR 345-022-0030]	
CON-LU-01	During construction, the certificate holder shall comply with the following requirements: a. Construction vehicles shall use previously disturbed areas including existing roadways and tracks. b. Temporary construction yards and laydown areas shall be located within the future footprint of permanent structures to the extent practicable. c. New, permanent roadways will be the minimum width allowed while still being consistent with safe use and satisfying county road and safety standards. d. Underground communication and electrical lines will be buried within the area disturbed by temporary road widening to the extent practicable. [Final Order on ASC (2017), Land Use Condition 8]
CON-LU-02	Deleted in *Final Order on Amendment 1* dated November 2020. [Final Order on ASC (2017), Land Use Condition 17]
CON-LU-03	During construction, the certificate holder shall install the electrical cable collector system underground, where practicable. In agricultural areas, the collector system lines must be installed at a depth of 3 feet or deeper as necessary to prevent adverse impacts on agriculture operations. In all other areas, the collector system lines must be installed a minimum of 3 feet where practicable. [Final Order on ASC (2017), Land Use Condition 19]
STANDARD: FISH AND WILDLIFE HABITAT (FW) [OAR 345-022-0060]	
CON-FW-01	Deleted in *Final Order on Amendment 1* dated November 2020. [Final Order on ASC (2017), Fish and Wildlife Habitat Condition 3; AMD4]

<table>
<tr><td>CON-FW-02</td><td>Prior to construction, the certificate holder shall develop a construction plan that demonstrates construction activities within 0.25-mile of previously identified active nest sites are scheduled to avoid the sensitive nesting and breeding season. Previously identified active nest sites are those identified through the pre-construction raptor nest survey as required through Condition PRE-FW-01 and may also include any previously identified active nest sites from previous surveys.

During construction within the time periods listed below, the certificate holder shall implement buffer zones around active nest sites of the species listed below. Active nest sites shall be identified based on the Condition PRE-FW-01 pre-construction nest survey and be monitored during construction by a biological monitor, both of which shall be based on a protocol approved by the Department in consultation with ODFW-specifying methodology and frequency of monitoring. No ground-disturbing activities within the buffer zone shall occur during the seasonal restrictions. The construction workforce and facility employees must be provided maps with the locations of the buffer zones and be instructed to avoid ground-disturbing activity within the buffer zone during construction activities.

<table><tr><th>Sensitive Status Species</th><th>Buffer Size (Radius Around Nest Site):</th><th>Sensitive Nesting and Breeding Season :</th></tr><tr><td>Western burrowing owl</td><td>0.25 mile</td><td>April 1 to August 15</td></tr><tr><td>Ferruginous hawk</td><td>0.25 mile</td><td>March 15 to August 15</td></tr><tr><td>Swainson’s hawk</td><td>0.25 mile</td><td>April 1 to August 15</td></tr></table>
If avoidance within the buffer restrictions cannot be maintained, the certificate holder may request approval from the Department in consultation with ODFW on a mitigation and conservation strategy for condition compliance.
[Final Order on ASC (2017), Fish and Wildlife Habitat Condition 5; AMD3 (2018); AMD4 (2019)]</td></tr>
<tr><td>CON-FW-03</td><td>During construction, the certificate holder shall employ a qualified environmental professional to provide environmental training to all personnel prior to working onsite, related to sensitive species present onsite, precautions to avoid injuring or destroying wildlife or sensitive wildlife habitat, exclusion areas, permit requirements and other environmental issues. All personnel shall be given clear maps showing areas that are off-limits for construction, and shall be prohibited from working outside of the areas in the site boundary that have been surveyed and approved for construction. The certificate holder shall instruct construction personnel to report any injured or dead wildlife detected while on the site to the appropriate onsite environmental manager. Records of completed training shall be maintained onsite and made available to the department upon request.
[Final Order on ASC (2017), Fish and Wildlife Habitat Condition 7]</td></tr>
<tr><td>CON-FW-04</td><td>During construction, the certificate holder shall employ at a minimum one environmental inspector to be onsite daily. The environmental inspector shall oversee permit compliance and construction, and ensure that known sensitive environmental resources are protected. The environmental inspector shall prepare a weekly report during construction, documenting permit compliance and documenting any corrective actions taken. Reports shall be kept on file and available for inspection by the department upon request.
[Final Order on ASC (2017), Fish and Wildlife Habitat Condition 9]</td></tr>
</table>

STANDARD: HISTORIC, CULTURAL, AND ARCHAEOLOGICAL RESOURCES (HC) [OAR 345-022-0090]	
CON-HC-01	Prior to construction activities, the certificate holder must flag or otherwise mark a 200-foot avoidance buffer around historic archaeological sites, as identified by the maps and drawings prepared in accordance with Historic, Cultural, and Archeological Resources Conditions 1 and 2. No disturbance is allowed within the buffer zones unless resources assumed likely NRHP eligible (e.g. 6B2H-MC-ISO-17, WRII-BB-IS-01, WRII-DM-04) are concurred not likely National Register of Historic Places (NRHP) eligible through SHPO review or a Historic, Cultural, and Archaeological Resources mitigation plan is submitted and accepted by the Department and SHPO which includes measures such as: additional archival and literature review; video media publications; public interpretation funding; or other form of compensatory mitigation deemed appropriate by the Department, in consultation with SHPO. For historic archaeological sites, an archeological monitor must be present if construction activities are required within 200-feet of sites identified as potentially eligible for listing on the NRHP unless otherwise agreed to by the Department and SHPO. The certificate holder may use existing private roads within the buffer areas but may not widen or improve private roads within the buffer areas. The no-entry restriction does not apply to public road rights-of-way within buffer areas. Flagging or marking must be removed immediately upon cessation of activities in the area that pose a threat of disturbance to the site being protected. [Final Order on ASC (2017), Historic, Cultural, and Archeological Resources Condition 3; AMD4 (2019)]
CON-HC-02	During construction, the certificate holder shall ensure that construction personnel cease all ground-disturbing activities in the immediate area if any archeological or cultural resources are found during construction of the facility until a qualified archeologist can evaluate the significance of the find. The certificate holder shall notify the department and the Oregon State Historic Preservation Office (SHPO) of the find. If ODOE, in consultation with SHPO, determines that the resource meets the definition of an archaeological object, archaeological site, or is eligible or likely to be eligible for listing on the (NRHP), the certificate holder shall, in consultation with the department, SHPO, interested Tribes and other appropriate parties, make recommendations to the Council for mitigation, including avoidance, field documentation and data recovery. The certificate holder shall not restart work in the affected area until the department, in consultation with SHPO, agree that the certificate holder has demonstrated that it has complied with archeological resources protection regulations. [Final Order on ASC (2017), Historic, Cultural, and Archeological Resources Condition 5]
STANDARD: PUBLIC SERVICES (PS) [OAR 345-022-0110]	
CON-PS-01	During construction, the certificate holder shall include the following additional measures in the construction waste management plan required by Waste Minimization Condition 2: a. Recycling steel and other metal scrap. b. Recycling wood waste. c. Recycling packaging wastes such as paper and cardboard. d. Collecting non-recyclable waste for transport to a local landfill by a licensed waste hauler or by using facility equipment and personnel to haul the waste. Waste hauling by facility personnel within Morrow County shall be performed in compliance with the Morrow County Solid Waste Management Ordinance, which requires that all loads be covered and secured. e. Segregating all hazardous and universal wastes such as used oil, oily rags and oil-absorbent materials, mercury-containing lights and lead-acid and nickel-cadmium batteries for disposal by a licensed firm specializing in the proper recycling or disposal of hazardous and universal wastes.

	f. Discharging concrete truck rinse-out within foundation holes, completing truck wash-down off-site, and burying other concrete waste as fill on-site whenever possible. [Final Order on ASC (2017), Public Services Condition 3]
CON-PS-02	During construction of the facility, the certificate holder shall provide for 24-hour on-site security, and shall establish effective communications between on-site security personnel and the Morrow County Sheriff's Office. [Final Order on ASC (2017), Public Services Condition 10, AMD1 (2020)]
CON-PS-03 - 04	Deleted in *Final Order on Amendment 1* dated November 2020. [Final Order on ASC (2017), Public Services Conditions 14 and 16]
CON-PS-05	During construction the certificate holder must maintain an area clear of vegetation for fire prevention around construction sites, including towers and any areas where work includes welding, cutting, grinding, or other flame- or spark-producing operations. [Final Order on ASC (2017), Public Services Condition 17, AMD1 (2020)]
STANDARD: WASTE MINIMIZATION (WM) [OAR 345-022-0120]	
CON-WM-01	During construction, the certificate holder shall require construction contractors to complete the following for any off-site disposal of excess soil during construction activities: a. Obtain and provide the certificate holder with a signed consent agreement between contractor and the party receiving the earth materials authorizing the acceptance and disposal of the excess soil; and, b. Confirm that all disposal sites have been inspected and approved by the certificate holder's environmental personnel to ensure that sensitive environmental resources, such as wetlands or high quality habitats, would not be impacted. The certificate holder shall maintain copies of all signed consent agreements and disposal site inspection and approvals onsite and shall provide to the department in the 6-month construction report required pursuant to OAR 345-026-0080(1)(a). [Final Order on ASC (2017), Waste Minimization Condition 1]
STANDARD: PUBLIC HEALTH AND SAFETY FOR WIND FACILITIES (WF) [OAR 345-024-0010]	
CON-WF-01 and -02	Deleted in *Final Order on Amendment 1* dated November 2020. [Final Order on ASC (2017), Public Health and Safety Standards for Wind Facilities Conditions 1 and 4]
STANDARD: SITING STANDARDS FOR TRANSMISSION LINES (TL) [OAR 345-024-0090]	
CON-TL-01	During construction, the certificate holder shall take reasonable steps to reduce or manage human exposure to electromagnetic fields and submit verification to the Department, including: a. Constructing all aboveground collector and transmission lines at least 200 feet from any residence or other occupied structure, measured from the centerline of the transmission line. b. Constructing all aboveground 34.5-kV transmission lines with a minimum clearance of 25 feet from the ground. c. Constructing all aboveground 230-kV transmission lines with a minimum clearance of 30 feet from the ground. d. Developing and implementing a program that provides reasonable assurance that all fences, gates, cattle guards, trailers, irrigation systems, or other objects or structures of a permanent nature that could become inadvertently charged with electricity are grounded or bonded throughout the life of the line (OAR 345-025-0010(4)).

	e. Providing to landowners a map of underground, with any applicable NESC demarking for underground facilities, and overhead transmission lines on their property and advising landowners of possible health and safety risks from induced currents caused by electric and magnetic fields. f. Designing and maintaining all transmission lines so that alternating current electric fields do not exceed 9 kV per meter at one meter above the ground surface in areas accessible to the public. g. Deleted in *Final Order on Amendment 1* dated November 2020. h. Designing and maintaining all transmission lines so that induced voltages during operation are as low as reasonably achievable. i. Designing, constructing and operating the transmission line in accordance with the requirements of the version of the National Electrical Safety Code that is most current at the time that final engineering of each of these components is completed (OAR 345-025-0010(4)). j. Implement a safety protocol to ensure adherence to NESC grounding requirements [Final Order on ASC (2017), Siting Standard Condition 1; AMD4 (2019), AMD1 (2020)]
STANDARD: NOISE CONTROL REGULATION (NC) [OAR 345-035-0035]	
CON-NC-01	During construction, to reduce construction noise impacts at nearby residences, the certificate holder shall: a. Establish and enforce construction site and access road speed limits; b. Utilize electrically-powered equipment instead of pneumatic or internal combustion powered equipment, where feasible; c. Locate material stockpiles and mobile equipment staging, parking, and maintenance areas as far as practicable away from noise sensitive properties; d. Utilize noise-producing signals, including horns, whistles, alarms, and bells for safety warning purposes only; e. Equip all noise-producing construction equipment and vehicles using internal combustion engines with mufflers, air-inlet silencers where appropriate, and any other shrouds, shields, or other noise-reducing features in good operating condition that meet or exceed original factory specification. Mobile or fixed "package" equipment (e.g., arc-welders, air compressors) shall be equipped with shrouds and noise control features that are readily available for that type of equipment; and, f. Establish a noise complaint response system. All construction noise complaints will be logged within 48 hours of issuance. The construction supervisor shall have the responsibility and authority to receive and resolve noise complaints. A clear appeal process to the owner shall be established prior to the start of construction that will allow for resolution of noise problems that cannot be resolved by the site supervisor in a reasonable period of time. Records of noise complaints during construction must be made available to authorized representatives of the department upon request. [Final Order on ASC (2017), Noise Control Condition 1]

4.5 Pre-Operational (PRO) Conditions

Condition Number	Pre-Operational (PRO) Conditions
STANDARD: SOIL PROTECTION (SP) [OAR 345-022-0022]	
PRO-SP-01	Prior to beginning facility operation, the certificate holder shall provide the Department a copy of an operational SPCC plan, if required per DEQ's Hazardous Waste Program. If an SPCC plan is not required, the certificate holder shall prepare and submit to the Department for review and approval an operational Spill Prevention and Management plan. The Spill Prevention and Management Plan shall include at a minimum the following procedures and BMPs: • Procedures for oil and hazardous material emergency response consistent with OAR 340, Division 100-122 and 142 • Procedures demonstrating compliance with all applicable local, state, and federal environmental laws and regulations for handling hazardous materials used onsite in a manner that protects public health, safety, and the environment • Current inventory (type and quantity) of all hazardous materials stored onsite, specifying the amounts at each O&M building, substation and battery storage system components • Restriction limiting onsite storage of diesel fuel or gasoline • Requirement to store lubricating and dielectric oils in quantities equal to or greater than 55-gallons in qualified oil-filled equipment • Preventative measures and procedures to avoid spills o Procedures for chemical storage o Procedures for chemical transfer o Procedures for chemical transportation o Procedures for fueling and maintenance of equipment and vehicles o Employee training and education • Clean-up and response procedures, in case of an accidental spill or release • Proper storage procedures • Reporting procedures in case of an accidental spill or release [Final Order on ASC (2017), Soil Protection Condition 5; AMD2 (2017)]
STANDARD: PUBLIC SERVICES (PS) [OAR 345-022-0110]	
PRO-PS-01	Deleted in *Final Order on Amendment 1* dated November 2020. [Final Order on ASC (2017), Public Services Condition 15, AMD1 (2020)]
PRO-PS-02	Before beginning operation of the facility, the certificate holder must provide a final site plan to the identified fire protection districts and first-responders included in the Emergency Management Plan. [Final Order on ASC (2017), Public Services Condition 19, AMD1 (2020)]
PRO-PS-03	Prior to operation, the certificate holder must ensure that operations personnel remain current in their first aid/CPR/AED certifications throughout the operational life of the facility. The certificate holder must retain records of the certifications and provide them to the department upon request. The certificate holder shall also ensure that an AED is available onsite at all times that operations and maintenance personnel are at the facility. [Final Order on ASC (2017), Public Services Condition 22]

4.6 Operational (OPR) Conditions

Condition Number	Operational (OPR) Conditions
STANDARD: GENERAL STANDARD OF REVIEW (GS) [OAR 345-022-0000]	
OPR-GS-01	The certificate holder shall submit a legal description of the site to the Oregon 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 identify the outer boundaries that contain all parts of the facility. [Final Order on ASC (2017), Mandatory Condition 1] [OAR 345-025-0006(2)]]
STANDARD: SOIL PROTECTION (SP) [OAR 345-022-0022]	
OPR-SP-01	During facility operation, the certificate holder shall: a. Routinely inspect and maintain all facility components including roads, pads, and other facility components and, as necessary, maintain or repair erosion and sediment control measures and reduce potential facility contribution to erosion. b. Restrict vehicles to constructed access roads, and ensure material laydown or other maintenance activities occur within graveled areas to avoid unnecessary compaction, erosion, or spill risk to the area surrounding the facility. c. If in order to serve the operational needs of the energy facility, or related and supporting facilities, the certificate holder intends to substantially modify an existing road or construct a new road, the certificate holder must submit and receive Council approval of an amendment to the site certificate prior to the modification or construction. [Final Order on ASC (2017), Soil Protection Condition 6, AMD1 (2020)]
STANDARD: LAND USE (LU) [OAR 345-022-0030]	
OPR-LU-01	Within one month of commencement of commercial operation, the certificate holder shall submit an as-built survey for each construction phase that demonstrates compliance with the setback requirements in Land Use Condition 1 to the department and Morrow County. [Final Order on ASC (2017), Land Use Condition 2]
OPR-LU-02	During operation of the facility, the certificate holder shall restore areas that are temporarily disturbed during facility maintenance or repair activities using the same methods and monitoring procedures described in the final Revegetation Plan referenced in Fish and Wildlife Habitat Condition 11. [Final Order on ASC (2017), Land Use Condition 10]
OPR-LU-03	Before beginning decommissioning activities, the certificate holder must provide a copy of the final retirement plan to Morrow County. [Final Order on ASC (2017), Land Use Condition 23, AMD1 (2020)]
OPR-LU-04	Before beginning electrical production, the certificate holder shall prepare an Operating and Facility Maintenance Plan (Plan) and submit the Plan to the department for approval in consultation with Morrow County. [Final Order on ASC (2017), Land Use Condition 25, AMD1 (2020)]

OPR-LU-05	Deleted in *Final Order on Amendment 1* dated November 2020. [Final Order on ASC (2017), Land Use Condition 26]
OPR-LU-06	Prior to facility retirement, the certificate holder must include the following minimum restoration activities in the proposed final retirement plan it submits to the Council pursuant to OAR 345-025-0006(9) or its equivalent: 1. Dismantle aboveground equipment and remove concrete pads to a depth of at least three feet below the surface grade. 2. Remove underground collection and communication cables that are buried less than three feet in depth and are deemed by Council to be a hazard or a source of interference with surface resource uses. 3. Deleted in *Final Order on Amendment 1* dated November 2020. 4. Remove and restore private access roads unless the landowners directs otherwise. 5. Following removal of facility components, grade disturbed areas as close as reasonably possible to the original contours and restore soils to a condition compatible with farm uses or other resources uses. 6. Revegetate disturbed areas in consultation with the land owner and in a manner consistent with the final Revegetation Plan referenced in Fish and Wildlife Habitat Condition 11. 7. If the landowner wishes to retain certain facilities, provide a letter from the land owner that identifies the roads, cleared pads, fences, gates and other improvements to be retained and a commitment from the land owner to maintain the identified facilities for farm or other purposes permitted under the applicable zone. [Final Order on ASC (2017), Land Use Condition 27, AMD1 (2020)]
STANDARD: RETIREMENT AND FINANCIAL ASSURANCE (RT) [OAR 345-022-0050]	
OPR-RF-01	During facility operation, the certificate holder shall: a. Conduct monthly inspections of the battery storage systems, in accordance with manufacturer specifications. The certificate holder shall maintain documentation of inspections, including any corrective actions, and shall submit copies of inspection documentation in its annual report to the Department. b. Provide evidence in its annual report to the Department of active property coverage under its commercial business insurance from high loss-catastrophic events, including but not limited to, onsite fire or explosion. [Final Order on AMD2 (2018), Retirement and Financial Assurance Condition 6]
STANDARD: PUBLIC SERVICES (PS) [OAR 345-022-0110]	
OPR-PS-01 - 02	Deleted in *Final Order on Amendment 1* dated November 2020. [Final Order on ASC (2017), Public Services Conditions 1 and 2]
OPR-PS-03	a. Prior to operation, the certificate holder shall submit to the Department for approval its Operational Waste Management Plan that includes but is not limited to the following: 1. Onsite handling procedure for operational replacement of damaged, defective or recalled lithium-ion batteries. The procedure shall identify applicable 49 CFR 173.185 provisions and address, at a minimum, onsite handling, packaging, interim storage, and segregation requirements. 2. Training employees to handle, replace, and store damaged, defective or recalled lithium-ion batteries; minimize and recycle solid waste. 3. Recycling paper products, metals, glass, and plastics. 4. Recycling used oil and hydraulic fluid. 5. Collecting non-recyclable waste for transport to a local landfill by a licensed waste hauler or by using facility equipment and personnel to haul the waste. Waste hauling by

	facility personnel within Morrow County shall be performed in compliance with the Morrow County Solid Waste Management Ordinance, Section 5.000 Public Responsibilities, 5.010 Transportation of Solid Waste and 5.030 Responsibility for Propose Disposal of Hazardous Waste which requires that all loads be covered and secured and that operators be responsible for hazardous waste disposal in accordance with applicable regulatory requirements. 6. Segregating all hazardous and universal, non-recyclable wastes such as used oil, oily rags and oil-absorbent materials, mercury-containing lights, lithium-ion batteries, lead-acid and nickel-cadmium batteries, and replaced, damaged, defective or recalled lithium-ion batteries for disposal by a licensed firm specializing in the proper recycling or disposal of hazardous and universal wastes. b. During operation, the certificate holder shall implement the approved Operational Waste Management Plan. [Final Order on ASC (2017), Public Services Condition 4; AMD2 (2018)]
OPR-PS-04	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 at the facility site. [Final Order on ASC (2017), Public Services Condition 12]
STANDARD: PUBLIC HEALTH AND SAFETY FOR WIND FACILITIES (WF) [OAR 345-024-0010]	
OPR-WF-01	During operation, the certificate holder shall ensure ~~each~~ facility ~~substation and~~ battery storage systems are enclosed with appropriate fencing and locked gates to protect the public from electrical hazards. [Final Order on ASC (2017), Public Health and Safety Standards for Wind Facilities Condition 2; AMD2 (2018)]
STANDARD: SITING STANDARDS FOR TRANSMISSION LINES (TL) [OAR 345-024-0090]	
OPR-TL-01	During operation, the certificate holder shall: (1) Update the OPUC Safety Staff as to how the operator will comply with OAR Chapter 860, Division 024 on an ongoing basis considering future operations, maintenance, emergency response, and alterations until facility retirement. (2) File the following required information with the Commission: a. 758.013 Operator of electric power line to provide Public Utility Commission with safety information; availability of information to public utilities. (1) Each person who is subject to the Public Utility Commission's authority under ORS 757.035 and who engages in the operation of an electric power line as described in ORS 757.035 must provide the commission with the following information before January 2 of each even-numbered year: i. The name and contact information of the person that is responsible for the operation and maintenance of the electric power line, and for ensuring that the electric power line is safe, on an ongoing basis; and ii. The name and contact information of the person who is responsible for responding to conditions that present an imminent threat to the safety of employees, customers and the public. iii. In the event that the contact information described in subsection (1) of this section changes or that ownership of the electric power line changes, the person who engages in the operation of the electric

	power line must notify the commission of the change as soon as practicable, but no later than within 90 days. iv. If the person described in subsection (1) of this section is not the public utility, as defined in ORS 757.005, in whose service territory the electric power line is located, the commission shall make the information provided to the commission under subsection (1) of this section available to the public utility in whose service territory the electric power line is located. [2013 c.235 §3] (3) Provide OPUC Safety Staff with: a. Maps and Drawings of routes and installation of electrical supply lines showing: • Transmission lines and structures (over 50,000 Volts) • Distribution lines and structures - differentiating underground and overhead lines (over 600 Volts to 50,000 Volts) • Substations, roads and highways • Plan and profile drawings of the transmission lines (and name and contact information of responsible professional engineer). [Final Order on ASC (2017), Siting Standard Condition 3]
STANDARD: NOISE CONTROL REGULATION (NC) [OAR 345-035-0035]	
OPR-NC-01	Deleted in *Final Order on Amendment 1* dated November 2020. [Final Order on ASC (2017), Noise Control Condition 3]
OPR-NC-02	During operation, the certificate holder shall maintain a complaint response system to address noise complaints. The certificate holder shall notify the department within two working days of receiving a noise complaint related to the facility. The notification should include, but is not limited to, the date the certificate holder received the complaint, the nature of the complaint, the complainant's contact information, the location of the affected property, and any actions taken, or planned to be taken, by the certificate holder to address the complaint. [Final Order on ASC (2017), Noise Control Condition 4]
OPR-NC-03	During operation, in response to a complaint from the owner of a noise sensitive property regarding noise levels from the facility, the Council may require the certificate holder to monitor and record the statistical noise levels to verify that the certificate holder is operating in compliance with the noise control regulations. The monitoring plan must be reviewed and approved by the department prior to implementation. The cost of such monitoring, if required, shall be borne by the certificate holder. [Final Order on ASC (2017), Noise Control Condition 5]

4.7 Retirement Conditions (RET)

Condition Number	Retirement (RET) Conditions
STANDARD: RETIREMENT AND FINANCIAL ASSURANCE (RT) [OAR 345-022-0050]	

RET-RF-01	The certificate holder must retire the facility in accordance with a retirement plan approved by the Council if the certificate holder permanently ceases construction or operation of the facility. The retirement plan must describe the activities necessary to restore the site to a useful, nonhazardous condition, as described in OAR 345-025-0006(9). After Council approval of the plan, the certificate holder must obtain the necessary authorization from the appropriate regulatory agencies to proceed with restoration of the site. [Final Order on ASC (2017), Retirement and Financial Assurance Condition 2] [Mandatory Condition OAR 345-025-0006(9)]
RET-RF-02	If the Council finds that the certificate holder has permanently ceased construction or operation of the facility without retiring the facility according to a final retirement plan approved by the Council, as described in OAR 345-025-0006(9), the Council must notify the certificate holder and request that the certificate holder submit a proposed final retirement plan to the department within a reasonable time not to exceed 90 days. If the certificate holder does not submit a proposed final retirement plan by the specified date, the Council may direct the department to prepare a proposed final retirement plan for the Council's approval. Upon the Council's approval of the final retirement plan, the Council may draw on the bond or letter of credit described in section (8) to restore the site to a useful, nonhazardous condition according to the final retirement plan, in addition to any penalties the Council may impose under OAR Chapter 345, Division 29. If the amount of the bond or letter of credit is insufficient to pay the actual cost of retirement, the certificate holder must pay any additional cost necessary to restore the site to a useful, nonhazardous condition. After completion of site restoration, the Council must issue an order to terminate the site certificate if the Council finds that the facility has been retired according to the approved final retirement plan. [Final Order on ASC (2017), Retirement and Financial Assurance Condition 3] [Mandatory Condition OAR 345-025-0006(16)]

5.0 Successors and Assigns

To transfer this site certificate or any portion thereof or to assign or dispose of it in any other manner, directly or indirectly, the certificate holder shall comply with OAR 345-027-0400.

6.0 Severability and Construction

If any provision of this agreement and certificate is declared by a court to be illegal or in conflict with any law, the validity of the remaining terms and conditions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the agreement and certificate did not contain the particular provision held to be invalid.

7.0 Execution

This site certificate may be executed in counterparts and will become effective upon signature by the Chair of the Energy Facility Siting Council and the authorized representative of the certificate holder.

IN WITNESS THEREOF, this site certificate has been executed by the State of Oregon, acting by and through the Energy Facility Siting Council and Wheatridge Solar Energy Center, LLC (certificate holder), a wholly-owned indirect subsidiary of NextEra Energy Resources, LLC (certificate holder owner).

ENERGY FACILITY SITING COUNCIL	**WHEATRIDGE SOLAR ENERGY CENTER, LLC**
By: _____	By: _____
Chair	
Oregon Energy Facility Siting Council	
Date: _____	Date:_____

Attachment A
WREFIII Site Boundary Map


Wheatridge Renewable Energy Facility III Request for Amendment 1
MORROW COUNTY, OR
Proposed Wheatridge Renewable Energy Facility III Site Boundary
TETRA TECH
NEXTera ENERGY RESOURCES
Reference Map
CANADA
WA
MT
ID
OR
CA
NV
1:28,000
WGS 1984 UTM Zone 10N
0
0.5
1
1.5
2
Miles
NOT FOR CONSTRUCTION

Wagon Trail Solar II (WTSII)

Attachment A: Draft Site Certificate (red-line)
Attachment B: Draft Habitat Mitigation Plan
Attachment C: Draft Vegetation and Soil Management Plan
Attachment D: NEER Emergency Action Plan
Attachment E-1: Draft Construction Wildfire Mitigation Plan
Attachment E-2: Draft Operational Wildfire Mitigation Plan
Attachment F: Decommissioning Cost Estimate and Assumptions

Attachment A: Draft Site Certificate (red-line)

ENERGY FACILITY SITING COUNCIL

OF THE

STATE OF OREGON

DRAFT

Site Certificate for the

Wagon Trail Solar II

ISSUANCE DATES

Site Certificate TBD

ISSUANCE DATE HISTORY UNDER WHEATRIDGE RENEWABLE ENERGY FACILITY III

Site Certificate November 19, 2020

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Attachments

Attachment A	Facility Site Boundary Map

Acronyms and Abbreviations

ASC	Application for Site Certificate
BMP	Best Management Practice
Council or EFSC	Oregon Energy Facility Siting Council
Department or ODOE	Oregon Department of Energy
DOGAMI	Oregon Department of Geology and Mineral Industries
ESCP	Erosion and Sediment Control Plan
HMP	Habitat Mitigation Plan
NEER	NextEra Energy Resources, LLC
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
NRHP	National Register of Historic Places
WGS	Washington Ground Squirrel
WMMP	Wildlife Monitoring and Mitigation Plan
WREFI	Wheatridge Renewable Energy Facility I
WREFII	Wheatridge Renewable Energy Facility II
WREFIII	Wheatridge Renewable Energy Facility III
WREFE	Wheatridge Renewable Energy Facility East
WTSII	Wagon Trail Solar II

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1.0 Introduction and Site Certification

This site certificate is a binding agreement between the State of Oregon (State), acting through the Energy Facility Siting Council (Council), and Wagon Trail Energy Center, LLC (certificate holder), a wholly-owned indirect subsidiary of NextEra Energy Resources, LLC (NEER, certificate holder owner). As authorized under Oregon Revised Statue (ORS) Chapter 469, the Council issues this site certificate authorizing certificate holder to construct, operate and retire the Wagon Trail Solar II (facility) at the below described site within Morrow County subject to the conditions set forth herein.

Both the State and certificate holder must abide by local ordinances, state law and the rules of the Council in effect on the date this site certificate is executed. However, 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)).

The findings of fact, reasoning and conclusions of law underlying the terms and conditions of this site certificate are set forth in the following documents approved for the Wheatridge Wind Energy Facility, incorporated herein by this reference: (~~1~~a) the *Final Order on the Application for Site Certificate for the Wheatridge Wind Energy Facility* issued on April 28, 2017 (hereafter, *Final Order on the Application*); (~~2~~b) *Final Order on Request for Transfer* issued on July 27, 2017; (~~3~~c) *Final Order on Request for Amendment 3* issued on November 16, 2018; (~~4~~d) *Final Order on Request for Amendment 2* issued on December 14, 2018; *Final Order on Request for Amendment 4* issued on November 22, 2019; ~~and~~ (~~5~~e) *Final Order on Request for Amendment 5* issued May 22, 2020. In addition, the findings of fact, reasoning and conclusions of law underlying the terms and conditions of this site certificate are set forth in the following documents approved for the Wheatridge Renewable Energy Facility II (WREFII), incorporated herein by this reference: (1) *Final Order on Request for Amendment 1* issued November 19, 2020; and the *Final Order on Request for Amendment 1 of the Wheatridge Renewable Energy Facility III (WREFIII) Site Certificate* issued on DATE, 2026.

In interpreting this site certificate, any ambiguity will be clarified by reference to the following~~documents approved for WREFII~~, in order of priority: (1) Final Order on Request for Amendment 1 of the WREFIII Site Certificate; (2) *Final Order on Request for Amendment 1 of the WREFII Site Certificate; (3)* ~~and for the Wheatridge Wind Energy Facility, in order of priority: (2)~~ *Final Order on Request for Amendment 5 of the Wheatridge Wind Energy Facility;* (~~3~~4) *Final Order on Request for Amendment 4 of the Wheatridge Wind Energy Facility;* (~~4~~5) *Final Order on Request for Amendment ~~2~~3 of the Wheatridge Wind Energy Facility*; (~~5~~6) *Final Order on Request for Amendment ~~3~~2 of the Wheatridge Wind Energy Facility*; (~~6~~7) *Final Order on Request for Amendment 1 of the Wheatridge Wind Energy Facility*; (~~7~~8) *Final Order on the Application*, and (~~6~~9) the record of the proceedings that led to the above referenced orders.

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)). This site certificate does not address, and is not binding with respect to, matters that are not included in and governed by this site certificate, and such matters include, but are not limited to: employee health and safety; building

code compliance; wage and hour or other labor regulations; local government fees and charges; other design or operational issues that do not relate to siting the facility (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 definitions in ORS 469.300 and OAR 345-001-0010 apply to the terms used in this site certificate, except where otherwise stated, or where the context clearly indicates otherwise.

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. In addition, each state agency or local government agency that issues a permit, license or other approval for this facility shall continue to exercise enforcement authority over such permit, license or other approval (ORS 469.401(3)). For those permits, licenses, or other approvals 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)).

The certificate holder must construct, operate and retire the facility in accordance with all applicable rules as provided for in Oregon Administrative Rule (OAR) Chapter 345, Division 26. After issuance of this site certificate, the Council shall have continuing authority over the site and may inspect, or direct the Oregon Department of Energy (Department) to inspect, or request another state agency or local government to inspect, the site at any time in order to ensure that the facility is being operated consistently with the terms and conditions of this site certificate (ORS 469.430).

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 duration of this site certificate shall be the life of the facility, subject to termination pursuant to OAR 345-027-0410 or the rules in effect on the date that termination is sought, or revocation under ORS 469.440 and OAR 345-029-0100 or the statutes and rules in effect on the date that revocation is ordered. The Council shall not change the conditions of this site certificate except as provided for in OAR Chapter 345, Division 27.

2.0 Facility Location

The Wagon Trail Solar II (WTSII)~~The Wheatridge Renewable Energy Facility III (WREFIII)~~, is a solar facility generating up to ~~150~~100 MW of solar energy. The energy facility and its related or supporting facilities are located within Morrow County. The site boundary, as defined in OAR 345-001-0010, encompasses approximately ~~2,294~~1,935 acres of private land and includes ~~two~~ solar array facilities and distributed energy storage within micrositing corridors, related or supporting facilities, including 34.5 kV collector lines above or below ground within a perimeter fence and outside a fenced area ~~in two routes~~, service roads, 5 acre substation, and ~~41~~ 26 distributed battery storage sites for lithium-ion batteries proposed by the certificate holder, as approved by the Council.[1] Shared (WREFI, WREFII and WREFIII) Related or Supporting Facilities is discussed further in Section 3.3 below.

WREFIII components are located entirely within Morrow County, bisected by Oregon Highway 207, approximately 5 miles northeast of Lexington and approximately 7 miles northwest of Heppner. Previously approved facility components that are shared between WREFII and WREFIII include a collector substation, access roads, temporary laydown areas and the O&M building, all of which are reflected in both WREFII and WREFIII site certificates. WREFE does not share any related or supporting facilities with WREFII or WREFIII, however would include areas of overlapping site boundary. Portions of the 230-kV Intraconnection Line may have overlapping site boundaries with WREFI, WREFII, and WREFIII.

2.1 Site Boundary

The site boundary encompasses a total of ~~2,294~~1,935 acres of privately owned land. Table 1 identifies the Public Land Survey System sections in which the site boundary is located.

Table 1. Location of Site Boundary by Township, Range and Section

Township	Range	Section(s)
1N	25E	13, 24
1N	26E	6, 7, 8, 9, 16, 17, 18, 19, 20, ~~21,~~ 29, 30

For this facility, the certificate holder requested that the site boundary represent the "micrositing corridor" for the placement of facility components to allow some flexibility in specific component locations and design in response to site-specific conditions and engineering requirements to be determined prior to construction. The Council permits final siting flexibility within a micrositing corridor when the certificate holder demonstrates that requirements of all applicable standards have been satisfied by adequately evaluating the entire corridor and location of facility components anywhere within the corridor.

2.2 Micrositing Corridors

The certificate holder requested flexibility to locate components of the energy facility and its related or supporting facilities within a micrositing corridor to allow adjustment of the specific location of components, while establishing outer boundaries of potential construction for purposes of evaluating potential impacts.

Micrositing corridors for solar facility components, as presented in Figure 1 *Solar Micrositing Corridors* of this ~~amended~~ site certificate, ~~which~~ includes private access roads, service roads, a 34.5 kV

[1] Energy facility site, as defined in OAR 345-001-0010(54), means all land upon which an energy facility is located or proposed to be located.

collection system, gates and perimeter security fence.

3.0 Facility Description

The facility includes solar energy generation components, each with related or supporting facilities. The energy generation capacity of the facility at full build out by the specified construction completion deadlines is ~~150~~100 MW. Solar energy facility components are further described in Section 3.2 and 3.2.1 of this site certificate.

As presented in the ASC, the facility will be constructed in phases. In accordance with ORS 469.300(6), preconstruction conditions may be satisfied for the applicable phase, facility component or for the facility, as applicable, based on final design and configuration.

3.1 Solar Energy Facility Components

The construction commencement deadline for the ~~150~~100 MW solar energy facility and its related or supporting facilities must begin by November 22, 2022~~-~~ (under General Standard Condition 1 (GEN-GS-01) and construction of these components must be completed on or before November 22, ~~2025~~ 2028 (under General Standard Condition 2 (GEN-GS-02).

Solar energy facility components ~~include up to two solar arrays~~are located ~~within Wheatridge West,~~ entirely within Morrow County, on Exclusive Farm Use zoned land. The solar arrays consist of photovoltaic panels mounted onto tracking modules and arranged in strings within the solar micrositing corridors. Strings of modules are connected by electrical collector lines and inverters that convert the direct current power generated by panels to alternating current power. Transformers placed near the inverters step up power to 34.5 kV for transmission to the Wheatridge ~~West~~ Renewable Energy Facility II (WREFII) substation. The maximum layout including total number of modules, configuration, dimensions, total energy generating capacity and mounting system of solar array components shall be substantially as described in Request for Amendment 4.

Photovoltaic Modules and Racking

Each solar module is approximately 6 feet by 3 feet, placed on a nonspecular, galvanized steel rack. Each set of approximately 70 racked modules is mounted approximately 5 feet off the ground on a single-axis tracker that would rotate 60 degrees to the east and west. Each tracker is supported by steel posts; post depth varies depending on soil conditions, but the posts are typically placed 8 feet below the surface. The maximum of height of the modules at full tilt would be approximately 16 feet.

Combiner Boxes, Inverters and Transformers

The current produced by solar modules is in the form of direct current (DC). Within each module block, several DC electrical conduits (cables on the back of the modules) aggregate electricity produced from each of the modules into a combiner box. Approximately 18 combiner boxes are located throughout each module block for a total of approximately ~~740~~ 392 combiner boxes. The photovoltaic modules are arranged into blocks, with each block connecting via collector lines to approximately ~~41~~ 26 modular inverter enclosures. Inverters convert DC current into alternating current (AC) power to then be transmitted to the grid. The inverter AC output voltage (480 volts) is stepped up to a higher voltage (34.5 kilovolts [kV]) by approximately ~~41~~ 26 pad-mounted transformers designed to integrate with the inverter.

3.1.1 Related or Supporting Facility to Solar Energy Facility Components

Related or supporting facilities associated with the solar facility must begin construction by the dates described in General Standard Condition 1 (GEN-GS-01) and construction must be completed, substantially as described below, by the deadline stabled in General Standard Condition 2 (GEN-GS-02).

Electrical Collection System

Electricity generated from the solar energy facility components are aggregated via underground 34.5 kV cables to an above- or belowground 34.5 kV collector line that interconnect to ~~Wheatridge West~~WREFII collector substation. Underground AC electrical cables are buried to a minimum of 3 feet. Overhead collector lines are supported by a wooden or steel monopole structure, with foundations extending 6 feet in depth and structure height of approximately 60 feet above ground. The collection system also includes up to two 34.5 kV collector line routes outside of the perimeter fenceline; one route extends approximately 2.32 miles from ~~Solar Array 1 to Wheatridge West~~Wagon Trail Solar II to the WREFII to the WREFII collector substation. The second collector line interconnects ~~Solar Array 1~~Wagon Trail Solar II to ~~Solar Array 2~~WREFII, and extends approximately 0.66 miles along Bombing Range Road.

Service Roads, Gates, and Fencing

Service roads, approximately 16-feet wide and 8.7 miles in total, located within and around the perimeter of the proposed solar arrays, and within the solar micrositing corridors, to facilitate access for construction and maintenance purposes. Vegetation is cleared and maintained along perimeter roads to provide a vegetation clearance area extending 100-feet wide for fire safety. Internal roads are all-weather, compacted gravel and approximately 20 feet wide, with an internal turning radius of 28 feet. Vegetation maintenance along solar array interior roads includes mowing to a height no more than 3 inches.

The perimeter service road is bordered by 13.8 miles of~~a~~ 7 or 8-foot-high chain-link security fence. There is also a locked security entrance gates to allow vehicle and pedestrian access.

~~*Wheatridge West Collector Substation Expansion*~~

~~Wheatridge West collector substation (by Strawberry Lane) includes 10 acres, 5 of which accommodate electrical equipment such as an additional transformer, switches, protective relay and metering equipment needed to handle the power generated by the solar energy facility components.~~

Battery Storage System Sites – Distributed Locations (AC Coupled)

Solar energy facility components include approximately ~~41~~ 26 distributed sites of sites of lithium-ion batteries housed within concrete containers or similar containment throughout and within the solar array fencelines. Each container measures up to 12 feet wide, 36 feet long and 10 feet tall. Lithium-ion battery storage systems are modular systems. Each module contains multiple smaller battery cells, each measuring up to 3.2 by 7 centimeters. Modules are contained in anchored racks within the concrete containers; typically, each rack houses 12 battery modules along with a switchgear assembly. Cooling equipment is located either on top of the concrete containers or along the side.

3.2 Shared (WREFI, WREFII, WREFIII and WTSII ~~and WREFIII~~) Related or Supporting Facilities

Previously approved facility components that are shared between WREFII and ~~WREFIII~~ Wagon Trail Solar II include a collector substation, access roads, temporary laydown areas and the O&M building, all of which are reflected in both WREFII and ~~WREFIII~~ Wagon Trail Solar II site certificates. WREFE does not share any related or supporting facilities with WREFII or WREFIII, however would include areas of overlapping site boundary. Portions of the 230-kV Intraconnection Line may have overlapping site boundaries with WREFI, WREFII, ~~and~~ WREFIII and Wagon Trail Solar II. Sharing of facility components, or use by multiple facilities, is allowable in the EFSC process when the compliance obligation and applicable regulatory requirements for the shared facilities is adequately covered under the relevant/applicable ~~both~~ site certificates, including under normal operational circumstances, ceasing/termination of operation, emergencies and compliance issues or violations.

The certificate holder is authorized to share related or supporting facilities with the WREFI and WREFII facilities, including the Intraconnection Line, WREFII ~~Wheatridge West~~ collector substation, O&M building temporary laydown areas, and access roads. These related or supporting facilities are also included in both WREFI and WREFII site certificates. The certificate holder is also authorized to share related or supporting facilities with WREFIII, including access roads. Compliance with site certificate conditions and EFSC standards which apply to these shared related or supporting facilities ~~are shared~~is split accordingly between certificate holders and their associated site certificates. In accordance with Organizational Expertise Condition 11, if either certificate holder substantially modifies a shared related or supporting facility or ceases facility operation, the applicable/relevant ~~both~~ certificate holder~~s are~~ is obligated to submit an amendment determination request or request for amendment to the Department to determine the appropriate process for evaluating the change and ensuring full regulatory coverage under each site certificate, or remaining site certificate if either is terminated, in the future. Additionally, each certificate holder is obligated to demonstrate to the Department that a "Common Facilities Agreement" or similarly legally binding agreement has been fully executed between certificate holders to ensure approval and agreement of access to the shared resources has been obtained prior to operation of shared facilities.

DRAFT

4.0 Site Certificate Conditions

4.1 Condition Format

The conditions in Sections 4.2 through 4.7 of this Site Certificate are organized and coded to indicate the phase of implementation, the standard the condition is required to satisfy, and an identification number (1, 2, 3, etc.)[2]. The table below presents a "key" for phase of implementation:

Key	Type of Conditions/Phase of Implementation
GEN	General Conditions: Design, Construction and Operation
PRE	Pre-Construction Conditions
CON	Construction Conditions
PRO	Pre-Operational Conditions
OPR	Operational Conditions
RET	Retirement Conditions

The standards are presented using an acronym; for example, the General Standard of Review is represented in the condition numbering as "GS"; the Soil Protection standard is represented in the condition numbering as "SP" and so forth.

For example, the coding of Condition GEN-GS-01 represents that the condition is a general condition (GEN) to be implemented during design, construction and operation of the facility, is required to satisfy the Council's General Standard of Review, and is condition number 1.

This site certificate contains conditions initially imposed in the Wheatridge Wind Energy Facility site certificate, as approved in April 2017, and amended in July 2017 (AMD1), November (AMD2) and December 2018 (AMD3), November 2019 (AMD4), and May 2020 (AMD5). Site certificate conditions include a bracketed citation (e.g. [Final Order on ASC (2017), AMD2 (2018), AMD4 (2019)]) which provides reference to the Council order imposing or amending the condition. Bracketed citations dated 2017 through May 2020 represent conditions imposed or amended under the Wheatridge Wind Energy Facility site certificate; bracketed citations dated after May 2020 represent conditions imposed or amended under the Wheatridge Renewable Energy Facility II site certificate.

[2] The identification number is not representative of an order that conditions must be implemented; it is intended only to represent a numerical value for identifying the condition.

4.2 General Conditions (GEN): Design, Construction and Operations

Condition Number	General (GEN) Conditions
STANDARD: GENERAL STANDARD OF REVIEW (GS) [OAR 345-022-0000]	
GEN-GS-01	The certificate holder shall begin construction of the facility, facility component or phase, as applicable ~~solar facility components and its related or supporting facilities, as approved the Fourth Amended Site Certificate,~~ by November 22, 2022~~)~~. On or before November 22, 2022, the certificate holder shall provide written notification to the Department that it has met the construction commencement deadline. Construction is defined in OAR 345-001-0010. [Final Order on ASC (2017), General Standard Condition 1; AMD2 (2018); AMD4 (2019); AMD1 (2020); AMD1 (2026)] [Mandatory Condition OAR 345-025-0006(4)]
GEN-GS-02	The certificate holder shall complete construction of ~~solar~~ the facility ~~components, and its related or supporting facilitiesas approved the Fourth Amended Site Certificate,~~ by November 22, ~~2025~~2028. On or before November 22, ~~2025~~2028, the certificate holder shall promptly notify the Department of the date of completion of construction. [Final Order on ASC (2017), General Standard Condition 2 (2018); AMD2 (2018); AMD4 (2019); AMD1 (2020); AMD1 (2026)] [Mandatory Condition OAR 345-025-0006(4), AMD1 (2026)]
GEN-GS-03	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 on ASC (2017), Mandatory Condition 2] [OAR 345-025-0006(3)]
GEN-GS-04	Except as necessary for the initial survey or as otherwise allowed for wind energy facilities, transmission lines or pipelines under this section, the certificate holder shall not begin construction, as defined in OAR 345-001-0010, or create a clearing on any part of the site until the certificate holder has construction rights on all parts of the site. For the purpose of this rule, "construction rights" means the legal right to engage in construction activities (i.e., the certificate holder has authority to construct in the area, e.g., in the form of a deed, lease or court-approved condemnation right). For ~~wind~~ all energy facilities, ~~transmission lines or pipelines, if~~regardless of whether the certificate holder ~~does not have~~has construction rights on all parts of the site, the certificate holder may nevertheless begin construction, as defined in OAR 345-001-0010, or create a clearing on a part of the site if the certificate holder has construction rights on that part of the site , is in compliance with the site certificate conditions applicable to that part of the site and: a. The certificate holder would construct and operate part of the facility on that part of the site even if a change in the planned route of a transmission line or pipeline occurs during the certificate holder's negotiations to acquire construction rights on another part of the site; or b. The certificate holder would construct and operate part of a wind energy facility on that part of the site even if other parts of the facility were modified by amendment of the site certificate or were not built. [Final Order on ASC (2017), ~~Mandatory Condition 3~~AMD1 (2026)] [Mandatory Condition OAR 345-025-0006(5)]

GEN-GS-05	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 on ASC (2017), Mandatory Condition 6] [OAR 345-025-0000(6)]
GEN-GS-06	The Council shall include as conditions in the site certificate all representations in the site certificate application and supporting record the Council deems to be binding commitments made by the applicant. [Final Order on ASC (2017), Mandatory Condition 5] [OAR 345-025-0006(10)]
GEN-GS-07	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. 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 on ASC (2017), Mandatory Condition 6] [OAR 345--025-0006(11)]
GEN-GS-08	The certificate holder shall design, engineer and construct the facility to avoid dangers to human safety presented by seismic hazards affecting the site that are expected to result from all maximum probable seismic events. As used in this rule "seismic hazard" includes ground shaking, ground failure, landslide, liquefaction triggering and consequences (including flow failure, settlement buoyancy, and lateral spreading), cyclic softening of clays and silts, fault rupture, directivity effects and soil-structure interaction. For coastal sites, this also includes tsunami hazards and seismically-induced coastal subsidence. [Final Order on ASC (2017), Mandatory Condition 7] [OAR 345-025-0006(12)]
GEN-GS-09	The certificate holder shall notify the Department, the State Building Codes Division and the Department of Geology and Mineral Industries promptly if site investigations or trenching reveal that conditions in the foundation rocks differ significantly from those described in the application for a site certificate. After the Department receives the notice, the Council may require the certificate holder to consult with the Department of Geology and Mineral Industries and the Building Codes Division and to propose mitigation actions. [Final Order on ASC (2017), Mandatory Condition 8] [OAR 345-025-0006(13)]
GEN-GS-10	The certificate holder shall notify the department, the State Building Codes Division and the Department of Geology and Mineral Industries promptly if shear zones, artesian aquifers, deformations or clastic dikes are found at or in the vicinity of the site. After the Department receives notice, the Council may require the certificate holder to consult with the Department of Geology and Mineral Industries and the Building Codes Division to propose and implement corrective or mitigation actions. [Final Order on ASC (2017), Mandatory Condition 9] [OAR 345-025-0006(14)]
GEN-GS-11	Before any transfer of ownership of the facility or ownership of the site certificate holder, the certificate holder shall inform the department of the proposed new owners. The requirements of OAR 345-027-0400 apply to any transfer of ownership that requires a transfer of the site certificate. [Final Order on ASC (2017), Mandatory Condition 10] [OAR 345-025-0006(15)]
GEN-GS-12	Deleted in *Final Order on Amendment 1* dated November 2020 [Final Order on ASC (2017), Site Specific Condition 1; AMD1 (2020)] [OAR 345-025-0010(5)]~~]~~
STANDARD: ORGANIZATIONAL EXPERTISE (OE) [OAR 345-022-0010]	

GEN-OE-01	Any matter of non-compliance under the site certificate is the responsibility of the certificate holder. Any notice of violation issued under the site certificate will be issued to the certificate holder. Any civil penalties under the site certificate will be levied on the certificate holder. [Final Order on ASC (2017), Organizational Expertise Condition 5]
GEN-OE-02	~~In addition to the requirements of OAR 345-026-0170, within 72 hours after discovery of incidents or circumstances that violate the terms or conditions of the site certificate, the certificate holder must report the conditions or circumstances to the department.~~ The certificate holder shall, as soon as reasonably possible: a. Report incidents of ~~incidental~~ wildlife ~~observations~~ injury or fatality discovered within the facility perimeter fenceline. b. Report incidents or circumstances that may violate the terms or conditions of the site certificate to the Department. In the report to the Department, the certificate holder shall provide all pertinent facts including an estimate of how long the conditions or circumstances existed, how long they are expected to continue before they can be corrected, and whether the conditions or circumstances were discovered as a result of a regularly scheduled compliance audit; c. Initiate and complete appropriate action to correct the conditions or circumstances and to minimize the possibility of recurrence; d. Submit a written report within 30 days of discovery to the Department. The report must contain: i. A discussion of the cause of the reported conditions or circumstances; ii. The date of discovery of the conditions or circumstances by the responsible party; iii. A description of immediate actions taken to correct the reported conditions or circumstances; iv. A description of actions taken or planned to minimize the possibility of recurrence; and v. For conditions or circumstances that may violate the terms or conditions of a site certificate, an assessment of the impact on the resources considered under the standards of OAR Chapter 345 Divisions 22 and 24 as a result of the reported conditions or circumstances. e. Upon receipt of the written report in sub(c) of this condition, the Department may review the facility record for incidents or circumstances reported or reportable under sub(a) related to public health and safety, the environment, or other resources protected under Council standards. If these incidences are determined by the Department to impact the adequacy of the facility decommissioning cost, the Department or Council may adjust the contingencies identified in Final Order on RFA1 Table 8 and request that the certificate holder promptly provide an updated bond or letter of credit in the adjusted amount. [Final Order on ASC (2017), AMD1 (2026), Organizational Expertise Condition 6]
GEN-OE-03	During facility construction and operation, the certificate holder shall report to the Department, within 7 days, any change in the corporate structure of the parent company, NextEra Energy Resources, LLC. The certificate holder shall report promptly to the Department any change in its access to the resources, expertise, and personnel of NextEra Energy Resources, LLC. [Final Order on AMD1 (2017), Organizational Expertise Condition 9]
GEN-OE-04	The certificate holder shall: a. Prior to and during construction, as applicable, provide evidence to the Department that a contractual agreement has been obtained for transport and disposal of battery and battery waste by a licensed hauler and requires the third-party to comply with all applicable laws and regulations, including applicable provisions of 49 CFR 173.185.

	b. Prior to transporting and disposing of battery and battery waste during facility operations, provide evidence to the Department that a contractual agreement has been obtained for transport and disposal of battery and battery waste by a licensed hauler and requires the third-party to comply with all applicable laws and regulations, including applicable provisions of 49 CFR 173.185. [Final Order on AMD2 (2018), Organizational Expertise Condition 10]
GEN-OE-05	The certificate holder is authorized to operationally share related or supporting facilities including the WREFII ~~Wheatridge West~~ collector substation, O&M building, access roads, temporary staging areas, all of which are governed under ~~both~~ WREFI, ~~and~~ WREFII, WREFIII or WTSII site certificates. a. Within 30 days of use by both certificate holders of the shared facilities, the certificate holder must provide evidence to the Department that the certificate holders of the shared facilities have an executed agreement for shared use of any constructed shared facilities. The Shared Use Agreements must allow operation and maintenance personnel and contractors access to the shared facilities of WREFI, WREFII, WREFIII or WTSII. ~~b. If WREFI or WREFII propose to substantially modify any of the shared facilities listed in sub(a) of this condition, each certificate holder shall submit an amendment determination request or request for site certificate amendment to obtain a determination from the Department on whether a site certificate amendment is required or to process an amendment for both site certificates in order to accurately account for any significant change in the decommissioning amount required under Retirement and Financial Assurance Condition 5.~~ ~~c. Prior to facility decommissioning or if facility operations cease, each certificate holder shall submit an amendment determination request or request for site certificate amendment to document continued ownership and full responsibility, including coverage of full decommissioning amount of the shared facilities in the bond or letter of credit pursuant to Retirement and Financial Assurance Condition 5, for the operational facility, if facilities are decommissioned at different times.~~ [Final Order on AMD5 (2020); Organizational Expertise Condition 11; AMD1 (2020); AMD1 (2026)]
STANDARD: STRUCTURAL (SS) [OAR 345-022-0020]	
GEN-SS-01	The certificate holder shall design, engineer, and construct the facility in accordance with the current versions of the latest International Building Code, Oregon Structural Specialty Code, and building codes as adopted by the State of Oregon at the time of construction. [Final Order on ASC (2017), Structural Standard Condition 2]
Soil Protection (SP) [OAR 345-022-0022]	
GEN-SP-01	During construction or operation of the facility or phase of the facility, as applicable, the certificate holder shall conduct all work in compliance with the NPDES 1200-C Permit and Erosion and Sediment Control Plan (ESCP) or revised ESCP if applicable. The ESCP shall be revised if determined necessary by the certificate holder, certificate holder's contractor(s) or the Department. Any Department-required ESCP revisions shall be implemented within 14-days, unless otherwise agreed to by the Department based on a good faith effort to address erosion issues. [Final Order on AMD1 (2026), Soil Protection Condition 9]
STANDARD: LAND USE (LU) [OAR 345-022-0030]	
GEN-LU-01	The certificate holder shall design the facility to comply with the following setback distances in Morrow County: a-d. Deleted in Final Order on Amendment 1 dated November 2020. e. Solar facility components shall be setback: 20 feet from property fronting on a local minor collector road rights of way; 30 feet from property fronting on a major collector road right of

	way; and 80 feet from an arterial road right of way, unless other provisions for combining access are provided and approved by the county. f. East and west sides of solar facility components shall be setback 20 feet from adjacent land uses except that on corner lots or parcels the side yard on the street side shall be a minimum of 30 feet. g. North side of solar facility components shall be setback a minimum of 25 feet from any abutting property or taxlot. [Final Order on ASC (2017), Land Use Condition 1; AMD3 (2018); AMD4 (2019); AMD5 (2020); AMD1 (2020)]
GEN-LU-02	During design and construction of the facility, the certificate holder shall: a. Obtain an access permit for changes in access on Morrow County roads; and b. Improve or develop private access roads impacting intersections with Morrow County roads in compliance with Morrow County access standards. [Final Order on ASC (2017), Land Use Condition 4]
GEN-LU-03	During design and construction, the certificate holder shall implement the following actions on all meteorological towers approved through the site certificate: a. Paint the towers in alternating bands of white and red or aviation orange; or b. Install aviation lighting as recommended by the Federal Aviation Administration. [Final Order on ASC (2017), Land Use Condition 9]
GEN-LU-04	The certificate holder shall design and construct the facility using the minimum land area necessary for safe construction and operation. The certificate holder shall: a. Locate access roads and temporary construction laydown and staging areas to minimize disturbance of farming practices; b. Deleted in *Final Order on Amendment 1* dated November 2020. c. Site solar array collector lines, if aboveground, within or adjacent to an existing road, railroad or transmission line right-of-way; parallel to an existing transmission corridor; or co-located with existing transmission line or each other, unless not technically feasible due to lack of availability, geographic constraints, engineering limitations, or other reasons as agreed upon by the Department consistent with this condition. d. Bury underground communication and electrical lines within the area disturbed by temporary road widening, where possible. [Final Order on ASC (2017), Land Use Condition 11; AMD4 (2019); AMD1 (2020)]
GEN-LU-05 - 10	Deleted in *Final Order on Amendment 1* dated November 2020. [Final Order on ASC (2017), Land Use Conditions 14, 16, 20, 22, 24 and 28]
STANDARD: RETIREMENT AND FINANCIAL ASSURANCE (RT) [OAR 345-022-0050]	
GEN-RF-01	The certificate holder shall prevent the development of any conditions on the site that would preclude restoration of the site to a useful, non-hazardous condition to the extent that prevention of such site conditions is within the control of the certificate holder. [Final Order on ASC (2017), Retirement and Financial Assurance Condition 1] [Mandatory Condition OAR 345-025-0006(7)]
STANDARD: FISH AND WILDLIFE HABITAT (FW) [OAR 345-022-0060]	
GEN-FW-01	~~During construction and operation, the certificate holder shall impose a 20 mile per hour speed limit on new and improved private access roads, which have been approved as a related and supporting facility to the energy facility.~~ Deleted in *Final Order on Amendment 1* (2026) [Final Order on ASC (2017), Fish and Wildlife Habitat Condition 2, AMD1 (2026)]

GEN-FW-02	The certificate holder shall construct all overhead collector ~~and transmission interconnection lines~~ in accordance with the latest Avian Power Line Interaction Committee design standards, and shall only install permanent meteorological towers that are unguyed. [Final Order on ASC (2017), Fish and Wildlife Habitat Condition 6]
STANDARD: SCENIC RESOURCES (SR) [OAR 345-022-0080]	
GEN-SR-01	To reduce visual impacts associated with lighting facility structures, other than lighting on structures subject to the requirements of the Federal Aviation Administration or the Oregon Department of Aviation, the certificate holder shall implement the following measures: a. Outdoor night lighting at the collector substations and battery storage systems must be i. The minimum number and intensity required for safety and security; ii. Directed downward and inward within the facility to minimize backscatter and offsite light trespass; and iii. Have motion sensors and switches to keep lights turned off when not needed. [Final Order on ASC (2017), Scenic Resources Condition 1, AMD2 (2018); AMD1 (2020)]
GEN-SR-02	The certificate holder shall: a. Design and construct the battery storage systems to be generally consistent with the character of agricultural buildings used by farmers or ranchers in the area, and the buildings shall be finished in a neutral color to blend with the surrounding landscape; b-c. Deleted in Final Order on Amendment 1 dated November 2020. d. Finish substation structures and battery storage systems utilizing neutral colors to blend with the surrounding landscape; e. Minimize use of lighting and design lighting to prevent offsite glare; f. Not display advertising or commercial signage on any part of the proposed facility; g. Limit vegetation clearing and ground disturbance to the minimum area necessary to safely and efficiently install the facility equipment; h. Water access roads and other areas of ground disturbance during construction, as needed, to avoid the generation of airborne dust; and i. Restore and revegetate temporary impact areas as soon as practicable following completion of construction. [Final Order on ASC (2017), Scenic Resources Condition 2, AMD2 (2018), AMD1 (2020)]
STANDARD: PUBLIC SERVICES (PS) [OAR 345-022-0110]	
GEN-PS-01	~~During construction and operation, the certificate holder shall coordinate with its solid waste handler to provide the information solicited through the Oregon Department of Environmental Quality's Recycling Collector Survey to the Morrow County waste shed representative on an annual basis.~~ Deleted in *Final Order on Amendment 1* (2026) [Final Order on ASC (2017), Public Services Condition 5, AMD1 (2026)]
GEN-PS-02	Deleted in *Final Order on Amendment 1* dated November 2020. [Final Order on ASC (2017), Public Services Condition 11]
GEN-PS-03	~~Prior to construction and operation of the facility, , the certificate holder must provide employee fire prevention and response training that includes instruction on facility fire hazards, fire safety, emergency notification procedures, use of fire safety equipment, and fire safety rules and regulations. The certificate holder shall notify the department and the first-response agencies listed in the Emergency Management Plan developed to comply with Public Services Condition 13 at least 30 days prior to the annual training to provide an opportunity to participate in the training. Equivalent training shall be provided to new employees or subcontractors working on site that are hired during the fire season. The certificate holder must retain records of the training and provide them to the department upon request.~~ Deleted in *Final Order on Amendment 1* (2026).

	[Final Order on ASC (2017), Public Services Condition 18, AMD1 (2026)]
GEN-PS-04	Deleted in *Final Order on Amendment 1* dated November 2020. [Final Order on AMD2 (2018), Public Services Condition 23]
GEN-PS-04	Prior to and during facility construction, as applicable, the certificate holder shall: a. Identify all water-related needs and estimate daily and annual water demand for facility construction. b. Provide evidence such as a contract or purchase agreement demonstrating that adequate water supply to meet facility construction demand has been secured and that water for all construction activities will be legally obtained by service providers or third-party permits. [Final Order on AMD1 (2026), Public Services Condition 24]
STANDARD: PUBLIC HEALTH AND SAFETY FOR WIND FACILITIES (WF) [OAR 345-024-0010]	
GEN-WF-01	Deleted in *Final Order on Amendment 1* dated November 2020. [Final Order on ASC (2017), Public Health and Safety Standards for Wind Facilities Condition 3]
GEN-WF-02	The certificate holder shall notify the department and the Morrow County Planning Department within 72 hours of any accidents including mechanical failures on the site associated with construction or operation of the facility that may result in public health or safety concerns. [Final Order on ASC (2017), Public Health and Safety Standards for Wind Facilities Condition 5; AMD1 (2020)]

4.3 Pre-Construction (PRE) Conditions

Condition Number	Pre-Construction (PRE) Conditions
STANDARD: ORGANIZATIONAL EXPERTISE (OE) [OAR 345-022-0010]	
PRE-OE-01	Before beginning construction of the facility, facility component or phase, as applicable, 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 changes of major contractors. [Final Order on ASC (2017), Organizational Expertise Condition 1; AMD1 (2020)]
PRE-OE-02	Before beginning construction of the facility, facility component or phase, as applicable, the certificate holder shall notify the department of the identity and qualifications of the construction manager to demonstrate that the construction manager is qualified in environmental compliance and has the capability to ensure compliance with all site certificate conditions. [Final Order on ASC (2017), Organizational Expertise Condition 2, AMD1 (2020)]
PRE-OE-03	Prior to construction of the facility, facility component or phase, as applicable, 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 on ASC (2017), Organizational Expertise Condition 3, AMD1 (2020)]
PRE-OE-04	Before beginning construction of the facility, facility component or phase, as applicable, the certificate holder shall notify the department before conducting any work on the site that

	does not qualify as surveying, exploration, or other activities to define or characterize the site. The notice must include a description of the work and evidence that its value is less than $250,000 or evidence that the certificate holder has satisfied all conditions that are required prior to beginning construction. [Final Order on ASC (2017), Organizational Expertise Condition 4, AMD1 (2020)]
PRE-OE-05	Prior to construction of the facility, facility component or phase, as applicable, the certificate holder must provide the department and Morrow County with the name(s) and location(s) of the aggregate source and evidence of the source's county permit(s). [Final Order on ASC (2017), Organizational Expertise Condition 7, AMD1 (2020)]
PRE-OE-06	The certificate holder must: a. Prior to construction of solar facility components approved in the Fourth Amended Site Certificate, provide to the Department a list of all third-party permits that would normally be governed by the site certificate and that are necessary for construction and operation (e.g. Water Pollution Control Facilities Permit, Air Contaminant Discharge Permit, Limited Water Use License). Once obtained, the certificate holder shall provide copies of third-party permits to the Department. b. During construction and operation, promptly report to the Department if any third-party permits referenced in sub(b) of this condition have been cited for a Notice of Violation. [Final Order on ASC (2017), Organizational Expertise Condition 8; AMD4 (2019); AMD5 (2020), AMD1 (2020)]
STANDARD: STRUCTURAL (SS) [OAR 345-022-0020]	
PRE-SS-01	Before beginning construction of the facility, facility component or phase, as applicable, the certificate holder must: a. Submit a protocol to the Department and Oregon Department of Geology & Mineral Industries (DOGAMI), for review, with the applicable codes, standards, and guidelines to be used, and proposed geotechnical work to be conducted for the site-specific geotechnical investigation report. b. Following receipt and review of Department and DOGAMI comments on the protocol per (a), the certificate holder shall conduct a site-specific geological and geotechnical investigation, and shall report its findings to DOGAMI and the department. The report shall be used by the certificate holder in final facility layout and design. The department shall review, in consultation with DOGAMI, and confirm that the investigation report includes an adequate assessment of the following information: • Subsurface soil and geologic conditions of the site boundary • Define and delineate geological and geotechnical hazards, and means to mitigate these hazards • Geotechnical design criteria and data for the foundations of substations, ~~O&M buildings,~~ battery storage systems, roads, and other related and supporting facilities • Design data for installation of underground and overhead collector lines, and overhead transmission lines • Investigation of specific areas with potential for slope instability and landslide hazards. Landslide hazard evaluation shall be conducted by LIDAR and field work, as recommended by DOGAMI • Investigations of the swell and collapse potential of loess soils within the site boundary.

	[Final Order on ASC (2017), Structural Standard Condition 1; AMD2 (2018), AMD1 (2020), AMD1 (2026)]
PRE-SS-02	Prior to construction of the facility, facility component or phase, as applicable, the certificate holder shall include as part of the geotechnical investigation required per Structural Standard Condition 1, an investigation of all potentially active faults within the site boundary. The investigation shall include a description of the potentially active faults, their potential risk to the facility, and any additional mitigation that will be undertaken by the certificate holder to ensure safe design, construction, and operation of the facility. [Final Order on ASC (2017), Structural Standard Condition 3; AMD5 (2020), AMD1 (2020)]
PRE-SS-03	Prior to construction of the facility, facility component or phase, as applicable, the certificate holder shall include as part of the geotechnical investigation required per Structural Standard Condition 1 an investigation of specific areas with potential for slope instability and shall site solar arrays appropriate to avoid potential hazards. The landslide hazards shall be investigated and mapped before final facility layout and design. The landslide hazard evaluation shall be conducted by a combination of LIDAR and field work. [Final Order on ASC (2017), Structural Standard Condition 4, AMD1 (2020)]
PRE-SS-04	Prior to construction of the facility, facility component or phase, as applicable, the certificate holder shall include as part of the geotechnical investigation required per Structural Standard Condition 1, an investigation of the swell and collapse potential of loess soil in the site boundary. Based on the results of the investigation, the certificate holder shall include mitigation measures including, as necessary, over-excavating and replacing loess soil with structural fill, wetting and compacting, deep foundations, or avoidance of specific areas. [Final Order on ASC (2017), Structural Standard Condition 5, AMD1 (2020)]
STANDARD: SOIL PROTECTION (SP) [OAR 345-022-0022]	
PRE-SP-01	Prior to beginning construction, the certificate holder shall provide a copy of ~~of a DEQ-approved~~the construction Spill Prevention Control and Countermeasures (SPCC) plan to the Department, to be implemented during facility construction. The SPCC plan shall include the measures described in Exhibit I of ASC and in the final order approving the site certificate. [Final Order on ASC (2017), Soil Protection Condition 3; AMD1 (2026)]
PRE-SP-02	~~Prior to construction of the facility, facility component or phase, as applicable, the certificate holder shall ensure that the final Revegetation Plan includes a program to protect and restore agricultural soils temporarily disturbed during facility construction. As described in the final order, agriculture soils shall be properly excavated, stored, and replaced by soil horizon. Topsoil shall be preserved and replaced. The Revegetation Plan shall be finalized pursuant to Fish and Wildlife Habitat Condition 11.~~ Deleted in *Final Order on Amendment 1* (2026) [Final Order on ASC (2017), Soil Protection Condition 4, AMD1 (2020), AMD1 (2026)]
PRE-SP-03	Deleted in *Final Order on Amendment 1* dated November 2020. ~~-~~[Final Order on ASC (2017), Soil Protection Condition 7]
PRE-SP-04	Prior to construction of the facility, facility component or phase, as applicable, the certificate holder shall obtain a NPDES 1200-C Permit from DEQ. A copy of the approved permit and attached Erosion and Sediment Control Plan (ESCP) must be submitted to the Department. [Final Order on AMD1 (2026), Soil Protection Condition 8]
PRE-SP-05	Before beginning construction of the facility, facility component or phase, as applicable, the certificate holder shall: a. Finalize the draft ~~Construction~~ Vegetation and Soil Management Plan included as Attachment C~~-1~~ to the Final Order on AMD1 based on the measures identified in the plan, final facility design, and the approved National Pollutant Discharge Elimination System

	(NPDES) General Permit 1200-C for the facility. The final Vegetation and Soil Management Plan shall be submitted to the Department for review and approval. b. Complete all items included in the Pre-Construction Actions and Compliance Submittals in the final plan, as applicable to the facility components or phase. [Final Order on AMD1 (2026), Soil Protection Condition 11]
STANDARD: LAND USE (LU) [OAR 345-022-0030]	
PRE-LU-01	Before beginning construction of the facility, facility component or phase, as applicable, the certificate holder shall complete the following: a. Pay the requisite fee and obtain a Zoning Permit from Morrow County for all facility components sited in Morrow County; and b. Obtain all other necessary local permits, including building permits. c. Provide the county with a building permit application, a third party technical report which includes: 1. Evaluates fire hazards and; 2. Presents mitigation and recommendations for a fire suppression system designed for the battery storage systems. d. The certificate holder shall provide copies of the third-party technical report and issued permits to the Department. [Final Order on ASC (2017), Land Use Condition 3; AMD2 (2018)]
PRE-LU-02	Before beginning construction of the facility, facility component or phase, as applicable, the certificate holder shall pay the requisite fee and obtain a Conditional Use Permit as required under Morrow County Zoning Ordinance Article 6 Section 6.015. [Final Order on ASC (2017), Land Use Condition 5, AMD1 (2020)]
PRE-LU-03	~~Before beginning construction of the facility, facility component or phase, as applicable, the certificate holder shall prepare a Weed Control Plan that is consistent with Morrow County weed control requirements to be approved by the department. The department shall consult with Morrow County and ODFW. The final plan must be submitted to the department no less than 30 days prior to the beginning of construction. The certificate holder shall implement the requirements of the approved plan during all phases of construction and operation of the facility.~~ Deleted in *Final Order on Amendment 1* (2026) [Final Order on ASC (2017), Land Use Condition 6; AMD5 (2020), AMD1 (2020), AMD1 (2026)]
PRE-LU-04	Before beginning construction of the facility, facility component or phase, as applicable, the certificate holder shall record in the real property records of Morrow County a Covenant Not to Sue with regard to generally accepted farming practices on adjacent farmland. [Final Order on ASC (2017), Land Use Condition 7, AMD1 (2020)]
PRE-LU-05	Prior to beginning construction of the facility, facility component or phase, as applicable, the certificate holder shall consult with surrounding landowners and lessees and shall consider proposed measures to reduce or avoid any adverse impacts to farm practices on surrounding lands and to avoid any increase in farming costs during construction and operation of the facility. Prior to beginning construction, the certificate holder shall provide evidence of this consultation to the department and Morrow County. [Final Order on ASC (2017), Land Use Condition 12; AMD5 (2020), AMD1 (2020)]
PRE-LU-06	Before beginning construction of the facility, facility component or phase, as applicable, the certificate holder shall work with the Morrow County Road Department to identify specific construction traffic related concerns, and develop a traffic management plan that specifies necessary traffic control measures to mitigate the effects of the temporary increase in traffic.

	The certificate holder must provide a copy of the traffic management plan to the department and Morrow County, and must implement the traffic management plan during construction. [Final Order on ASC (2017), Land Use Condition 13, AMD1 (2020)]
PRE-LU-07	Deleted in *Final Order on Amendment 1* dated November 2020. [Final Order on ASC (2017), Land Use Condition 15; AMD2 (2018)]
PRE-LU-08	Prior to facility construction of the facility, facility component or phase, as applicable, the certificate holder shall install gates and no trespassing signs at all private access roads established or improved for the purpose of facility construction and operation if requested by the underlying landowner. [Final Order on ASC (2017), Land Use Condition 18; AMD4 (2019), AMD1 (2020)]
PRE-LU-09	Deleted in *Final Order on Amendment 1* dated November 2020. [Final Order on ASC (2017), Land Use Condition 21]
STANDARD: RETIREMENT AND FINANCIAL ASSURANCE (RT) [OAR 345-022-0050]	
PRE-RF-01	~~Before beginning construction of the facility, the certificate holder shall submit to the State of Oregon, through the Council, a bond or letter of credit in a form and amount satisfactory to the Council to restore the site to a useful, non-hazardous condition. The certificate holder shall maintain a bond or letter of credit in effect at all times until the facility has been retired. The Council may specify different amounts for the bond or letter of credit during construction and during operation of the facility.~~ Deleted in *Final Order on Amendment 1* (2026) [Final Order on ASC (2017), Retirement and Financial Assurance Condition 4, AMD1] [Mandatory Condition OAR 345-025-0006(8), AMD1 (2026)]
PRE-RF-02	~~Before beginning construction of solar energy facility components or its related or supporting facilities, the certificate holder shall submit to the State of Oregon, through the Council, a bond or letter of credit naming the State of Oregon, acting by and through the Council, as beneficiary or payee. The initial bond or letter of credit amount for the solar facility components is $9.4 million dollars (Q4 2018 dollars), to be adjusted to the date of issuance based on the line items and unit costs presented in Table 4 of the *Final Order on Amendment 4* (November 2019), and adjusted on an annual basis thereafter, as described in sub-paragraph (2) of this condition:~~ ~~1. The certificate holder may adjust the amount of the initial bond or letter of credit based on the final design configuration of the facility. Any revision to the restoration costs should be adjusted to the date of issuance as described in (2) and subject to review and approval by the Council.~~ ~~2. The certificate holder shall adjust the amount of the bond or letter of credit using the following calculation:~~ ~~i. Adjust the amount of the bond or letter of credit (expressed in Q4 2018 dollars for solar facility components)) to present value, 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 and using the fourth quarter 2018 index value and the quarterly index value for the date of issuance of the new bond or letter of credit. If at any time the index is no longer published, the Council shall select a comparable calculation to adjust fourth quarter 2018 dollars to present value.~~ ~~ii. Round the result total to the nearest $1,000 to determine the financial assurance amount.~~ ~~3. The certificate holder shall use an issuer of the bond or letter of credit approved by the Council.~~ ~~4.~~1. ~~The certificate holder shall use a form of bond or letter of credit approved by the Council. The certificate holder shall describe the status of the bond or letter of credit in the annual report submitted to the Council under OAR 345-026-0080. The bond or letter of credit shall~~

	~~not be subject to revocation or reduction before retirement of the facility site~~ Deleted in *Final Order on Amendment 1* (2026)~~.~~ [Final Order on ASC (2017), Retirement and Financial Assurance Condition 5; AMD2 (2018); AMD4 (2019); AMD5 (2020), AMD1 (2020), AMD1 (2026)]
PRE-RF-03	Retirement and Financial Assurance Condition 7 (PRE): Prior to construction of the facility, facility component, or phase, the certificate holder shall: a. Submit to the Department Table 8 (Retirement Table with tasks/unit/unit costs) of the Final Order on AMD1, updated based on final design and phased construction, if applicable. Certificate holder may not make changes to the unit cost without review and approval by the Department. Certificate holder must also request that the Department confirm the present-day inflation adjusted decommissioning estimate, rounded to the nearest $1,000, to be reflected in the bond or letter of credit in sub c of this condition. b. Incorporate any additional decommissioning costs for facility changes which have been determined by the Department not to require a site certificate amendment. c. Submit to the Department a bond or letter of credit, in the amount affirmed by the Department under (a), based on the Council's current pre-approved financial institution list and form. [Retirement and Financial Assurance Condition 7; Final Order on AMD1 (2026),]
STANDARD: FISH AND WILDLIFE HABITAT (FW) [OAR 345-022-0060]	
PRE-FW-01	Prior to final site design and facility layout, the certificate holder shall conduct a field-based habitat survey to confirm the habitat categories of all areas that will be affected by facility components, as well as the locations of any sensitive resources such as active raptor and other bird nests. The 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 also include an updated version of Table FW-1 Potential Temporary and Permanent Impacts by Habitat Category and Type of the final order, showing 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 micrositing 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 all 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. In classifying the affected habitat into habitat categories, the certificate holder shall consult with the department and ODFW. The certificate holder shall not begin construction of the facility until the habitat assessment, categorization, and impact assessment has been approved by the department, in consultation with ODFW. The certificate holder shall not construct any facility components within areas of Category 1 habitat and shall avoid temporary disturbance of Category 1 habitat. [Final Order on ASC (2017), Fish and Wildlife Habitat Condition 1, AMD1 (2020)]
PRE-FW-02	~~Prior to construction of the facility, the certificate holder shall finalize and implement the Wildlife Monitoring and Mitigation Plan (WMMP) provided in Attachment F-1 of the *Final Order on Request for Amendment 1 of Wheatridge Renewable Energy Facility II Site Certificate* (November 2020), based on the final facility design, as approved by the department in consultation with ODFW.~~

	~~a. The final WMMP must be submitted and ODOE's concurrence received prior to the beginning of construction. ODOE shall consult with ODFW on the final WMMP. The certificate holder shall implement the requirements of the approved WMMP during all phases of construction and operation of the facility.~~ ~~b. The WMMP 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 the WMMP agreed to by the Department.~~ Deleted in *Final Order on Amendment 1* (2026). [Final Order on ASC (2017), Fish and Wildlife Habitat Condition 4; AMD5 (2020), AMD1 (2020) ; AMD1 (2026)]
PRE-FW-03	Prior to construction of the facility, facility component or phase, as applicable, ~~-~~the certificate holder shall flag all environmentally sensitive areas as restricted work zones. Restricted work zones shall include but not be limited to areas with sensitive or protected plant species, including candidate species, wetlands and waterways that are not authorized for construction impacts, areas with seasonal restrictions, and active state sensitive species bird nests. [Final Order on ASC (2017), Fish and Wildlife Habitat Condition 8, AMD1 (2020)]
PRE-FW-04	Before beginning construction of the facility, facility component or phase, as applicable, the certificate holder shall prepare and receive approval from the department of a final Habitat Mitigation Plan, substantially as presented in Attachment C-1 of the *Final Order on Amendment 1 of the Wheatridge Renewable Energy Facility II Site Certificate* (November 2020). The final Habitat Mitigation Plan shall be based on the final facility design and shall be approved by the department in consultation with ODFW. The Council retains the authority to approve, reject or modify the final HMP. a. The final Habitat Mitigation Plan and the department's approval must be received prior to beginning construction. The department shall consult with ODFW on the final plan. The certificate holder shall implement the requirements of the approved plan during all phases of construction and operation of the facility. b. The certificate holder shall calculate the size of the habitat mitigation area according to the final design configuration of the facility and the estimated areas of habitat affected in each habitat category, in consultation with the department, as per the pre-construction survey results and impact assessment calculations called for in Fish and Wildlife Habitat Condition 1. c. The certificate holder shall acquire the legal right to create, enhance, maintain, and protect the habitat mitigation area, as long as the site certificate is in effect, by means of an outright purchase, conservation easement or similar conveyance and shall provide a copy of the documentation to the department prior to the start of construction. Within the habitat mitigation area, the certificate holder shall improve the habitat quality as described in the final Habitat Mitigation Plan. d. The certificate holder shall provide a habitat assessment of the habitat mitigation area, based on a protocol approved by the Department in consultation with ODFW, which includes methodology, habitat map and available acres by habitat category and subtype in tabular format. e. The final HMP shall include an implementation schedule for all mitigation actions, including securing the conservation easement, conducting the ecological uplift actions at the habitat mitigation area, revegetation and restoration of temporarily impacted areas, and monitoring.

	The mitigation actions shall be implemented according to the following schedule, as included in the HMP: ~~Restoration and revegetation of temporary construction-related impact area shall be conducted as soon as possible following construction.~~ i. The certificate holder shall obtain legal authority to conduct the required mitigation work at the compensatory habitat mitigation site before commencing construction. The habitat enhancement actions at the compensatory habitat mitigation site shall be implemented concurrent with construction. f. The final HMP shall include a monitoring and reporting program for evaluating the effectiveness of all mitigation actions, including restoration of temporarily impacted areas and ecological uplift actions at the habitat mitigation area. g. The final HMP shall include mitigation in compliance with the Council's Fish and Wildlife Habitat standard, including mitigation for temporary impacts to Category 4 habitat (shrub-steppe habitat); and, mitigation for all Category 2 habitat impacts that meet the mitigation goal of no net loss of habitat quality or quantity, plus a net benefit of habitat quality or quantity. ~~h. The final HMP 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.~~ [Final Order on ASC (2017), Fish and Wildlife Habitat Condition 10, AMD1 (2020); AMD1 (2026)]
PRE-FW-05	~~Before beginning construction of the facility, facility component or phase, as applicable, the certificate holder shall prepare and receive approval of a final Revegetation Plan, provided as Attachment D-1 of the *Final Order on Amendment 1 of the Wheatridge Renewable Energy Facility II Site Certificate* (November 2020), from the Department, in consultation with Morrow County and ODFW. The certificate holder shall implement the requirements of the approved plan during all phases of construction and operation of the facility.~~ Deleted in *Final Order on Amendment 1* (2026). [Final Order on ASC (2017), Fish and Wildlife Habitat Condition 11; AMD5 (2020), AMD1 (2020), AMD1 (2026)]
STANDARD: THREATENED AND ENDANGERED SPECIES (TE) [OAR 345-022-0070]	
PRE-TE-01	Prior to construction of the facility, facility component or phase, as applicable, the certificate holder shall determine the boundaries of Category 1 Washington ground squirrel habitat. The certificate holder shall hire a qualified professional biologist who has experience in detection of Washington ground squirrel to conduct pre-construction surveys using a survey protocol approved by the department in consultation with ODFW. The biologist shall survey all areas of suitable habitat within 1,000 feet of any ground disturbing activity. Ground disturbing activity refers to any potential impact, whether permanent or temporary. The protocol surveys shall be conducted in the active squirrel season (March 1 to May 31) prior to construction commencement. The protocol survey is valid for three years. If construction begins within three years of conducting the protocol survey, but not within one year of the protocol survey, the certificate holder shall conduct a pre-construction survey only within areas of suitable Washington ground squirrel habitat where ground disturbing activity would occur. The certificate holder shall provide written reports of the surveys to the department and to ODFW and shall identify the boundaries of Category 1 Washington ground squirrel (WGS) habitat.

	The certificate holder shall not begin construction within suitable habitat until the identified boundaries of Category 1 WGS habitat have been approved by the department, in consultation with ODFW. The certificate holder shall avoid any permanent or temporary disturbance in all Category 1 WGS habitat. The certificate holder shall ensure that these sensitive areas are correctly marked with exclusion flagging and avoided during construction. [Final Order on ASC (2017), Threatened and Endangered Species Condition 1, AMD1 (2020)]
PRE-TE-02	~~In accordance with Fish and Wildlife Habitat Condition 4, prior to construction, the certificate holder shall finalize and implement the Wildlife Monitoring and Mitigation Plan (WMMP) provided in Attachment F-1 of the *Final Order on Amendment 1 of the Wheatridge Renewable Energy Facility II Site Certificate* (November 2020), based on the final facility design, as approved by the department in consultation with ODFW. The final WMMP shall include a program to monitor potential impacts from facility operation on Washington ground squirrel. Monitoring shall be of any known colonies and shall be completed on the same schedule as the raptor nest monitoring for the facility. The monitoring surveys shall include returning to the known colonies to determine occupancy and the extent of the colony as well as a general explanation of the amount of use at the colony. If the colony is not found within the known boundary of the historic location a survey 500 feet out from the known colony will be conducted to determine if the colony has shifted over time. Any new colonies that are located during other monitoring activities, such as raptor nest monitoring surveys, shall be documented and the extent of those colonies should be delineated as well. These newly discovered colonies shall also be included in any future WGS monitoring activities.~~Deleted in Final Order on Amendment 1 (2026). [Final Order on ASC (2017), Threatened and Endangered Species Condition 2, AMD1 (2026)]
PRE-TE-03	To avoid potential impacts to Laurent's milkvetch, the certificate holder must: i. Conduct preconstruction plant surveys for ~~Laurent's~~ Lawrence's milkvetch within 100-feet of temporary and permanent disturbance from all facility components, unless extent of survey area within suitable habitat from temporary and permanent disturbance is otherwise agreed upon by the Department on consultation with Oregon Department of Agriculture. If the species is found to occur, the certificate holder must install protection flagging around the plant population and avoid any ground disturbance within this zone. ii. Ensure that any plant protection zone established under (i) above is included on construction plans showing the final design locations. iii. If herbicides are used to control weeds, the certificate holder shall follow the manufacturer's guidelines in establishing a buffer area around confirmed populations of Laurent's milkvetch. Herbicides must not be used within the established buffers. iv. If avoidance cannot be maintained, the certificate holder may request that the Department consider an avoidance exception, authorized through Council concurrence as further described below. The exception request must include an impact assessment and mitigation plan for the affected species including but not be limited to: • Literature review and/or field studies that inform the current status of the species within the survey area or region, if survey area does not contain sufficient information to develop a statistically viable approach for determining impact significance; • A description of the individual(s) or population(s) identified within the survey area that would be avoided and impacted; • An evaluation of facility impacts on the survival or recovery of the species, in accordance with the Threatened and Endangered Species standard;

	• Proposed mitigation measures such as: funded studies that improve understanding of reproductive biology and pollination; development of seed germination, propagation, and transplanting protocols; and/or, compensatory mitigation project including conservation easement(s) and species propagation, protection, and habitat enhancement measures, and/or other proposed mitigation measures that would benefit the affected species. • The Department's review and determination of the exception request shall be conducted in consultation with the Oregon Department of Agriculture, or a third-party consultant. The Department's determination on the exception request must be concurred with by Council. Council retains authority to reject, modify or concur with the exception request. [Final Order on ASC (2017), Threatened and Endangered Species Condition 3; AMD3 (2018); AMD4 (2019); AMD1 (2026)]
STANDARD: HISTORIC, CULTURAL, AND ARCHAEOLOGICAL RESOURCES (HC) [OAR 345-022-0090]	
PRE-HC-01	Before beginning construction, the certificate holder shall provide to the department a map showing the final design locations of all components of the facility, the areas that will be temporarily disturbed during construction and the areas that were surveyed in 2018-2020 for historic, cultural, and archaeological resources. [Final Order on ASC (2017), Historic, Cultural, and Archeological Resources Condition 1, AMD1 (2020)]
PRE-HC-02	Before beginning construction, the certificate holder shall mark the buffer areas established under Historic, Cultural, and Archeological Resources Condition 3 for all identified historic, cultural, or archaeological resource sites (including those of unknown age) on construction maps and drawings as "no entry" areas. A copy of current maps and drawings must be maintained onsite during construction and made available to the department upon request. [Final Order on ASC (2017), Historic, Cultural, and Archeological Resources Condition 2, AMD1 (2020)]
PRE-HC-03	Before beginning construction of the facility, facility component or phase, as applicable, the certificate holder shall ensure that a qualified archeologist, as defined in OAR 736-051-0070, trains construction contractors on how to identify sensitive historic, cultural, and archaeological resources present onsite and on measures to avoid accidental damage to identified resource sites. Records of such training must be maintained onsite during construction, and made available to the department upon request. [Final Order on ASC (2017), Historic, Cultural, and Archeological Resources Condition 4, AMD1 (2020)]
STANDARD: PUBLIC SERVICES (PS) [OAR 345-022-0110]	
PRE-PS-01	Prior to construction, the certificate holder shall prepare a Traffic Management Plan that includes the procedures and actions described in this order and the mitigation measures identified in ASC Exhibit U, Section 3.5.4. The plan shall be approved by the department in consultation with the appropriate transportation service providers. The plan shall be maintained onsite and implemented throughout construction of the facility. In addition, the certificate holder shall include the following information in the plan: a. Procedures to provide advance notice to all affected local jurisdictions and adjacent landowners of construction deliveries and the potential for heavy traffic on local roads; b. A policy of including traffic control procedures in contract specifications for construction of the facility;

	c. Procedures to maintain at least one travel lane at all times to the extent reasonably possible so that roads will not be closed to traffic because of construction vehicles; d. A policy of ensuring that no equipment or machinery is parked or stored on any county road whether inside or outside the site boundary. The certificate holder may temporarily park equipment off the road but within county rights-of-way with the approval of the Morrow County Public Works Department; e. A policy to encourage and promote carpooling for the construction workforce; and f. Procedures to keep state highways and county roads free of gravel that may be tracked out on intersecting roads at facility access points. [Final Order on ASC (2017), Public Services Condition 6, AMD1 (2020)]
PRE-PS-02	Before beginning construction, the certificate holder must enter into Road Use Agreements with the Morrow County Public Works Departments. The Agreements must include, at a minimum, a pre-construction assessment of road surfaces under Morrow County jurisdiction, construction monitoring, and post-construction inspection and repair. A copy of the Road Use Agreements with Morrow County must be submitted to the department before beginning construction. If required by Morrow County, the certificate holder shall post bonds to ensure funds are available to repair and maintain roads affected by the facility. [Final Order on ASC (2017), Public Services Condition 7, AMD1 (2020)]
PRE-PS-03	The certificate holder shall design and construct new access roads and private road improvements to standards approved by Morrow County. Where modifications of county roads are necessary, the certificate holder shall construct the modifications entirely within the county road rights-of-way and in conformance with county road design standards subject to the approval of the Morrow County Public Works Department. [Final Order on ASC (2017), Public Services Condition 8, AMD1 (2020)]
PRE-PS-04	~~Before beginning construction of the facility, facility component or phase, as applicable, the certificate holder shall:~~ ~~a. Complete the Federal Aviation Administration (FAA) Notice Criteria Tool for solar facility coordinates to determine applicability of the FAA 7460 filing. If the FAA Notice Criteria Tool requires FAA filing, the certificate holder will submit to the FAA and the Oregon Department of Aviation an FAA Form 7460-1 Notice of Proposed Construction or Alteration.~~ ~~b. Submit to the Oregon Department of Aviation the solar facility coordinates for purposes of an aeronautical study and determination. If the Department, in consultation with the Oregon Department of Aviation, determines that the facility would adversely impact an airport's ability to provide service by obstructing the airport's primary or horizontal surface, the department, in consultation with the Oregon Department of Aviation and the certificate holder, shall determine appropriate mitigation, if any, prior to construction.~~ Deleted in *Final Order on Amendment 1* (2026) [Final Order on ASC (2017), Public Services Condition 9; AMD1 (2020) ; AMD1 (2026)]
PRE-PS-05	Prior to construction, the certificate holder shall submit ~~prepare~~ an Emergency and Safety Management Plan to the Department, for review and approval. The Construction Emergency and Safety Management may be the certificate holder or contractors corporate Plan but must include, at a minimum ~~that includes the procedures and actions described in this order and in ASC Exhibit U. The certificate holder shall submit the plan to ODOE for review and approval in consultation with the appropriate local fire protection districts (including the City of Heppner Volunteer Fire Department and Ione Rural Fire Protection District) prior to construction. The plan shall be maintained onsite and implemented throughout construction and operation of the facility. Any updates to the plan shall be provided to the department within 30 days. All onsite workers shall~~

	~~be trained on the fire prevention and safety procedures contained in the plan prior to working on the facility.~~ ~~a. Additional information that shall be included in the plan:~~C~~urrent c~~contact information of ~~at least two~~ facility personnel available to respond on a 24-hour basis in case of an emergency on the facility site. The contact information must include name, telephone number(s), physical location, and email address for the listed contact(s). ~~An updated list must be provided to the fire protection agencies immediately upon any change of contact information. A copy of the contact list, and any updates as they occur, must also be provided to the Department, along with a list of the agencies that received the contact information.~~ ~~b.~~a. ~~Identification of agencies that participated in developing the plan;~~ ~~c.~~b. Identification of agencies and fire protection associations, with contact information, that are designated as first response agencies and ~~or~~ are included in any mutual aid agreements with the facility; ~~d.~~c. A list of any other mutual aid agreements or fire protection associations in the vicinity of the facility; i. Copies of mutual aid, fire protection association, or other agreements entered into concerning fire protection at the facility site; ~~Contact information for each agency listed above;~~ ~~e.~~d. ~~Communication~~ Protocols for both routine and emergency events and the incident command and notification system to be used in the event of an ~~fire~~ emergency response by multiple agencies is needed at the facility; ~~Access and fire response at the facility site during construction and operations. Fire response plans during construction should address regular and frequent communication amongst the agencies regarding the number and location of construction sites within the site boundary, access roads that are completed and those still under construction, and a temporary signage system until permanent addresses and signs are in place;~~ ~~f.~~e. The designated meeting location in case of evacuation; f. Location(s) of automated external defibrillator (AED) that must be available onsite. g. Staff and contractor training requirements; and frequency of trainings; i. Personnel shall be trained on the measures described in the Emergency and Safety Management Plan and in first aid, cardiopulmonary resuscitation (CPR), and the use of an AED. ii. First aid techniques and locations of first aid kits and AED. iii. Training attendance rosters and training materials must be maintained. ~~Copies of mutual aid, fire protection association, or other agreements entered into concerning fire protection at the facility site.~~ [Final Order on ASC (2017), Public Services Condition 13, AMD1 (2020) , AMD1 (2026)]
PRE-PS-06	~~Before beginning construction, the certificate holder shall develop and implement, or require its contractors to develop and implement, a site health and safety plan that informs workers and others onsite about first aid techniques and what to do in case of an emergency. The health and safety plan will include preventative measures, important telephone numbers, the locations of onsite fire extinguishers, and the names, locations and contact information of nearby hospitals. All onsite workers shall be trained in safety and emergency response, as per the site health and safety plan. The site health and safety plan must be updated on an annual basis, maintained throughout the construction and operations and maintenance phases of the facility, and available upon request by the department.~~ Deleted in *Final Order on Amendment 1* (2026).

	[Final Order on ASC (2017), Public Services Condition 20, AMD1 (2020) ; AMD1 (2026)]
PRE-PS-07	~~Before beginning construction of the facility, facility component or phase, as applicable, the certificate holder shall ensure that all construction workers are certified in first aid, cardio-pulmonary resuscitation (CPR), and the use of an automated external defibrillator (AED). The certificate holder must retain records of the certifications and provide them to the department upon request. The certificate holder shall also ensure that an AED is available onsite at all times that construction activities are occurring.~~ Deleted in *Final Order on Amendment 1* (2026). [Final Order on ASC (2017), Public Services Condition 21, AMD1 (2020) ; AMD1 (2026)]
STANDARD: WILDFIRE PREVENTION AND RISK MITIGATION (WF) [OAR 345-022-0115]	
PRE-WF-01	Prior to facility construction, the certificate holder shall finalize and submit a Construction Wildfire Mitigation Plan (WMP), Attachment E-1 to the Final Order on RFA1 to the Department for review and approval. [Wildfire Prevention and Risk Mitigation Condition 1; Final Order on AMD1 (2026)]
STANDARD: WASTE MINIMIZATION (WM) [OAR 345-022-0120]	
PRE-WM-01	Prior to construction, the certificate holder shall develop a construction waste management plan, to be implemented during all phases of facility construction, which includes at a minimum the following details: a. Specification of the number and types of waste containers to be maintained at construction sites and construction yards b. Description of waste segregation methods for recycling or disposal. c. Names and locations of appropriate recycling and waste disposal facilities, collection requirements, and hauling requirements to be used during construction. The certificate holder shall maintain a copy of the construction waste management plan onsite and shall provide to the department a report on plan implementation in the 6-month construction report required pursuant to OAR 345-026-0080(1)(a). [Final Order on ASC (2017), Waste Minimization Condition 2, AMD1 (2020)]
PRE-WM-02	Prior to construction, the certificate holder shall investigate and confirm that no surfaces waters, shallow groundwater, or drinking water sources will be adversely impacted by the usage of concrete washout water in the foundations of facility components, and shall submit an investigation report to the department. Prior to construction, the department, in consultation with DEQ, shall review the results of the investigation report and shall verify that the plan to dispose of concrete washout water in the foundations of facility components is unlikely to adversely impact surface waters, shallow groundwater, or drinking water sources. The applicant's investigation shall be based on the anticipated final facility layout and design. If the results of the investigation show that the proposed concrete washout water disposal method would cause adverse impacts to surface water, shallow groundwater, or drinking water sources, the applicant shall propose mitigation measures to reduce potential impacts, for review and approval by the department in consultation with DEQ, prior to construction. [Final Order on ASC (2017), Waste Minimization Condition 3, AMD1 (2020)]
STANDARD: SITING STANDARDS FOR TRANSMISSION LINES (TL) [OAR 345-024-0090]	
PRE-TL-01	Prior to construction, the certificate holder shall schedule a time to brief the OPUC Safety, Reliability, and Security Division (Safety) Staff as to how it will comply with OAR Chapter 860, Division 024 during design, construction, operations, and maintenance of the facilities. [Final Order on ASC (2017), Siting Standard Condition 2]
STANDARD: NOISE CONTROL REGULATION (NC) [OAR 345-035-0035]	
PRE-NC-01	Prior to construction, the certificate holder shall provide to the ~~department~~Department:

	a. Information that identifies the final design locations of all facility components to be built at the facility; b. The maximum sound power level for the facility components including transformers~~(substation and solar array)~~, invertors, battery storage cooling system selected for the facility based on manufacturers' warranties or confirmed by other means acceptable to the ~~department~~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~~ Department that the total noise generated by the facility (including transformers, inverters and battery storage cooling systems) would meet the ambient noise degradation test and maximum allowable test at the appropriate measurement point for all potentially-affected noise sensitive properties, or that the certificate holder has obtained the legally effective easement or real covenant for expected exceedances of the ambient noise degradation test described (d) below. d. For each noise-sensitive property where the certificate holder relies on a noise waiver to demonstrate compliance in accordance with OAR 340-035-0035(1)(b)(B)(iii)~~(III)~~, a copy of the 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 L_{10} and L_{50} by more than 10 dBA at the appropriate measurement point. The legally effective easement or real covenant must: include a legal description of the burdened property (the noise sensitive property); be recorded in the real property records of the county; expressly benefit the property on which the solar energy facility is located; expressly run with the land and bind all future owners, lessees or holders of any interest in the burdened property; and not be subject to revocation without the certificate holder's written approval. [Final Order on ASC (2017), Noise Control Condition 2; AMD3 (2018), AMD1 (2020) ; AMD1 (2026)]
STANDARD: REMOVAL FILL LAW (RFL) [OAR 141-085-0500 - 0785]	
~~PRE-RFL-01~~	~~Prior to construction of the facility, facility component or phase, as applicable, the certificate holder shall conduct a desktop evaluation to determine if wetlands or waters of the state (WOS) are present within the site boundary. If the desktop evaluation shows that wetlands or WOS are within proximity to ground disturbance, the certificate holder must conduct a field survey and submit a wetland delineation report to DSL for a DSL concurrence letter and demonstrate that impacts to wetland or WOS would be less than 50 cubic yards or that a removal fill permit may be necessary.~~ ~~[Removal Fill Condition 1; Final Order on AMD1 (2026)]~~

4.4 Construction (CON) Conditions

Condition Number	Construction (CON) Conditions
STANDARD: SOIL PROTECTION (SP) [OAR 345-022-0022]	
CON-SP-01	~~During construction, the certificate holder shall conduct all work in compliance with a final Erosion and Sediment Control Plan (ESCP) that is satisfactory to the Oregon Department of Environmental Quality as required under the National Pollutant Discharge Elimination System Construction Stormwater Discharge General Permit 1200-C.~~ Deleted in *Final Order on Amendment 1* (2026). [Final Order on ASC (2017), Soil Protection Condition 1; AMD1 (2026)]

CON-SP-02	During construction, the erosion and sediment control best management practices and measures as described in ASC Exhibit I, Section 5.2 and listed in the final order approving the site certificate shall be included and implemented as part of the final ESCP. [Final Order on ASC (2017), Soil Protection Condition 2]
CON-SP-03	The construction Spill Prevention Control and Countermeasures (SPCC) plan approved under PRE-SP-01 shall be implemented during facility construction. [Soil Protection Condition 10; Final Order on AMD1 (2026)]
CON-SP-04	During and following construction of the facility, facility component or phase, as applicable, the certificate holder shall conduct all work in compliance with the ~~Construction~~ Vegetation and Soil Management Plan required under Condition PRE-SP-05. [Soil Protection Condition 12; Final Order on AMD1 (2026)]
STANDARD: LAND USE (LU) [OAR 345-022-0030]	
CON-LU-01	During construction, the certificate holder shall comply with the following requirements: a. Construction vehicles shall use previously disturbed areas including existing roadways and tracks. b. Temporary construction yards and laydown areas shall be located within the future footprint of permanent structures to the extent practicable. c. New, permanent roadways will be the minimum width allowed while still being consistent with safe use and satisfying county road and safety standards. d. Underground communication and electrical lines will be buried within the area disturbed by temporary road widening to the extent practicable. [Final Order on ASC (2017), Land Use Condition 8]
CON-LU-02	Deleted in *Final Order on Amendment 1* dated November 2020. [Final Order on ASC (2017), Land Use Condition 17]
CON-LU-03	During construction, the certificate holder shall install the electrical cable collector system underground, where practicable. In agricultural areas, the collector system lines must be installed at a depth of 3 feet or deeper as necessary to prevent adverse impacts on agriculture operations. In all other areas, the collector system lines must be installed a minimum of 3 feet where practicable. [Final Order on ASC (2017), Land Use Condition 19]
STANDARD: RETIREMENT AND FINANCIAL ASSURANCE (RT) [OAR 345-022-0050]	
CON-RF-01	If construction of the facility, facility component, or phase extends more than 12 months, the certificate holder shall: a. Annually adjust the amount of the bond or letter of credit to present dollar value, as determined by the Department. b. Incorporate any additional decommissioning costs for facility changes which have been determined by the Department not to require a site certificate amendment. c. The Department and Council reserve the right to adjust the contingencies, as appropriate and necessary to ensure that costs to restore the site are adequate to maintain health and safety of the public and environment. [Retirement and Financial Assurance Condition 8; Final Order on AMD1 (2026)]
STANDARD: FISH AND WILDLIFE HABITAT (FW) [OAR 345-022-0060]	
CON-FW-01	Deleted in *Final Order on Amendment 1* dated November 2020. [Final Order on ASC (2017), Fish and Wildlife Habitat Condition 3; AMD4]

<table>
<tr>
<td>CON-FW-02</td>
<td>Prior to construction, the certificate holder shall develop a construction plan that demonstrates construction activities within 0.25-mile or 0.5-mile of previously identified active nest sites are scheduled to avoid the sensitive nesting and breeding season, as specified in the table directly below. Previously identified active nest sites are those identified through the pre-construction raptor nest survey as required through Condition PRE-FW-01 and may also include any previously identified active nest sites from previous surveys.

During construction within the time periods listed below, the certificate holder shall implement buffer zones around active nest sites of the species listed below. Active nest sites shall be identified based on the Condition PRE-FW-01 pre-construction nest survey and be monitored during construction by a biological monitor, both of which shall be based on a protocol approved by the Department in consultation with ODFW-specifying methodology and frequency of monitoring. No ground-disturbing activities within the buffer zone shall occur during the seasonal restrictions. The construction workforce and facility employees must be provided maps with the locations of the buffer zones and be instructed to avoid ground-disturbing activity within the buffer zone during construction activities.

<table>
<tr><th>Sensitive Status Species</th><th>Buffer Size (Radius Around Nest Site):</th><th>Sensitive Nesting and Breeding Season :</th></tr>
<tr><td>Western burrowing owl</td><td>0.25 mile</td><td>April 1 to August 15</td></tr>
<tr><td>Ferruginous hawk</td><td>~~0.25~~0.5 mile</td><td>March 15 to August 15</td></tr>
<tr><td>Swainson’s hawk</td><td>0.25 mile</td><td>April 1 to August 15</td></tr>
</table>

If avoidance within the buffer restrictions cannot be maintained, the certificate holder may request approval from the Department in consultation with ODFW on a mitigation and conservation strategy for condition compliance.
[Final Order on ASC (2017), Fish and Wildlife Habitat Condition 5; AMD3 (2018); AMD4 (2019); AMD1 (2026)]</td>
</tr>
<tr>
<td>CON-FW-03</td>
<td>During construction, the certificate holder shall employ a qualified environmental professional to provide environmental training to all personnel prior to working onsite, related to sensitive species present onsite, precautions to avoid injuring or destroying wildlife or sensitive wildlife habitat, exclusion areas, permit requirements and other environmental issues. All personnel shall be given clear maps showing areas that are off-limits for construction, and shall be prohibited from working outside of the areas in the site boundary that have been surveyed and approved for construction. The certificate holder shall instruct construction personnel to report any injured or dead wildlife detected while on the site to the appropriate onsite environmental manager. Records of completed training shall be maintained onsite and made available to the department upon request.
[Final Order on ASC (2017), Fish and Wildlife Habitat Condition 7]</td>
</tr>
<tr>
<td>CON-FW-04</td>
<td>During construction, the certificate holder shall employ at a minimum one environmental inspector to be onsite daily. The environmental inspector shall oversee permit compliance and construction, and ensure that known sensitive environmental resources are protected. The environmental inspector shall prepare a weekly report during construction, documenting permit compliance and documenting any corrective actions taken. Reports shall be kept on file and available for inspection by the department upon request.
[Final Order on ASC (2017), Fish and Wildlife Habitat Condition 9]</td>
</tr>
</table>

STANDARD: HISTORIC, CULTURAL, AND ARCHAEOLOGICAL RESOURCES (HC) [OAR 345-022-0090]	
CON-HC-01	Prior to construction activities, the certificate holder must flag or otherwise mark a 200-foot avoidance buffer around historic archaeological sites, as identified by the maps and drawings prepared in accordance with Historic, Cultural, and Archeological Resources Conditions 1 and 2. No disturbance is allowed within the buffer zones unless resources assumed likely NRHP eligible (e.g. 6B2H-MC-ISO-17, WRII-BB-IS-01, WRII-DM-04) are concurred not likely National Register of Historic Places (NRHP) eligible through SHPO review or a Historic, Cultural, and Archaeological Resources mitigation plan is submitted and accepted by the Department and SHPO which includes measures such as: additional archival and literature review; video media publications; public interpretation funding; or other form of compensatory mitigation deemed appropriate by the Department, in consultation with SHPO. For historic archaeological sites, an archeological monitor must be present if construction activities are required within 200-feet of sites identified as potentially eligible for listing on the NRHP unless otherwise agreed to by the Department and SHPO. The certificate holder may use existing private roads within the buffer areas but may not widen or improve private roads within the buffer areas. The no-entry restriction does not apply to public road rights-of-way within buffer areas. Flagging or marking must be removed immediately upon cessation of activities in the area that pose a threat of disturbance to the site being protected. [Final Order on ASC (2017), Historic, Cultural, and Archeological Resources Condition 3; AMD4 (2019)]
CON-HC-02	During construction, the certificate holder shall ensure that construction personnel cease all ground-disturbing activities in the immediate area if any archeological or cultural resources are found during construction of the facility until a qualified archeologist can evaluate the significance of the find. The certificate holder shall notify the department and the Oregon State Historic Preservation Office (SHPO) of the find. If ODOE, in consultation with SHPO, determines that the resource meets the definition of an archaeological object, archaeological site, or is eligible or likely to be eligible for listing on the (NRHP), the certificate holder shall, in consultation with the department, SHPO, interested Tribes and other appropriate parties, make recommendations to the Council for mitigation, including avoidance, field documentation and data recovery. The certificate holder shall not restart work in the affected area until the department, in consultation with SHPO, agree that the certificate holder has demonstrated that it has complied with archeological resources protection regulations. [Final Order on ASC (2017), Historic, Cultural, and Archeological Resources Condition 5]
STANDARD: PUBLIC SERVICES (PS) [OAR 345-022-0110]	
CON-PS-01	During construction, the certificate holder shall include the following additional measures in the construction waste management plan required by Waste Minimization Condition 2: a. Recycling steel and other metal scrap. b. Recycling wood waste. c. Recycling packaging wastes such as paper and cardboard. d. Collecting non-recyclable waste for transport to a local landfill by a licensed waste hauler or by using facility equipment and personnel to haul the waste. Waste hauling by facility personnel within Morrow County shall be performed in compliance with the Morrow County Solid Waste Management Ordinance, which requires that all loads be covered and secured. e. Segregating all hazardous and universal wastes such as used oil, oily rags and oil-absorbent materials, mercury-containing lights and lead-acid and nickel-cadmium batteries for

	disposal by a licensed firm specializing in the proper recycling or disposal of hazardous and universal wastes. f. Discharging concrete truck rinse-out within foundation holes, completing truck wash-down off-site, and burying other concrete waste as fill on-site whenever possible. [Final Order on ASC (2017), Public Services Condition 3]
CON-PS-02	During construction of the facility, the certificate holder shall provide for 24-hour on-site security, and shall establish effective communications between on-site security personnel and the Morrow County Sheriff's Office. [Final Order on ASC (2017), Public Services Condition 10, AMD1 (2020)]
CON-PS-03 - 04	Deleted in *Final Order on Amendment 1* dated November 2020. [Final Order on ASC (2017), Public Services Conditions 14 and 16]
CON-PS-05	~~During construction the certificate holder must maintain an area clear of vegetation for fire prevention around construction sites, including towers and any areas where work includes welding, cutting, grinding, or other flame- or spark-producing operations.~~ Deleted in *Final Order on Amendment 1* (2026). [Final Order on ASC (2017), Public Services Condition 17, AMD1 (2020) ; AMD1 (2026)]
CON-PS-04	During construction, the certificate holder and its contractor must implement and adhere to the Construction Emergency and Safety Management Plan finalized in Public Services Condition 13 (PRE-PS-05). The following must be submitted in the semi-annual construction progress report: a. Training attendance rosters and copies of trainings materials; b. Any changes to the Construction Emergency and Safety Management Plan. [Final Order on AMD1 (2026), Soil Protection Condition 12]
STANDARD: WILDFIRE PREVENTION AND RISK MITIGATION (WF) [OAR 345-022-0115]	
CON-WF-01	During facility construction, the certificate holder shall require onsite contractors and employees to adhere to the Construction Wildfire Mitigation Plan (WMP) approved under PRE-WF-01. [Final Order on AMD1 (2026), Wildfire Prevention and Risk Mitigation Condition 2]
STANDARD: WASTE MINIMIZATION (WM) [OAR 345-022-0120]	
CON-WM-01	During construction, the certificate holder shall require construction contractors to complete the following for any off-site disposal of excess soil during construction activities: a. Obtain and provide the certificate holder with a signed consent agreement between contractor and the party receiving the earth materials authorizing the acceptance and disposal of the excess soil; and, b. Confirm that all disposal sites have been inspected and approved by the certificate holder's environmental personnel to ensure that sensitive environmental resources, such as wetlands or high quality habitats, would not be impacted. The certificate holder shall maintain copies of all signed consent agreements and disposal site inspection and approvals onsite and shall provide to the department in the 6-month construction report required pursuant to OAR 345-026-0080(1)(a). [Final Order on ASC (2017), Waste Minimization Condition 1]
STANDARD: PUBLIC HEALTH AND SAFETY FOR WIND FACILITIES (WF) [OAR 345-024-0010]	
CON-WF-01 and -02	Deleted in *Final Order on Amendment 1* dated November 2020. [Final Order on ASC (2017), Public Health and Safety Standards for Wind Facilities Conditions 1 and 4]
STANDARD: SITING STANDARDS FOR TRANSMISSION LINES (TL) [OAR 345-024-0090]	
CON-TL-01	During construction, the certificate holder shall take reasonable steps to reduce or manage human exposure to electromagnetic fields and submit verification to the Department, including:

	a. Constructing all aboveground collector and transmission lines at least 200 feet from any residence or other occupied structure, measured from the centerline of the transmission line. b. Constructing all aboveground 34.5-kV transmission lines with a minimum clearance of 25 feet from the ground. c. Constructing all aboveground 230-kV transmission lines with a minimum clearance of 30 feet from the ground. d. Developing and implementing a program that provides reasonable assurance that all fences, gates, cattle guards, trailers, irrigation systems, or other objects or structures of a permanent nature that could become inadvertently charged with electricity are grounded or bonded throughout the life of the line (OAR 345-025-0010(4)). e. Providing to landowners a map of underground, with any applicable NESC demarking for underground facilities, and overhead transmission lines on their property and advising landowners of possible health and safety risks from induced currents caused by electric and magnetic fields. f. Designing and maintaining all transmission lines so that alternating current electric fields do not exceed 9 kV per meter at one meter above the ground surface in areas accessible to the public. g. Deleted in *Final Order on Amendment 1* dated November 2020. h. Designing and maintaining all transmission lines so that induced voltages during operation are as low as reasonably achievable. i. Designing, constructing and operating the transmission line in accordance with the requirements of the version of the National Electrical Safety Code that is most current at the time that final engineering of each of these components is completed (OAR 345-025-0010(4)). j. Implement a safety protocol to ensure adherence to NESC grounding requirements [Final Order on ASC (2017), Siting Standard For Transmission Lines Condition 1; AMD4 (2019), AMD1 (2020)]
STANDARD: NOISE CONTROL REGULATION (NC) [OAR 345-035-0035]	
CON-NC-01	~~During construction, to reduce construction noise impacts at nearby residences, the certificate holder shall:~~ ~~a. Establish and enforce construction site and access road speed limits;~~ ~~b. Utilize electrically-powered equipment instead of pneumatic or internal combustion-powered equipment, where feasible;~~ ~~c. Locate material stockpiles and mobile equipment staging, parking, and maintenance areas as far as practicable away from noise sensitive properties;~~ ~~d. Utilize noise-producing signals, including horns, whistles, alarms, and bells for safety warning purposes only;~~ ~~e. Equip all noise-producing construction equipment and vehicles using internal combustion engines with mufflers, air-inlet silencers where appropriate, and any other shrouds, shields, or other noise-reducing features in good operating condition that meet or exceed original factory specification. Mobile or fixed "package" equipment (e.g., arc-welders, air compressors) shall be equipped with shrouds and noise control features that are readily available for that type of equipment; and,~~ ~~Establish a noise complaint response system. All construction noise complaints will be logged within 48 hours of issuance. The construction supervisor shall have the responsibility and authority to receive and resolve noise complaints. A clear appeal process to the owner shall be~~

	~~established prior to the start of construction that will allow for resolution of noise problems that cannot be resolved by the site supervisor in a reasonable period of time. Records of noise complaints during construction must be made available to authorized representatives of the department upon request.~~ Deleted in Final Order on Amendment 1 (2026). [Final Order on ASC (2017), Noise Control Condition 1; AMD1 (2026)]

4.5 Pre-Operational (PRO) Conditions

Condition Number	Pre-Operational (PRO) Conditions
STANDARD: SOIL PROTECTION (SP) [OAR 345-022-0022]	

PRO-SP-01	Prior to beginning facility operation, the certificate holder shall provide the Department a copy of an operational SPCC plan, if required per DEQ's Hazardous Waste Program. If an SPCC plan is not required, the certificate holder shall prepare and submit to the Department for review and approval an operational Spill Prevention and Management plan. The Spill Prevention and Management Plan shall include at a minimum the following procedures and BMPs:
	• Procedures for oil and hazardous material emergency response consistent with OAR 340, Division 100-122 and 142
	• Procedures demonstrating compliance with all applicable local, state, and federal environmental laws and regulations for handling hazardous materials used onsite in a manner that protects public health, safety, and the environment
	• Current inventory (type and quantity) of all hazardous materials stored onsite, specifying the amounts ~~ateach O&M building,~~ substation and battery storage system components
	• Restriction limiting onsite storage of diesel fuel or gasoline
	• Requirement to store lubricating and dielectric oils in quantities equal to or greater than 55-gallons in qualified oil-filled equipment
	• Preventative measures and procedures to avoid spills
	  ○ Procedures for chemical storage
	  ○ Procedures for chemical transfer
	  ○ Procedures for chemical transportation
	  ○ Procedures for fueling and maintenance of equipment and vehicles
	  ○ Employee training and education
	• Clean-up and response procedures, in case of an accidental spill or release
	• Proper storage procedures
	• Reporting procedures in case of an accidental spill or release
	[Final Order on ASC (2017), Soil Protection Condition 5; AMD2 (2017), AMD1 (2026)]

PRO-SP-02	Before beginning operation of the facility, facility component or phase, as applicable, the certificate holder shall ~~finalize~~update the ~~draft Operation~~ Vegetation and Soil Management Plan approved by the Department under PRE-PS-05 ~~included as Attachment C-2 to the Final Order on AMD1~~ based on the applicable operational measures identified in the plan and final facility design. The ~~final~~updated Vegetation and Soil Management Plan shall be submitted to the Department for review and approval. [Final Order on AMD1 (2026), Soil Protection Condition 13]
STANDARD: PUBLIC SERVICES (PS) [OAR 345-022-0110]	
PRO-PS-01	Deleted in *Final Order on Amendment 1* dated November 2020. [Final Order on ASC (2017), Public Services Condition 15, AMD1 (2020)]
PRO-PS-02	~~Before beginning operation of the facility, the certificate holder must provide a final site plan to the identified fire protection districts and first-responders included in the Emergency Management Plan~~Deleted in Final Order on Amendment 1 (2026). [Final Order on ASC (2017), Public Services Condition 19, AMD1 (2020) ; AMD1 (2026)]

PRO-PS-03	~~Prior to operation, the certificate holder must ensure that operations personnel remain current in their first aid/CPR/AED certifications throughout the operational life of the facility. The certificate holder must retain records of the certifications and provide them to the department upon request. The certificate holder shall also ensure that an AED is available onsite at all times that operations and maintenance personnel are at the facility.~~ Deleted in *Final Order on Amendment 1* (2026). [Final Order on ASC (2017), Public Services Condition 22; AMD1 (2026)]
PRO-PS-04	Prior to operation, the certificate holder shall submit an Operational Emergency and Safety Management Plan / Emergency Action Plan (the most current version of Attachment E of the Final Order on RFA1) to the Department for review and approval. The Operational Emergency and Safety Management may be the certificate holder's corporate Plan but must include, at a minimum: a. Contact information of facility personnel available to respond on a 24-hour basis in case of an emergency on the facility site. The contact information must include name, telephone number(s), physical location, and email address for the listed contact(s). b. Identification of agencies and fire protection associations, with contact information, that are designated as first response agencies and are included in any mutual aid agreements with the facility; i. Copies of mutual aid, fire protection association, or other agreements entered into concerning fire protection at the facility site. c. Protocols for both routine and emergency events and the incident command and notification system to be used in the event of an ~~fire~~ emergency response by multiple agencies is needed at the facility; d. The designated meeting location in case of evacuation; e. Location(s) of automated external defibrillator (AED) that must be available on site; f. Staff and contractor training requirements~~;~~ and frequency of trainings; i. Personnel shall be trained on the measures described in the Emergency and Safety Management Plan and in first aid, cardio pulmonary resuscitation (CPR), and the use of an AED. ii. First aid techniques and locations of first aid kits and AED. iii. Training attendance rosters and training materials must be maintained. [Final Order on AMD1 (2026), Public Services Condition 27]
STANDARD: WILDFIRE PREVENTION AND RISK MITIGATION (WF) [OAR 345-022-0115]	
PRO-WF-01	Prior to facility operation, the certificate holder shall finalize and submit an Operational Wildfire Mitigation Plan (WMP), Attachment E-2 to the Final Order on ASC to the Department for review and approval. [Wildfire Prevention and Risk Mitigation Condition 3; Final Order on AMD1 (2026)]

4.6 Operational (OPR) Conditions

Condition Number	Operational (OPR) Conditions
STANDARD: GENERAL STANDARD OF REVIEW (GS) [OAR 345-022-0000]	
OPR-GS-01	The certificate holder shall submit a legal description of the site to the Oregon 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 identify the outer boundaries that contain all parts of the facility. [Final Order on ASC (2017), Mandatory Condition 1] [OAR 345-025-0006(2)]]
STANDARD: SOIL PROTECTION (SP) [OAR 345-022-0022]	
OPR-SP-01	~~During facility operation, the certificate holder shall:~~ ~~a. Routinely inspect and maintain all facility components including roads, pads, and other facility components and, as necessary, maintain or repair erosion and sediment control measures and reduce potential facility contribution to erosion.~~ ~~b. Restrict vehicles to constructed access roads, and ensure material laydown or other maintenance activities occur within graveled areas to avoid unnecessary compaction, erosion, or spill risk to the area surrounding the facility.~~ ~~c.~~a. ~~If in order to serve the operational needs of the energy facility, or related and supporting facilities, the certificate holder intends to substantially modify an existing road or construct a new road, the certificate holder must submit and receive Council approval of an amendment to the site certificate prior to the modification or construction.~~Deleted in *Final Order on Amendment 1* (2026). [Final Order on ASC (2017), Soil Protection Condition 6, AMD1 (2020) ; AMD1 (2026)]
OPR-SP-02	During operation of the facility, the certificate holder shall monitor and maintain vegetation, weeds, and any necessary erosion controls in compliance with the Vegetation and Soil Management Plan required under Condition PRO-SP-02. [Final Order on AMD1 (2026), Soil Protection Condition 14]
STANDARD: LAND USE (LU) [OAR 345-022-0030]	
OPR-LU-01	Within one month of commencement of commercial operation, the certificate holder shall submit an as-built survey for each construction phase that demonstrates compliance with the setback requirements in Land Use Condition 1 to the department and Morrow County. [Final Order on ASC (2017), Land Use Condition 2]
OPR-LU-02	During operation of the facility, the certificate holder shall restore areas that are temporarily disturbed during facility maintenance or repair activities using the same methods and monitoring procedures described in the final Revegetation Plan referenced in Fish and Wildlife Habitat Condition 11. [Final Order on ASC (2017), Land Use Condition 10]
OPR-LU-03	Before beginning decommissioning activities, the certificate holder must provide a copy of the final retirement plan to Morrow County. [Final Order on ASC (2017), Land Use Condition 23, AMD1 (2020)]
OPR-LU-04	Before beginning electrical production, the certificate holder shall prepare an Operating and Facility Maintenance Plan (Plan) and submit the Plan to the department for approval in consultation with Morrow County. [Final Order on ASC (2017), Land Use Condition 25, AMD1 (2020)]
OPR-LU-05	Deleted in *Final Order on Amendment 1* dated November 2020.

	[Final Order on ASC (2017), Land Use Condition 26]
OPR-LU-06	Prior to facility retirement, the certificate holder must include the following minimum restoration activities in the proposed final retirement plan it submits to the Council pursuant to OAR 345-025-0006(9) or its equivalent: 1. Dismantle aboveground equipment and remove concrete pads to a depth of at least three feet below the surface grade. 2. Remove underground collection and communication cables that are buried less than three feet in depth and are deemed by Council to be a hazard or a source of interference with surface resource uses. 3. Deleted in *Final Order on Amendment 1* dated November 2020. 4. Remove and restore private access roads unless the landowners directs otherwise. 5. Following removal of facility components, grade disturbed areas as close as reasonably possible to the original contours and restore soils to a condition compatible with farm uses or other resources uses. 6. Revegetate disturbed areas in consultation with the land owner and in a manner consistent with the final Revegetation Plan referenced in Fish and Wildlife Habitat Condition 11. 7. If the landowner wishes to retain certain facilities, provide a letter from the land owner that identifies the roads, cleared pads, fences, gates and other improvements to be retained and a commitment from the land owner to maintain the identified facilities for farm or other purposes permitted under the applicable zone. [Final Order on ASC (2017), Land Use Condition 27, AMD1 (2020)]
STANDARD: RETIREMENT AND FINANCIAL ASSURANCE (RT) [OAR 345-022-0050]	
OPR-RF-01	During facility operation, the certificate holder shall: a. Conduct monthly inspections of the battery storage systems, in accordance with manufacturer specifications. The certificate holder shall maintain documentation of inspections, including any corrective actions, and shall submit copies of inspection documentation in its annual report to the Department. b. Provide evidence in its annual report to the Department of active property coverage under its commercial business insurance from high loss-catastrophic events, including but not limited to, onsite fire or explosion. [Final Order on AMD2 (2018), Retirement and Financial Assurance Condition 6]
OPR-RF-02	During operation, the certificate holder shall: a. Annually adjust the amount of the bond or letter of credit to present dollar value, as determined by the Department. b. Incorporate any additional decommissioning costs for facility changes which have been determined by the Department not to require a site certificate amendment. c. The Department and Council reserve the right to adjust the contingencies, as appropriate and necessary to protect public health and safety or the environment and ensure the certificate holder's bond or letter of credit is sufficient to restore the site to a useful, non-hazardous condition. [Final Order on RFA1 (2026), Retirement and Financial Assurance Condition 9]
STANDARD: FISH AND WILDLIFE HABITAT (FW) [OAR 345-022-0060]	
OPR-FW-01	During operation of the solar facility, the certificate holder shall implement the Habitat Mitigation Plan finalized under Condition PRE-FW-04. The HMP may be amended from time to time, subject to Department approval. [Fish and Wildlife Condition 12; Final Order on AMD1 (2026)]
STANDARD: PUBLIC SERVICES (PS) [OAR 345-022-0110]	

OPR-PS-01 - 02	Deleted in *Final Order on Amendment 1* dated November 2020. [Final Order on ASC (2017), Public Services Conditions 1 and 2]
OPR-PS-03	a. Prior to operation, the certificate holder shall submit to the Department for approval its Operational Waste Management Plan that includes but is not limited to the following: 1. Onsite handling procedure for operational replacement of damaged, defective or recalled lithium-ion batteries. The procedure shall identify applicable 49 CFR 173.185 provisions and address, at a minimum, onsite handling, packaging, interim storage, and segregation requirements. 2. Training employees to handle, replace, and store damaged, defective or recalled lithium-ion batteries; minimize and recycle solid waste. 3. Recycling paper products, metals, glass, and plastics. 4. Recycling used oil and hydraulic fluid. 5. Collecting non-recyclable waste for transport to a local landfill by a licensed waste hauler or by using facility equipment and personnel to haul the waste. Waste hauling by facility personnel within Morrow County shall be performed in compliance with the Morrow County Solid Waste Management Ordinance, Section 5.000 Public Responsibilities, 5.010 Transportation of Solid Waste and 5.030 Responsibility for Propose Disposal of Hazardous Waste which requires that all loads be covered and secured and that operators be responsible for hazardous waste disposal in accordance with applicable regulatory requirements. 6. Segregating all hazardous and universal, non-recyclable wastes such as used oil, oily rags and oil-absorbent materials, mercury-containing lights, lithium-ion batteries, lead-acid and nickel-cadmium batteries, and replaced, damaged, defective or recalled lithium-ion batteries for disposal by a licensed firm specializing in the proper recycling or disposal of hazardous and universal wastes. b. During operation, the certificate holder shall implement the approved Operational Waste Management Plan. [Final Order on ASC (2017), Public Services Condition 4; AMD2 (2018)]
OPR-PS-04	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 at the facility site. [Final Order on ASC (2017), Public Services Condition 12]
OPR-PS-05	During every year of operations, the certificate holder shall: a. Identify all water-related needs and estimate daily and annual water demand for facility operations. b. Provide evidence of water sources such as a well log from O&M building(s), or contract or purchase agreement demonstrating that adequate water supply to meet facility operational demand has been secured off-site and that water for all operational activities will be legally obtained by service providers or third-party permits. [Final Order on AMD1 (2026), Public Services Condition 25]
OPR-PS-06	During operation, the certificate holder must implement and adhere to the Operational Emergency and Safety Management Plan / Emergency Action Plan finalized in Public Services Condition 27 (PRO-PS-04). The following must be submitted in the annual report: a. Training attendance rosters and copies of trainings materials; b. The most current version of the corporate or applicable Emergency and Safety Management Plan / Emergency Action Plan. [Final Order on AMD1 (2026), Public Services Condition 28]

STANDARD: WILDFIRE PREVENTION AND RISK MITIGATION (WF) [OAR 345-022-0115]	
OPR-WF-01	During facility operation, the certificate holder shall require onsite contractors and employees to adhere to the Operational Wildfire Mitigation Plan (WMP) approved under PRO-WF-01. [Wildfire Prevention and Risk Mitigation Condition 4; Final Order on AMD1 (2026)]
STANDARD: PUBLIC HEALTH AND SAFETY FOR WIND FACILITIES (WF) [OAR 345-024-0010]	
OPR-WF-01	During operation, the certificate holder shall ensure each facility substation and battery storage systems are enclosed with appropriate fencing and locked gates to protect the public from electrical hazards. [Final Order on ASC (2017), Public Health and Safety Standards for Wind Facilities Condition 2; AMD2 (2018)]
STANDARD: SITING STANDARDS FOR TRANSMISSION LINES (TL) [OAR 345-024-0090]	
OPR-TL-01	During operation, the certificate holder shall: (1) Update the OPUC Safety Staff as to how the operator will comply with OAR Chapter 860, Division 024 on an ongoing basis considering future operations, maintenance, emergency response, and alterations until facility retirement. (2) File the following required information with the Commission: a. 758.013 Operator of electric power line to provide Public Utility Commission with safety information; availability of information to public utilities. (1) Each person who is subject to the Public Utility Commission's authority under ORS 757.035 and who engages in the operation of an electric power line as described in ORS 757.035 must provide the commission with the following information before January 2 of each even-numbered year: i. The name and contact information of the person that is responsible for the operation and maintenance of the electric power line, and for ensuring that the electric power line is safe, on an ongoing basis; and ii. The name and contact information of the person who is responsible for responding to conditions that present an imminent threat to the safety of employees, customers and the public. iii. In the event that the contact information described in subsection (1) of this section changes or that ownership of the electric power line changes, the person who engages in the operation of the electric power line must notify the commission of the change as soon as practicable, but no later than within 90 days. iv. If the person described in subsection (1) of this section is not the public utility, as defined in ORS 757.005, in whose service territory the electric power line is located, the commission shall make the information provided to the commission under subsection (1) of this section available to the public utility in whose service territory the electric power line is located. [2013 c.235 §3] (3) Provide OPUC Safety Staff with: a. Maps and Drawings of routes and installation of electrical supply lines showing: • Transmission lines and structures (over 50,000 Volts) • Distribution lines and structures - differentiating underground and overhead lines (over 600 Volts to 50,000 Volts) • Substations, roads and highways • Plan and profile drawings of the transmission lines (and name and contact information of responsible professional engineer).

	[Final Order on ASC (2017), Siting Standard Condition 3]
STANDARD: NOISE CONTROL REGULATION (NC) [OAR 345-035-0035]	
OPR-NC-01	Deleted in *Final Order on Amendment 1* dated November 2020. [Final Order on ASC (2017), Noise Control Condition 3]
OPR-NC-02	During operation, the certificate holder shall maintain a complaint response system to address noise complaints. The certificate holder shall notify the department within two working days of receiving a noise complaint related to the facility. The notification should include, but is not limited to, the date the certificate holder received the complaint, the nature of the complaint, the complainant's contact information, the location of the affected property, and any actions taken, or planned to be taken, by the certificate holder to address the complaint. [Final Order on ASC (2017), Noise Control Condition 4]
OPR-NC-03	During operation, in response to a complaint from the owner of a noise sensitive property regarding noise levels from the facility, the Council may require the certificate holder to monitor and record the statistical noise levels to verify that the certificate holder is operating in compliance with the noise control regulations. The monitoring plan must be reviewed and approved by the department prior to implementation. The cost of such monitoring, if required, shall be borne by the certificate holder. [Final Order on ASC (2017), Noise Control Condition 5]

4.7 Retirement Conditions (RET)

Condition Number	Retirement (RET) Conditions
STANDARD: RETIREMENT AND FINANCIAL ASSURANCE (RT) [OAR 345-022-0050]	
RET-RF-01	The certificate holder must retire the facility in accordance with a retirement plan approved by the Council if the certificate holder permanently ceases construction or operation of the facility. The retirement plan must describe the activities necessary to restore the site to a useful, nonhazardous condition, as described in OAR 345-025-0006(9). After Council approval of the plan, the certificate holder must obtain the necessary authorization from the appropriate regulatory agencies to proceed with restoration of the site. [Final Order on ASC (2017), Retirement and Financial Assurance Condition 2] [Mandatory Condition OAR 345-025-0006(9)]

RET-RF-02	If the Council finds that the certificate holder has permanently ceased construction or operation of the facility without retiring the facility according to a final retirement plan approved by the Council, as described in OAR 345-025-0006(9), the Council must notify the certificate holder and request that the certificate holder submit a proposed final retirement plan to the department within a reasonable time not to exceed 90 days. If the certificate holder does not submit a proposed final retirement plan by the specified date, the Council may direct the department to prepare a proposed final retirement plan for the Council's approval. Upon the Council's approval of the final retirement plan, the Council may draw on the bond or letter of credit described in section (8) to restore the site to a useful, nonhazardous condition according to the final retirement plan, in addition to any penalties the Council may impose under OAR Chapter 345, Division 29. If the amount of the bond or letter of credit is insufficient to pay the actual cost of retirement, the certificate holder must pay any additional cost necessary to restore the site to a useful, nonhazardous condition. After completion of site restoration, the Council must issue an order to terminate the site certificate if the Council finds that the facility has been retired according to the approved final retirement plan. [Final Order on ASC (2017), Retirement and Financial Assurance Condition 3] [Mandatory Condition OAR 345-025-0006(16)]

5.0 Successors and Assigns

To transfer this site certificate or any portion thereof or to assign or dispose of it in any other manner, directly or indirectly, the certificate holder shall comply with OAR 345-027-0400.

6.0 Severability and Construction

If any provision of this agreement and certificate is declared by a court to be illegal or in conflict with any law, the validity of the remaining terms and conditions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the agreement and certificate did not contain the particular provision held to be invalid.

7.0 Execution

This site certificate may be executed in counterparts and will become effective upon signature by the Chair of the Energy Facility Siting Council and the authorized representative of the certificate holder.

IN WITNESS THEREOF, this site certificate has been executed by the State of Oregon, acting by and through the Energy Facility Siting Council and Wagon Trail Energy Center, LLC (certificate holder), a wholly-owned indirect subsidiary of NextEra Energy Resources, LLC (certificate holder owner).

ENERGY FACILITY SITING COUNCIL	**WAGON TRAIL ENERGY CENTER, LLC**
By: _____	By: _____
Chair	
Oregon Energy Facility Siting Council	
Date: _____	Date:_____

Attachment A

~~WREFI~~WTSII Site Boundary Map


Wheatridge Renewable Energy Facility III
Request for Amendment 1
MORROW COUNTY, OR
Proposed Wagon Trail Solar II Site Boundary
TETRA TECH
NEXTera ENERGY RESOURCES
Reference Map
CANADA
WA
MT
ID
OR
CA
NV
1:28,000
WGS 1984 UTM Zone 10N
0
0.5
1
1.5
2
Miles
NOT FOR CONSTRUCTION

Attachment B: Draft Habitat Mitigation Plan

Wagon Trail Solar II

Draft Habitat Mitigation Plan

Prepared for
Wagon Trail Energy Center, LLC

Prepared by



Tetra Tech, Inc.

~~**February**~~ **April 2026**

Document History

Date	Description
March 2020	Approved at the March 13, 2020, Energy Facility Siting Council meeting as part of the Wheatridge Energy Facility III Site Certificate.
February 2026	Amended in response to General Comment #2 of the Oregon Department of Energy's Request for Additional Information for the Wheatridge Renewable Energy Facility III Preliminary Request for Amendment 1.
April 2026	Amended in response to Oregon Department of Fish and Wildlife's comments on the Proposed Order for the Wheatridge Renewable Energy Facility III Request for Amendment 1.

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Appendix A. Monitoring Report Outline

1.0 Introduction

This draft Habitat Mitigation Plan (HMP) was prepared by Wagon Trail Energy Center, LLC (Certificate Holder), a wholly owned, indirect subsidiary of NextEra Energy Resources, LLC (NEER or Certificate Holder Owner) to provide concepts for meeting the habitat mitigation needs of Wagon Trail Solar II Facility (WTSII or Facility). ~~WTSII~~ The Facility is a solar facility generating up to 100 MW of solar energy, within a 1,935-acre Site Boundary located entirely within Morrow County, bisected by Oregon Highway 207, approximately 5 miles northeast of Lexington and approximately 7 miles northwest of Heppner. The Facility constitutes the undeveloped portion of the previously approved Wheatridge Renewable Energy Facility III. Details on physical and operational characteristics, and duration of the proposed development action, will be updated in the finalized HMP, prior to construction.

The Certificate Holder conducted habitat categorization surveys and other biological studies to define habitat categorization of the Facility in accordance with the Oregon Department of Fish and Wildlife's (ODFW) Fish and Wildlife Habitat Mitigation Policy, Oregon Administrative Rule (OAR) 635-415-0000 through 0025. The Certificate Holder's goal is to reduce and eliminate the impact of the Facility over time by preserving and maintaining in-kind habitat in the Columbia Basin Ecoregion.

2.0 Plan Finalization Requirements

2.1 Legal Instrument

Prior to construction and as part of plan finalization, the certificate holder shall provide a draft of the legal instrument to ODOE for review and approval, in consultation with ODFW. ODOE and ODFW review will ensure, at a minimum, that the legal instrument demonstrates or includes the following:

- References and is consistent with the HMP;
- A map and description of all existing structures, impervious surfaces, and access road networks within the HMA;
- Identification of and restrictions on conflicting uses within the HMA, including, but not limited to new roads and associated infrastructure, transmission lines and energy development, land division, and establishment of a feedlot;
- Identification of allowable uses that demonstrate consistency with the HMP wildlife habitat goals; ~~and~~
- Specifies that ODOE has authority to conduct inspections pursuant to OAR 345-026-0050 to ensure that habitat mitigation area(s) are being managed consistent with the HMP, with reasonable written notice to the property owner and Applicant; and.
- Includes a term specifying the duration of the agreement which shall extend for the operational lifetime of the facility and through completion of facility decommissioning, consistent with the duration of the facility's permanent habitat impacts.

2.2 Pre-construction HMP Finalization

As required by Fish and Wildlife Habitat Condition 10 (PRE-FW-04), prior to construction, this draft HMP will be finalized based on the following:

- Provide ODOE and ODFW with a map of the HMA, including the latitude and longitude, township, range, section, quartersection, and county;
- Submit a habitat assessment conducted at the HMA
- Designate the location(s) of where the physical and operational Enhancement actions are to occur; and
- Develop additional enhancement actions success criteria, monitoring and reporting to achieve Category 3 and 4 habitat mitigation goals.

~~2.0~~3.0 Habitat Categories and Habitat Types

A pre-construction habitat survey will be conducted to verify habitat subtypes and habitat categories of all areas to be affected by the Facility. The ODFW Fish and Wildlife Habitat Mitigation Policy provides a framework to categorize habitats based on type, quality, availability, and usefulness/importance to wildlife, and establishes mitigation goals and implementation standards for each. Table 1 defines each of the six habitat category types as presented in the ODFW Habitat Mitigation Policy.

Table 1. ODFW Habitat Categories

Category Type	Definition[1]	Mitigation Goal
1	Irreplaceable, essential habitat for a fish or wildlife species, population, or a unique assemblage of species and is limited on either a physiographic province or site-specific basis, depending on the individual species, population or unique assemblage.	The mitigation goal for Category 1 habitat is no loss of either habitat quantity or quality.
2	Essential habitat for a fish or wildlife species, population, or unique assemblage of species and is limited either on a physiographic province or site-specific basis depending on the individual species, population or unique assemblage.	The mitigation goal if impacts are unavoidable is no net loss of either habitat quantity or quality and to provide a net benefit of habitat quantity or quality.
3	Essential habitat for fish and wildlife, or important habitat for fish and wildlife that is limited either on a physiographic province or site-specific basis, depending on the individual species or population.	The mitigation goal is no net loss of either habitat quantity or quality.
4	Important habitat for fish and wildlife species.	The mitigation goal is no net loss of either habitat quantity or quality.
5	Habitat for fish and wildlife having high potential to become either essential or important habitat.	The mitigation goal, if impacts are unavoidable, is to provide a net benefit in habitat quantity or quality.
6	Habitat that has low potential to become essential or important habitat for fish and wildlife.	The mitigation goal is to minimize impacts.
1. Source: OAR 635-415-0025.		

~~3.0~~4.0 Temporary and Permanent Disturbance

~~Impacts Disturbance~~ The area within a perimeter fenceline for a solar facility is assumed to be permanent impact. ~~may be permanent or temporary.~~ Permanent ~~impacts~~ disturbances are defined as ~~those impacts~~ disturbances that will exist for the life of the Facility. Temporary ~~impacts~~ disturbances are ~~those impacts~~disturbances outside of the perimeter fenceline that will last for a time less than the life of the Facility. The duration of temporary ~~impacts~~ disturbance ~~Disturbance may be permanent or temporary. Permanent disturbances are defined as disturbances that will exist for the life of the Facility, and/or .occur within the perimeter fencing of the solar array(s) Temporary disturbances are disturbances that will last for a time less than the life of the Facility. The duration of temporary disturbance~~ to habitat will vary by habitat subtype. For example, the recovery period for agricultural areas that were temporarily disturbed could be as short as 1 to 3 years, grasslands generally recover within 3 to 7 years, and shrublands may require 10 to 50 years to recover (with longer recovery periods associated with disturbances to mature sagebrush habitats). The Certificate Holder will restore temporary disturbance areas consistent with the Vegetation and Soil Management Plan.

Category 1 habitat includes habitat within 785 feet of documented Washington ground squirrel (*Urocitellus washingtoni*) colonies. Category 1 habitat occurs within the Site Boundary, but the Facility is designed and microsited to avoid Category 1 habitat. Therefore, there are no disturbances to Category 1 habitat. Category 2 habitat occurs in the Site Boundary and will be impacted by the Facility. Category 2 habitat is associated with areas of potential Washington ground squirrel use. Areas of potential ground squirrel use are adjacent to and within 4,921 feet (1.5 kilometers [km]) of ground squirrel Category 1 habitat, but not occupied by any squirrels either for burrowing or foraging, which is of similar habitat type and quality to the adjacent Washington ground squirrel Category 1 habitat. Category 3, 4, and 6 habitat will also be impacted by the Facility, while Category 5 habitat is not identified in the Site Boundary. Table 2 shows permanent and temporary disturbance acres in each habitat category by subtype for the Facility.

Table 2. Temporary and Permanent Disturbance by Habitat Category and Subtype

Habitat Category and Subtype	Acres in Site Boundary	Disturbance (acres)[1]	
		Temporary	Permanent
Category 1			
Grassland-Native Perennial	20.9	N/A	N/A
Subtotal Category 1	**20.9**	**N/A**	**N/A**
Category 2			
Grassland-Native Perennial	70.7	0.3	1.3
Subtotal Category 2	**70.7**	**0.3**	**1.3**
Category 3			
Developed-Revegetated or Other Planted Grassland	141	0.7	<0.1
Grassland-Native Perennial	56.2	0.7	N/A

Habitat Category and Subtype	Acres in Site Boundary	Disturbance (acres)[1]	
		Temporary	Permanent
Subtotal Category 3	**197**	**1.3**	**<0.1**
Category 4			
Grassland-Exotic Annual	316	0.7	54
Subtotal Category 4	**316**	**0.7**	**54**
Category 6			
Developed-Dryland Wheat	1,284	4.5	577
Developed-Other	45.9	1.8	0.8
Subtotal Category 6	**1,330**	**6.3**	**578**
Total	**1,935**	**8.7**	**633**
1. Totals in this table may not be precise due to rounding. N/A = not applicable; <0.1 = greater than zero but less than 0.05			

~~4.0~~5.0 Methods for Calculating Mitigation

Table 3 shows methods for calculating mitigation for permanent disturbance. Permanent disturbance includes all areas that would be converted from the existing condition to a different condition for the life of the Facility, and all areas within the fenced perimeter of the solar array(s). ~~and~~ Table 4 shows methods for calculating mitigation for temporary disturbance. Temporary disturbance includes any area disturbed during construction, outside of the fenced perimeter of the solar array(s), but not permanently occupied during facility operation. Temporary disturbance will be mitigated through the successful implementation of the Vegetation and Soil Management Plan as required by Soil Protection Condition 11 (PRE-SP-05). The Certificate Holder is not proposing compensatory mitigation under the ODFW Fish and Wildlife Habitat Mitigation Policy for disturbance to Category 6 habitat.

Table 3. Calculating Mitigation for Permanent Disturbance

Habitat Category	Disturbance Acres	Mitigation Ratio	Mitigation Need	Mitigation Description
Category 2	1.3	2:1	2.6	The mitigation goal for Category 2 habitat is "no net loss" and "net benefit." Accordingly, mitigation for permanent disturbance to Category 2 habitat needs to demonstrate a net benefit in quality or quantity.
Category 3 and Category 4	54.0	1:1	54.0	The mitigation goal for Category 3 & 4 habitat is "no net loss" in quantity or quality.

Habitat Category	Disturbance Acres	Mitigation Ratio	Mitigation Need	Mitigation Description
Category 6	578	0:1	0	The mitigation goal for disturbance to Category 6 habitat is minimization; no compensatory mitigation proposed.
Total	**633**	**-**	**56.6**	

Table 4. Calculating Mitigation for Temporary (Outside Perimeter Fenceline) Disturbance

Habitat Category	Habitat Subtype	Disturbance Acres	Mitigation Ratio[1]	Mitigation Need	Mitigation Description
Category 2	Grassland-Native Perennial	0.3	0:1	0	The mitigation goal for Category 2 habitat is "no net loss" and "net benefit." All areas of temporary disturbance would be restored at the site of impact to meet the "no net loss" requirement. The proposed mitigation ratio for permanent disturbance to grasslands would meet the "net benefit" requirement for all disturbance to Category 2 grasslands.
Category 3	Grassland-Native Perennial, Developed-Revegetated or Other Planted Grassland	1.3	0:1	0	The mitigation goal for Category 3 and 4 habitat is "no net loss" in quantity or quality. Depending on the habitat subtype temporarily disturbed, the proposed mitigation ratio would result in an equal or lesser amount of acreage of mitigation than what is impacted by the project. Combined with restoration of temporary disturbances, the proposed mitigation ratio is intended to account for the temporary loss of habitat functionality and meet the "no net loss" goal. Temporary disturbances to Category 3 and Category 4 Grasslands are not mitigated beyond restoration.
Category 4	Grassland-Exotic Annual	0.7	0:1	0	
Category 6	Developed-Dryland Wheat, Developed-Other	6.3	0:1	0	The mitigation goal for Category 6 habitat is minimization; no compensatory mitigation is proposed.
Total		8.7	-	0	

~~5.0~~6.0 Habitat Mitigation Area

The Habitat Mitigation Area (HMA) is the area where the Certificate Holder is proposing to perform enhancement and preservation actions to address the mitigation need for the Facility (Tables 3 and 4). The HMA must be large enough and have the characteristics to meet the standards set in OAR 635-415-0025.

According to ODFW standards, areas appropriate for mitigation of Category 2 and Category 3 habitat disturbance must provide "in-kind" mitigation that is "in-proximity" to the Facility and has potential for habitat enhancement. The Certificate Holder identified privately owned land that contains native and revegetated uplands of interest and importance for conservation. The Certificate Holder also looked for land that is within designated mule deer winter range. The Certificate Holder identified up to 79.6 acres that are available as mitigation for the Facility (Figure 1). The Certificate Holder has a previously executed conservation easement for 460 acres, of which 380 acres are accounted for across four different HMAs (Figure 1), resulting in 79.6 acres remaining in the executed conservation easement to use as an HMA to fulfill other mitigation requirements in part or whole. Appropriate legal documentation of the conservation easement, and indication that the certificate holder has the legal right to create, maintain, and protect the HMA for the life of the facility must be provided to ODOE.

~~5.1~~6.1 Habitat Assessment and Mitigation Accounting

The Certificate Holder identified 79.6 acres of suitable in-kind and in-proximity habitat that is available for mitigation for Facility impacts on 2,100 acres of private land (Table 5; i.e., within the Olex Property Boundary depicted in Figure 1) along Rock Creek in Gilliam County. The Certificate Holder will establish an HMA for the Facility within this area, alongside HMAs established for the Wheatridge Renewable Energy Facility I, II, III, and East (Figure 1). The primary habitat subtypes consist of Category 2 Native Perennial Grassland and Shrub-steppe Mosaic. The total number of acres to be set aside in the HMA will be determined and updated prior to construction when the Facility layout and mitigation needs are finalized.

Table 5. Habitat Category and Habitat Subtypes within the HMA

Habitat Category	Habitat Subtype	Area (Acres)
2	Native Perennial Grassland and Shrub-steppe Mosaic	77.1
	Old Field	2.5
	Developed	0.1
	TOTAL	**79.6**

Wildlife species usage of the approximately 2,100-acre property in which the HMA lies has been recorded for the past 11 years and is similar to what has been recorded during surveys of Wheatridge West. There are 152 bird species recorded from the property containing the HMA. This includes special status nesting bird species such as grasshopper sparrow. Several species of raptors, including golden eagle and ferruginous hawk, have been documented hunting on the property containing the HMA and some species nest onsite or in the general area. Mule deer and occasionally elk are observed wintering in the HMA and nearby. Wind-blown ridges and south-facing slopes provide for early green-up big game forage. Other long-term conserved habitat (approximately 324 acres) consisting of Native Perennial Grassland and Shrub-steppe Mosaic, cliffs and escarpments along canyons is nearby (Figure 1). The property supports documented Washington ground squirrel use areas and habitat. With the addition of this HMA, a larger more contiguous tract of preserved habitat will be available for wildlife that provides important functionality and connectivity along Rock Creek in the Columbia Plateau.

~~5.2~~6.2 Habitat Enhancement Actions

Habitat designated for mitigation will be conserved and protected from alteration for the life of the Facility. Final detailed enhancement actions and monitoring procedures will be designed in consultation with the ODFW and biologists familiar with the HMA. Table 6 and Table 7 show~~s~~ potential enhancement actions, Success Criteria, monitoring protocol, management actions and reporting requirements for the HMA.

Table 6. Enhancement actions, Success Criteria, Monitoring protocol, and Reporting requirements at the HMA

Enhancement Action	Success Criteria	Monitoring Protocol[1]	Reporting
Grazing * Under the current ownership, no grazing is expected.		If grazing occurs, monitoring of shrub recruitment and recruitment of other desirable shrub-steppe species will occur through photo point monitoring and qualitative observations.	Reported annually (April 30) to ODOE and ODFW
Weed Control	Known sites of noxious weeds are not expanding or have been reduced or eliminated	Success of weed control measures - monitoring may occur earlier in the growing season and again during revegetation monitoring. Photo point monitoring will show that known sites of noxious weeds are not expanding or have been reduced or eliminated. Chemical control is the most likely method to be used; however, mechanical control methods may also be used depending on site-specific conditions.	
Native bunchgrass seeding and annual grass treatment in reasonable proportion to the acres of functional Category 2 native grassland and Category 4 annual grassland habitat lost through facility construction (~55.3 acres).	Percent cover of native grasses increases within 5 years of treatment as measured along transects	Percent cover of native grasses in seeded areas will be measured using quadrat surveys (Elzinga et al. 1998, NRCS and BLM 1996, USFS 2006). Using this method, vegetative cover will be documented within 3-foot by 3-foot quadrats placed at 10-foot intervals along a 100 foot transect. Within each quadrat, the percent cover of vegetative species, bare ground, and litter will be recorded.	

Notes:

1. Monitoring duration is for the life of the Facility, with annual monitoring occurring over the first 5 years. After Year 5, a long-term monitoring plan will be developed in consultation with ODOE and ODFW.

Besides such legal protection to ensure no development, potential enhancement actions for the HMA include the following.

- **Grazing –** Grazing practices will be compatible with conservation. Wildlife habitat values have priority and livestock grazing will be reduced or restricted from the HMA to ensure that habitat is maximally useful to wildlife, livestock grazing can be used as a wildlife habitat enhancement tool.
- **Weed Control –** The Certificate Holder will work with the landowner to monitor and control or eradicate State and County-designated noxious weeds impacting wildlife habitat quality.
- **Native bunchgrass seeding –** Native bunchgrasses will be seeded in reasonable proportion to the acres of functional native grassland habitat lost through Facility construction (2.6 acres). Native grassland plugs can be planted in sensitive areas where seeding is not appropriate.**Native grass seeding, forb planting, Sagebrush Planting and annual grass treatment –** The Certificate Holder shall conduct native grass seeding, annual grass treatment, and the planting of Forbs and Sagebrush, as recommended by ODFW, in the HMA to ensure the habitat quality is equivalent to that of the impacted habitat of the facility. The recommended native grass seeding, annual grass treatment, Forb and Sagebrush planting shall be maintained through the life of the facility.
- **Fire Control –** A fire response and control plan will be in place and applied to the HMA. It will include fire prevention measures, methods to detect fires, and a protocol for fire response and suppression.
- **Habitat protection –** Restrict any uses of the mitigation area that would be inconsistent with the goals of no net loss of habitats in Categories 2, 3, and 4 and a net benefit to Category 2 habitat quantity or quality.

Enhancement activities will be performed on an appropriate portion of the HMA to meet the required mitigation goals.

5.3 HMA Monitoring

The Certificate Holder will hire a qualified, independent investigator (wildlife biologist, botanist, or revegetation specialist) to conduct monitoring at the HMA and the success of its protection and (within applicable acres) enhancements. Monitoring duration is for the life of the Facility, with annual monitoring occurring over the first 5 years. After Year 5, a long-term monitoring plan will be developed in consultation with ODOE and ODFW. At a minimum, annual monitoring for the first 5 years will include assessments of:

- Description of the amount and quality of vegetation at the HMA;
- Description of year-to-date climate data;
- Success of weed control measures;

- Degree of recovery of native grasses and forbs following disturbances such as habitat enhancement actions, fire, or erosion; and
- Wildlife observed and notes on special status species (wildlife and plants) encountered during routine monitoring.

Percent cover of native grasses in seeded areas will be measured using quadrat surveys (Elzinga et al. 1998, NRCS and BLM 1996, USFS 2006). Using this method, vegetative cover will be documented within 3-foot by 3-foot quadrats placed at 10-foot intervals along a 100 foot transect. Within each quadrat, the percent cover of vegetative species, bare ground, and litter will be recorded.

Methods and results of all monitoring and mitigation/enhancement measures undertaken since the last monitoring report will be reported to ODOE and ODFW.

5.4 HMA Success Criteria

The goal of habitat mitigation described herein is to protect and enhance a sufficient quantity of habitat to meet ODFW standards of no net loss of habitat Category 3 and Category 4 and a net gain in habitat quantity and quality of Category 2. Habitat protection alone—apart from enhancement—is not sufficient to meet the net-benefit criterion for Category 2 habitat. The entire HMA is within Category 2 mule deer winter range, so modifying the category through habitat enhancement actions is not possible. However, habitat enhancement actions will be implemented, and progress can be monitored against baseline conditions to determine success. It is also assumed that the Category 2 habitat in the HMA is currently functioning at a higher quality than the Category 2 habitat being disturbed at the Facility because the HMA contains a greater acreage of contiguous native grassland and shrub-steppe mosaic compared to what is being impacted by the Facility. Table 6 shows success criteria for the habitat enhancement actions proposed in Section 6.2.

Table ~~6~~7. ~~HMA Success Criteria~~Management Actions

~~Habitat Enhancement~~ Action	~~Success Criteria~~Evaluative Criteria
Grazing practices compatible with conservation	The Easement terms state that grazing, nature study, and other land uses are permitted provided that conservation and wildlife habitat values and wildlife use shall take precedence and priority where such uses are or may be deemed incompatible. Under the current ownership, no grazing is expected. If grazing is used in the future, monitoring of shrub recruitment and recruitment of other desirable shrub-steppe species can occur through photo point monitoring and qualitative observations.
~~Weed control~~	~~Control of noxious weeds at the HMA. Photo point monitoring will show that known sites of noxious weeds are not expanding or have been reduced or eliminated. Chemical control is the most likely method to be used; however, mechanical control methods may also be used depending on site-specific conditions.~~
~~Native bunchgrass seeding~~	~~Successful seeding of native bunchgrasses on an appropriate acreage to be determined prior to construction. Seeding of native bunchgrasses will be considered successful if percent cover of native grasses increases within 5 years of treatment as measured along transects.~~
Fire response plan	Deliver a fire response plan for the HMA to the North Gilliam County Rural Fire Protection District.
Modification of winter human activities	Minimize human disturbance on the HMA from December 1 to March 31. Schedule routine ranch activities to be performed during other times of the year. There are no public roads or access points in or adjacent to the HMA. Ensure that signage where public roads intersect with access points to the property within which the HMA is located are clearly marked as private property with no trespassing.

~~6.0 Implementation Schedule~~

~~Table 7 includes a schedule for implementation of all mitigation actions, including those covered in other compliance plans.~~

Table 7. Mitigation Implementation Schedule

Mitigation Action	Schedule	Associated Plan
Restoration and revegetation of temporary construction-related impacts at the Facility.	As soon as possible following construction. Late fall seeding, just before the soil freezes, is typical when seeding grasses in the Columbia basin shrub-steppe ecoregion. Seeding can occur through late winter.	Vegetation and Soil Management Plan
Monitoring revegetation success at the Facility.	Annually for the first 5 years. Annual monitoring is anticipated to occur in spring. The Certificate Holder will consult with ODOE and ODFW to design a long-term monitoring schedule.	Vegetation and Soil Management Plan
Monitoring weed control in the Facility revegetation areas.	Annually for the first 5 years. Early detection is paramount for successful weed control. Therefore, monitoring may occur earlier in the growing season and again during revegetation monitoring. Reporting on noxious weeds will be included in the revegetation annual monitoring report. The Certificate Holder will consult with ODOE and ODFW to design a long-term monitoring schedule.	Vegetation and Soil Management Plan
Securing the conservation easement establishing the HMA.	Prior to commencing construction.	Habitat Mitigation Plan
Performing habitat enhancement actions at the HMA.	Concurrently with construction.	Habitat Mitigation Plan
Monitoring habitat enhancement actions at the HMA.	Annually for the first 5 years. Annual monitoring is anticipated to occur in spring. The Certificate Holder will consult with ODOE and ODFW to design a long-term monitoring schedule.	Habitat Mitigation Plan

7.0 Amendment of the HMP

The final HMP may be amended from time to time by agreement of the Certificate Holder and the Energy Facility Siting Council (EFSC). Such amendments may be made without amendment of the Site Certificate. EFSC authorizes ODOE to agree to amendments to this plan. ODOE shall notify EFSC

of all amendments, and EFSC retains the authority to approve, reject, or modify any amendment of this plan agreed to by ODOE.

8.0 References

Elzinga, C. L., D.W. Salzer, and J.W. Willoughby. 1998. Measuring and Monitoring Plant Populations. Bureau of Land Management, National Business Center. Denver, CO.

NRCS and BLM (Natural Resources Conservation Service and Bureau of Land Management). 1996. Revised in 1997 and 1999. Sampling Vegetation Attributes. Interagency Technical Reference 1734-4. Denver, CO.

USFS (U.S. Forest Service). 2006. FIREMON: Fire Effects Monitoring and Inventory System. General Technical Report RMRS-GTR-164-CD. U.S Forest Service, Rocky Mountain Research Station.

Confidential

Figure

Figure 2

Appendix A. Monitoring Report Outline

Wheatridge Solar Energy Facility's Habitat Mitigation Area Annual Reporting Outline

1. Background

- Project statement.
- Identify the monitoring report's timeframe and reference to previous monitoring reports and coinciding reports (WREFI and WREFII).
- General description of the amount and quality of vegetation at the HMA and discuss if/how it has changed year/year.
- Discuss annual climate data and any disturbances that have occurred on the HMA such as fire, drought, or erosion.

2. Enhancement Actions Implemented

- Discussion of enhancement actions if performed during this report's monitoring timeframe.
- Summarize previous years' enhancement actions.

3. Monitoring of Enhancement Actions

Discussion of monitoring efforts for previous years' enhancement actions.

1. Open Range G treatment.
   a. Discussion of application/treatment.
   b. Photo point monitoring/visual assessments to document reduction in undesirable annual grasses and/or visually detectable increase in the overall robustness of the desirable native bunchgrasses.
   c. Discussion of any visually detectable negative effects on desirable vegetation.
2. Noxious weed control – case by case basis.
   a. Discussion of previous years' treatments.
   b. Photo point monitoring of treated areas.
3. Barbed wire removal (if applicable).
   a. Discuss this effort in year that this action is performed, otherwise no monitoring once performed.

4. Recommendations for Next Year

1. Make recommendations for weed control efforts.

Attachment C: Draft Vegetation and Soil Management Plan

Attachment D: NEER Emergency Action Plan

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1.0 DOCUMENT STORAGE AND INFORMATION

1.1. The Wheatridge Emergency Action Plan is stored in the OPMODEL

2.0 REVISION HISTORY

Rev #	Revision Description	Approved By Position / Title	Effective Date
2	Yearly update per Emergency Action Plan Quality Review Check List	Quinten Hilbert WSM	4/23/2021
3	Update to Appendix 3 “Physical Security Event”	Will Rosenboom RWSM	4/28/2022
4	Update WSM from Will Rosenboom to Shane Wait	Shane Wait Wind Site Manager	6/29/2022
5	Updated Physical Security Event Section with new links to Suspicious Substance Guidelines	Lauren Stoube – Emergency Response Team	8/2/2022
6	Added Solar and Bess Verbiage	Charles Thomsen WTL	12/9/22
7	Annual EAP Update 2023	Charles Thomsen WSM	3/7/23

3.0 PURPOSE AND SCOPE

3.1. The purpose of this Emergency Action Plan is to establish the planned response actions that will be taken by personnel at the Wheatridge Renewable Energy Facility I (WREFI), Wheatridge Renewable Energy Facility II (WREFII) and Wheatridge Renewable Energy Facility III (Solar and BESS) including its Solar and battery storage area if applicable in the event of an emergency situation. These actions are intended to minimize health risks to plant personnel and people in the surrounding community, as well as minimize adverse impacts to the environment.

3.2. This plan serves as guidance intended to be a “living” document such that revisions over time, based on experiences, will continue to increase the speed of identification of threats and decrease response time. This plan applies to all employees, contractors, vendors and visitors performing work at NextEra Energy Resources facilities in the United States and Spain.

Note: Each plant/site will maintain a sign in / sign out list for visitors and contractors. This is critical so that in the event of an emergency, the plant will be able to accurately determine if all personnel are accounted for. All employees, contractors and visitors should have a picture ID so in the event of an accident or illness, the identity of the injured can quickly be determined (Site management may elect to require names on hard hats in place of the picture ID).

4.0 REFERENCES AND COMMITMENTS

1. OSHA 29 CFR 1910.38 (Emergency Action Plans)
2. OSHA 29 CFR 1910 Appendix to subpart E
3. PGD Hurricane Management (“White Paper”)
4. SMS 247 - Severe Weather Guidelines
5. SMS 222 – Fire Protection Plan Procedure

6. SMS 209 - Health and Safety Inspections
7. SMS 214 - Personal Protective Equipment (PPE)
8. NEE-SAF-1610 Electric Shock
9. Corporate Security - Drone
10. Wildfire Mitigation Plan

5.0 DEFINITIONS

5.1. AED – Automated External Defibrillator
5.2. CPR – Cardiopulmonary Resuscitation
5.3. EAP – Emergency Action Plan
5.4. FCC – FCC
5.5. O&M – Operations and Maintenance
5.6. OSHA – Occupational Safety and Health Administration
5.7. PGD – Power Generation Division
5.8. PPE – Personal Protective Equipment
5.9. ROCC – Renewable Operations Control Center
5.10. SMS – Safety Management System
**Who to contact based on technology

Technology	Contact	Office Phone
Fossil	FCC	(561) 851-8990
Pipeline		
Thermal Solar		
Wind	ROCC	(561) 694-3636
PV Solar		
DG		
Battery Storage		

6.0 PREREQUISITES AND INITIAL CONDITIONS

6.1. Power Generation Division requires the use of Personal Protective Equipment (PPE). SMS 214 provide a standardized method to define requirements for PPE. The requirements for PPE are dictated based upon the expected hazards of the work. During emergencies, prudent judgment is required as conditions that may pose a risk to safety may be amplified by the nature of the event. Teammates are expected to STOP and evaluate risks associated with the situation to ensure mitigation of safety hazard to self and others in the vicinity. PPE Hazard Assessment Forms should be used as part of emergency drills to help assess the need for additional special protection during emergency situations.

7.0 RECORDS

7.1. Paper copies of this Emergency Action Plan shall be maintained locally on site easily accessible to all at normally occupied locations:

1. The Wheatridge Renewable Energy Facility I (WREFI), Wheatridge Renewable Energy Facility II (WREFII) and Wheatridge Renewable Energy Facility III (Solar and BESS) O&M Building

2. The Wheatridge Renewable Energy Facility I (WREFI), Wheatridge Renewable Energy Facility II (WREFII) and Wheatridge Renewable Energy Facility III (Solar and BESS) everyone drive

3. The Wheatridge Renewable Energy Facility I (WREFI), Wheatridge Renewable Energy Facility II (WREFII) and Wheatridge Renewable Energy Facility III (Solar and BESS) Control House – utilize alternate location if NERC-CIP entrance hinders access to the plan

7.2. An electronic copy of this plan shall also be accessible on the facility's LAN and in the PGD OpModel.

7.3. This Emergency Action Plan shall be reviewed upon implementation, whenever revisions are made, and at least annually by the Site Emergency Primary or Alternate Facility Coordinator.

8.0 PROCEDURE

8.1. Statement of Compliance

1. This Emergency Action Plan was prepared by NextEra Wheatridge Renewable Energy Facility I (WREFI), Wheatridge Renewable Energy Facility II (WREFII) and Wheatridge Renewable Energy Facility III (Solar and BESS).

2. Thus, I hereby state that the NextEra Wheatridge Renewable Energy Facility I (WREFI), Wheatridge Renewable Energy Facility II (WREFII) and Wheatridge Renewable Energy Facility III (Solar and BESS) has evaluated the requirements of all applicable State and Federal Laws and recognize that this Plan has been prepared in accordance with the requirements therein.

x Charles Thomsen

Name: Charles Thomsen

Title: Wind Site Manager

Site: Wheatridge Renewable Energy Facility

Date: 3/7/2023

8.2. Designation of Facility Emergency Coordinators

3. It will be site/plant policy that the Facility Representative (as formally designated to the Oregon State Emergency Response Commission in the facility's 40 CFR 355.30(b) notification letter) will be known as the "Facility Emergency Coordinator" for the purposes of defining roles in this Emergency Action Plan.

4. Alternate personnel may serve as the Facility Emergency Coordinator when necessary.

Primary Facility Emergency Coordinator:

Charles Thomsen Wind Site Manager

Alternate Facility Emergency Coordinator:

Jana Lehn	Wind Tech Leader / Qualified Reliever

5. Personnel who may be contacted for further information or explanation of duties under this plan are as follows:

Clay Horne	Regional Wind Site Manager

8.3. Training

1. All NextEra Energy Resources employees at the site shall receive training on this Emergency Action Plan whenever it is modified or on an annual basis.

2. Employees shall also be trained when this Plan is initially implemented.

3. If the facility has an alarm system, each plant employee, visitor and contractor shall understand the types of local plant alarms and what they are expected to do in the event of each alarm. The plant safety team must assure that the alarms are audible at all plant buildings and locations.

4. Contractors and visitors shall receive the PGD and site-specific Contractor and Visitor Orientation to be informed of site emergency procedure alarms, muster areas and evacuation procedures before they begin work on the site for the first time; and at least annually thereafter. They need to be on site to get the orientation A listing of contractors with current training on this Emergency Action Plan will be maintained at the facility for reference purposes.

8.4. Facility Location Information for Outside Emergency Responders

1. The Wheatridge Renewable Energy Facility I (WREFI), Wheatridge Renewable Energy Facility II (WREFII) and Wheatridge Renewable Energy Facility III (Solar and BESS) O&M building is located at 72322 Strawberry Lane, Lexington, Oregon, 97839.

2. Outside responders can gain access to the facility from Strawberry Lane.

   The entrance road is Strawberry Lane

8.5. Fire Responder Information

1. Name of Local Fire Department: Lexington Fire Department

2. Address of Local Fire Department:

Lexington Volunteer Fire Department

150 W Main ST

Lexington, OR 97839

3. Distance from the site: 11 miles / Distance from the site 14 minutes

4. Volunteer Fire Department OR Regular (Fully manned 24/7): Volunteer

Phone number: (541) 989-8515

8.6. General Emergency Procedure

1. This Plan was developed for the following plausible contingencies that could transpire at the facility:

    a. Natural Disaster /Severe Weather Event (APPENDIX 1)
    b. Fire Response Event (APPENDIX 2)
    c. Physical Security Event (APPENDIX 3)
    d. Cyber Security Event (APPENDIX 4)
    e. Capacity/Transmission Event (APPENDIX 5)
    f. Environmental Event (APPENDIX 6)
    g. Gas Pipeline Event (APPENDIX 7)
    h. Oil Pipeline Event (APPENDIX 8)
    i. Pandemic Event (APPENDIX 9)
    j. Immediate Site Evacuation Procedure (APPENDIX 10)
    k. Delayed Site Evacuation Procedure (APPENDIX 11)
    l. Designated Egress Routes & Muster Areas for Evacuations (APPENDIX 12)
    m. Personnel Injuries and Serious Health Conditions (APPENDIX 13)

2. It shall be the responsibility of the site leader to assess a developing emergency and initiate the appropriate actions in this plan to protect personnel, the surrounding environment, and plant equipment from adverse damages.

3. In the event of an emergency where personnel shall be protected, the following actions will be immediately performed:

    a. Contact 911 immediately.
    b. Ensure that the following are also contacted:

Title	**Name**	**Office Phone**	**Cell Phone**	**Home Phone**
Site Leader	Charles Thomsen	509-386-4308	509-386-4308	N/A
Emergency Coordinator	Jana Lehn	541-256-0587	541-256-0587	N/A
FCC	N/A	(561) 694-3600	N/A	N/A
ROCC	N/A	(561) 694-3636	N/A	N/A
Security Operations	N/A	(561) 694-5000	N/A	N/A

4. Any work-related permits in effect shall be immediately voided, and personnel involved in such work shall cease all activities.

5. All sources of ignition, including hot work, burning cigarettes, portable tools and motor vehicles shall be immediately secured.

6. Based upon the type and extent of the emergency, the site leader shall assess whether an evacuation should be initiated.

7. The following criteria should be considered in rendering a decision to conduct an evacuation of the facility:

    a. The affected parts of the facility and severity of the emergency.

    c. Restrictions in Egress routes caused by the emergency.

    d. Wind direction (if the emergency involves gases/vapors)

    e. Sustained wind speed is greater than 40 mph

    f. People currently located at the facility (day shift, night/weekend shift, visitors/contractors, etc.)

    g. If the Site/Plant Leader determines that a facility evacuation is necessary, he/she must determine which type of evacuation to direct.

8. The following sections describe the types of evacuations that can be performed:

    1) Immediate Site Evacuation

        i. This type of evacuation would be used only in the event of an emergency grave enough to warrant immediate evacuation of all personnel.

        ii. In this type of evacuation, operating area personnel shall evacuate without regard for shutdown of plant systems or for placing plant systems in the safest mode possible.

        iii. This type of evacuation shall only be utilized if the safety of personnel in operating areas is in immediate and severe danger, such that any delay in evacuating could result in deaths or injuries to personnel.

        iv. The production leader will designate production technicians to assist with the evacuation of any employee, visitor or contractor who may have special needs that could limit their ability to evacuate safely.

    2) Delayed Site Evacuation

        i. This type of evacuation would be used in a serious emergency situation where non-essential personnel (those not involved in plant operations or emergency coordination) are immediately evacuated as a precaution, and essential personnel remain in operating areas to perform a controlled shutdown of the facility prior to evacuating.

        ii. It is anticipated that this would be the primary type of evacuation used in response to serious emergencies at the facility.

This is a copy of the CONTROLLED document.
Documents are required to be verified current with PGD Operational Model prior to use.

iii. The Site/Plant Leader and/or Facility Emergency Coordinator must assess whether or not the prevailing circumstances warrant keeping essential personnel in plant operating areas to perform a controlled shutdown of the facility.

iv. If personnel will not be exposed to unnecessary danger to perform facility shutdown and/or place the facility into a safe condition, then this is the preferred type of evacuation, as opposed to an Immediate Site Evacuation.

9. Although the Site Leader or Emergency Coordinator may initially designate an evacuation to be a Delayed Site Evacuation, they shall always be mindful conditions may change rapidly, and result in the need to call for an immediate Site Evacuation.

10. If the Site/Plant Leader (or Facility Emergency Coordinator, as appropriate) determines that an evacuation is necessary, he/she shall ensure that a sounding of the plant alarm is initiated.

    a. In this case, an evacuation alarm will be sounded, and all employees/visitors accounted for.

    b. The Site Leader or Emergency Coordinator shall designate an employee(s) to assist in evacuation of any employee, visitor, or contractor who may have special needs that could limit their ability to evacuate safely

11. If an evacuation has been directed, and following the sounding of the evacuation alarm, the Site/Plant Leader shall ensure that instructions for evacuation are communicated to personnel over the site/plant radio system. These instructions should include the following items at a minimum:

    a. The type of evacuation to be performed (Immediate Site Evacuation or Delayed Site Evacuation)

    b. The nature of the emergency

    c. The location(s) of the emergency

    d. Any egress routes that should not be used by evacuating personnel (if known and applicable)

12. If an evacuation has been ordered, personnel shall follow one of the following evacuation procedures, as appropriate, based upon the direction of the Site/Plant Leader and/or Facility Emergency Coordinator:

    a. Immediate Site Evacuation Procedure (APPENDIX 10)

    b. Delayed Site Evacuation Procedure (APPENDIX 11)

    c. Perform the appropriate follow-up per the appendices listed on 8.5.1 above.

8.7. Emergency Action Plan Annual Drills

1. It is the responsibility of the Site Leader to ensure FOUR Emergency Action Plan Drills are performed each year.

2. Emergency Action Plan Drills are to be held quarterly to ensure all site teammates have gone through at least one drill per year
   a. The type and content of drill (full functional drill, table top, etc.) will be determined by the site leader based on current needs. Suggested drill type list.
   b. At least one of the quarterly drills SHALL be a fire drill

3. In addition to performing the drills, the Emergency Action Plan must be reviewed for accuracy.

   a. Make updates as required and forward revised plan to the Plant / Site emergency coordinator. As applicable, concurrently update the iRAMF application to reflect any Emergency Action Plan changes.
      b. Ensure site team has been trained on any changes.

4. Each drill's content will be determined by the site leader based on current needs.

5. Every site should have (and practice) an alternate emergency evacuation path. The type of drill (table top, full functional drill, etc.) will be determined by the site leader based on current needs, but it must include a documented evacuation of the O&M / service building.

6. The targeted drill response time is less than 4 minutes, monitor and record the response time to determine if all employees responded in a timely manner.

7. Every site should have an identified off site muster area.

8. Each site shall contact the ROCC/FCC as part of the drill. (See Technology Table in section 5.0 Definitions)

9. A roster of drill attendees and date of drill will be filed with sites' Emergency Action Plan documents

10. Any gaps or action items that are a result of the drill will be identified, resolved, fully documented, and filed with the sites' Emergency Action Plan documents.

Note: That MAXIMO is to be used to document actual tasks to be completed to close gaps.

End of Procedure

APPENDIX 1 NATURAL DISASTER / SEVERE WEATHER EVENT

1. Natural emergencies considered in this procedure are associated with weather disturbances such as tornadoes, flooding, hurricanes, blizzards, high wind conditions, earthquakes, wildfires and severe thunderstorms. Flooding waters, lightning, high winds and heavy rains may be detrimental to the employees and/or equipment and structures at the facility. Warnings about developing weather emergencies are issued by local radio stations or tracked by onsite weather systems. These warnings should provide adequate information of the approach of weather-related emergency conditions. The Plant Leader at the facility has several means to monitor these weather-related emergencies. These include:

    - Internet access to weather-related web-sites;
    - AM/FM radio to monitor local news stations
    - Weather Sentry
    - PGDAPPS WeatherSentry Online

2. When information is received that a severe weather watch has been issued for the facility area the following actions shall be taken:

    a. Site Leader shall notify the General Manager.
    b. General Manager shall make a determination about whether or not the plant should be shut down due to the weather situation.
    c. Personnel shall seek indoor shelter in the plant in a designated secure location, or other reinforced structure. Personnel should remain indoors if the severe weather is affecting the immediate area of the facility.

Note: Earthquake preparedness - At Home - At Work - At Play: Earthquake Safety Checklist

3. In the event of a natural disaster / severe weather event, where advance warning is known, such as a hurricane, blizzard, etc. the plant / site personnel shall closely coordinate with the PGD Emergency Response Coordinator, during pre and post event activities.

4. In the event of a severe weather / natural earth process event such as a severe thunderstorm, high wind conditions, earthquake, etc. where advance warning may not be known, the plant / site shall refer to the site specific operating plans to take the actions necessary to assure the safety of all employees and the public. Additionally, site personnel will take reasonable action to prepare for the event to address environmental exposure and the securing of equipment, consistent with the event conditions. However, under no circumstances are personnel to place themselves in harm's way.

5. The following list represents actions that should be taken at the site in order for it to be secured The listing is not intended to be all inclusive and will vary in applicability pending advance warning of the on-set of the event.

    - Ensure all personnel evacuate towers if lightning is in the area or if there are other unsafe conditions that warrant climbing to be unsafe.
    - Ensure site personnel are safe and accounted for.
    - Review staffing levels and arrange for additional staffing "Storm Riders" as applicable
    - Secure plant equipment as necessary and as weather conditions permit, noting to properly follow established guidelines to safeguard personnel while working outdoors in

preparation for severe weather. Reference the Wind Speed Matrix in SMS 247 - Severe Weather Guidelines to assess preparation work conditions.

- Seek safe shelter. If in your vehicle in winter, ensure survival kit and enough gas is in place.
- Ensure all portable equipment is stored indoors.
- Ensure that switchgear, load center, and tower doors are closed and latched.
- Ensure that the building doors are closed and latched.
- Place all trashcans in locations not exposed to weather.
- Make a general housekeeping inspection and ensure that all loose objects and debris that could potentially become airborne are secured or inside.
- Ensure all radios are fully charged.
- Secure all CONEX Storage buildings.
  Note: Use caution when using self-locking CONEX box as a teammate(s) may get trapped from the inside.
- Monitor the weather conditions.
- Ensure that there is an ice plan for walkways
- Ensure all compartments accessory doors and closed and latched.
- Ensure all sump pumps are in good working condition.
- Ensure the proper condition and location of all mobile and gantry cranes, hoists, and booms.
- Test the DC emergency and other back-up systems

6. Person in charge or his/her designee will

   - Monitor the weather radio, TV or other monitoring equipment, and report any changes in the situation that could affect plant / site personnel and / or equipment to the Person in Charge.
   - Ensure sustained wind speeds are not greater than 39 mph before sending personnel outside plant buildings
   - Sound plant alarm system if a tornado or other similar severe weather warning is issued.
   - Follow instructions from the Person in Charge in the case of equipment shutdown is necessary.
   - Notify the FCC of the potential of a severe weather / natural earth process event.

7. Operations:

   - Operate the plant consistent with instructions provided from the Transmission Operator (TOP). If, the instructions cannot be followed, i.e. safety, environmental, reliability, etc. immediately notify the Transmission Operator to discuss and alternative operating actions. Document discussions in the Operators log.
   - When conditions are “forecasted” such high winds associated with a hurricane, or other related conditions such as floods and / or storm surge, considerations for equipment shutdown should be taken consistent with the PGD Hurricane Management Plan (“White Paper”) and site specific operating plans.

Note: The decision to remove units from service will be discussed between Plant Management / Person in charge, the PGD Emergency Response Coordinator, appropriate VP of Operation in conjunction with the respective Transmission Operator, to produce the operation plan for the plant.

PGD Emergency Preparedness SharePoint Page

APPENDIX 2 FIRE EVENT RESPONSE

This appendix describes measures the site shall take to prevent or minimize potential fire severity and to safely respond to a fire emergency. Refer to SMS 222 Fire Prevention and Life Safety.

In the event that a fire occurs, the safe and expedient response actions are essential to protect the health, life, and safety of personnel, the environment, and minimize equipment damage. Sites shall have a list and location map of fire extinguishers.

Person in Charge (PIC) Responsibilities

The PIC shall determine the following:

1. Need to muster or evacuate personnel

    a) In this event, teammates shall remain in muster location until the “all clear” is issued by Unified Command or the PIC

2. Equipment or activities to be shutdown, stopped, or isolated

3. IF Renewable Site - Report Fire to ROCC

4. IF Fossil, Instruct Control Room to notify local Fire Rescue and EMS

    OR IF Renewable Site - PIC will notify local Fire Rescue and EMS

    a) In the event local Fire Rescue or EMS is dispatched, designate site personnel to escort Fire Rescue, EMS, and HAZMAT to the fire location and provide specific information about equipment, hazardous chemicals, electrical sources, fuels, lithium-ion batteries, or other risks. NOTE: Fire Rescue once on site, shall then assume situational control.

    b) Refer to off-normal procedures for specific actions as applicable.

RACE Protocol

A person discovering a fire shall follow the **RACE** protocol as described below:

Rescue anyone in danger (only if safe to attempt);

Alarm, call the ROCC (via plant phone, cell, or 2-way radio) to report the fire: Person in Charge (PIC) shall make the determination to call 911 and sound the alarm

Report the following:

1. Explain the location and cause, if known, of fire
2. List the injuries, if any, that have occurred
3. Relay any actions, if any, that have been taken to extinguish an incipient stage fire

Contain the fire (only if safe to do so)

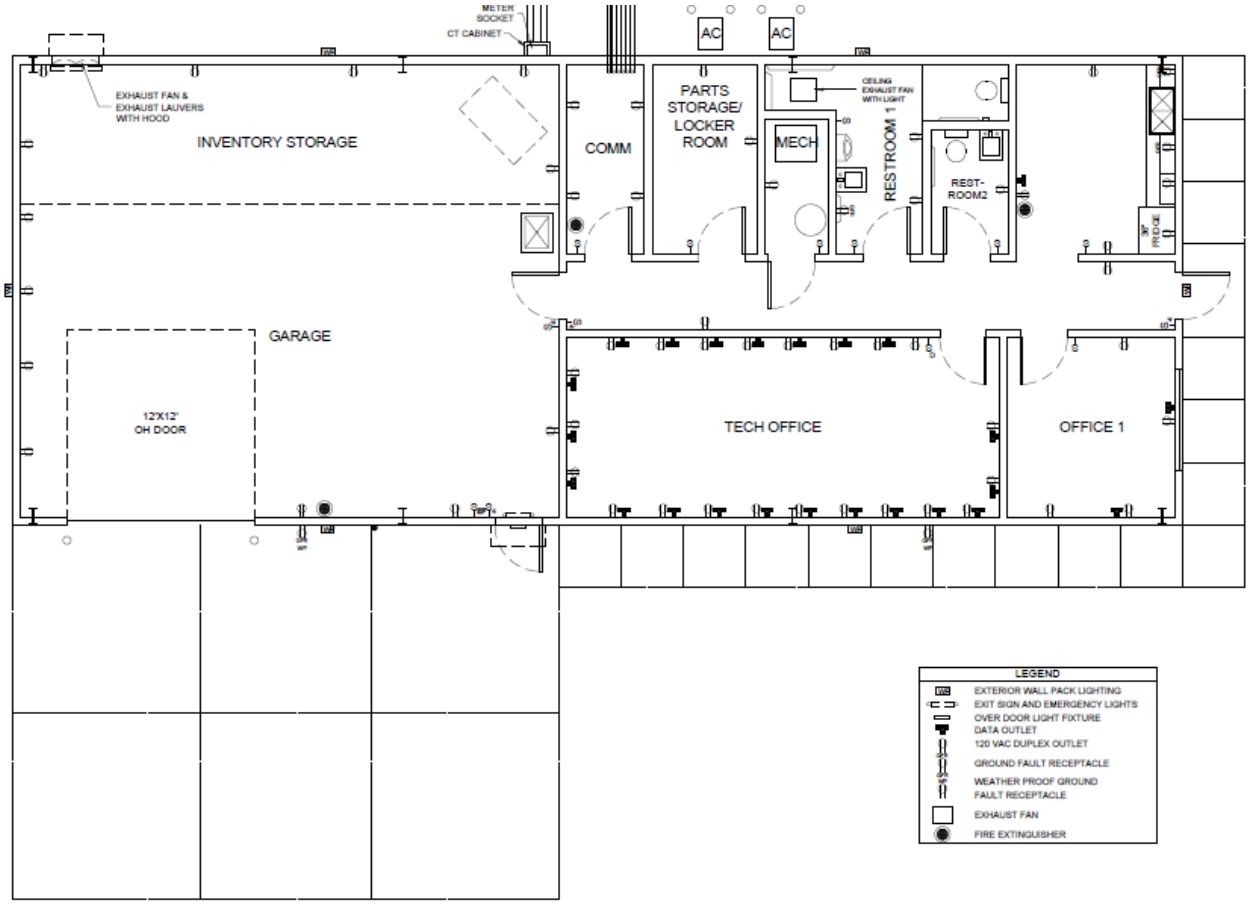
Extinguish the incipient stage fire (only if trained and it is safe to do so)

A person discovering a fire in an incipient stage shall choose to attempt extinguishing the fire only if the following two criteria are met:

1. Fire can be extinguished or controlled with 1 portable fire extinguisher, and
2. They perceive an adequate level of safety to extinguish the fire

Note: Fire-fighting efforts beyond incipient stage shall be performed by only local Fire Rescue

Fire Extinguisher Deployment Plot



Attachment 1, List of Major Fire Hazards

Wheatridge Renewable Energy Facility I (WREFI), Wheatridge Renewable Energy Facility II (WREFII) and Wheatridge Renewable Energy Facility III (Solar and BESS) Major Fire Hazards Risk Management

List of all major fire hazards, proper handling and storage procedures for hazardous materials, potential ignition sources and their control, and the type of fire protection equipment necessary to control each major hazard

Fire Hazard	Location	Handling/Storage Procedures	Potential Ignition Source	Ignition Source Control Method	Fire Protection
Trash	Warehouse	Properly stored trash containers	Smoking, any hot work	No smoking in shop, hot work permit requirements	Class ABC Fire Extinguisher
Oily Debris/Oil	Oil Storage Building	Properly grounded drums, no hot work	Static, spontaneous combustion	No smoking in area, no mixing chemicals/cleaners, grounded drums	Class ABC Fire Extinguisher
Propane Tank (building supply)	Behind O&M building	No Smoking or hot work anywhere near propane tank	Smoking, hot work	No smoking sign, flammable gas sign	Class ABC Fire Extinguisher/Fire Department
Propane tank storage cage	Near O&M garage door	Locked and closed at all times, remove tanks only for immediate use	Smoking, hot work	No smoking sign	Class ABC Fire Extinguisher
Flammable Cabinet	O&M Shop	Only store approved chemicals and ensure charcoal filters are in place	Smoking, hot work, improper grounding	Signage on flam cabinet, proper grounding	Class ABC Fire Extinguisher
Batteries	Containment Building	Cover terminals and label accumulation date	Spontaneous if grounded	Cover terminals and do not smoke or introduce ignition source	Class ABC Fire Extinguisher
Solar Batteries	Battery Skids	Follow Samsung Battery Handling and storage procedures	Spontaneous if heat parameters are exceeded or become grounded	Follow handling and storage procedures and maintain HVAC systems	Dry Chemical suppression – do not attempt to extinguish once fire is past incipient stage

Note: Fire extinguishers shall only to be used for small incipient stage fires. Only trained firefighters shall attempt to mitigate a fire that is beyond the incipient stage. Portable fire extinguishers are classified according to their size and intended use on four classes of fires. The general operating instructions can be remembered by the letters P-A-S-S.

Pull the pin at top of the extinguisher (that keeps the handle from being pressed)
Aim the nozzle toward the base of the fire
Squeeze the handle to discharge the agent inside (15-30 seconds of discharge time)
Sweep the nozzle back and forth at base of the flames to disperse the extinguishing agent

Fire Classifications

Class A - Fires involving ordinary combustible materials (e.g., wood, cloth, paper, many plastics) Water as a cooling or quenching effect to reduce temperature of burning material below ignition temperature.

Class B - Fires involving flammable liquids and gases. Smothering or blanketing effect of oxygen exclusion is effective.

Class C - Fires involving energized electrical equipment. always attempt to de-energize high voltage circuits and treat as a Class A or B fire depending upon the fuel involved.

Class D - Fires including combustible metals such as magnesium, titanium, and potassium. Extremely high temperature of burning metals makes water and other common extinguishing agents ineffective.

Class K - Fires involving cooking products (fats, grease, oils). These extinguishers work on the principle of saponification.

Special Risks

Special risks include sites with anhydrous ammonia and lithium-ion batteries. These sites shall develop additional safety measures to include:

1. Hazard signage (conforming to SMS 270 Safety Signs, Barriers, and Equipment Tags) at site access point(s) on each battery storage building

2. Maintain fire detection and fire extinguishing systems in operable condition

3. Develop and maintain hazard specific procedures (i.e. off-normal procedures) for managing fire events

This is a copy of the CONTROLLED document.
Documents are required to be verified current with PGD Operational Model prior to use.

APPENDIX 3 PHYSICAL SECURITY EVENT

The purpose of this document is to describe the roles, responsibilities, and the associated actions in response to PHYSICAL SECURITY incidents, which includes but is not limited to INTRUSION, DRONES, BOMB THREATS, SABOTAGE, VANDALISM, TERRORISM or OTHER security events at a PGD facility.

Physical Security Definitions:

1. **Bomb Threat:** A threat, usually verbal or written, to detonate an explosive or incendiary device to cause property damage, death, or injuries, whether or not such a device actually exists.
2. **Facility:** A set of electrical equipment that operates as a single Bulk Electric System Element (e.g., a line, a generator, a shunt compensator, transformer, etc.)
3. **Intrusion:** The unauthorized / illegal entrance to a facility.
4. **Sabotage**: A willful and malicious act with the apparent intent of disrupting normal operations of PGD facilities; specifically, for generation and transmission facilities, a willful and malicious act with the apparent intent of interrupting or reducing production of power plants or transmission facilities. Examples include but are not limited to suspicious packages, bomb threats; unusual occurrences suspected or determined to be caused by physical, cyber or communication attacks that could affect electric power system reliability.
5. **Suspicious Substance:** Includes powders and liquids that present a threat of human exposure to harmful agents. A suspicious substance could also be a package and should be considered for explosives and radioactivity.
    - **NOTE:** If the site identifies a suspicious substance or package they shall follow the Corporate Suspicious Substance Response Guidelines
6. **Vandalism**: The intentional destruction of PGD property. Examples include but are not limited to defacing company property, breaking windows, placing glue into locks, tire slashing, damaging a physical security system, and damaging a computer system.

Person/site experiencing the potential Physical Security incident:

All PGD employees have an obligation to report Physical Security events, including disturbances and/or unusual occurrences on PGD facilities that are suspected or known to be an act of / or actual occurrence of intrusion, receipt of a bomb threat, known or suspected acts of sabotage or vandalism, etc. The person discovering/witnessing the potential Physical Security incident shall immediately report the incident to:

1. Your immediate Supervisor
2. Security Operations at 561-694-5000

If the incident involves a Power Generation Division generating facility, then the following additional contacts must also be made:

3. FCC/ROCC
4. Local Law Enforcement
5. FPL System Operator if the incident is at an FPL facility (305-442-5744)

During the report describe what you have discovered/witnessed and the location of the affected facilities to include the items outlined below, as available:

a) Date and time of the incident

b) Description of the incident
c) Likely target
d) Number of people involved
e) Suspect and/or vehicle information
f) Type of equipment or material used for the activity
g) Generation capacity affected in Megawatts
h) Was there an actual or suspected physical attack that could cause a major impact to the Bulk Electrical System (e.g. generator, transformer, fuel supply)?
i) Was there any destruction of any security systems (cameras, badge readers, security barriers, locks) or any of its components?
j) Was there any actual or suspected cyber or communication attack that could impact the Bulk Electrical System adequacy or vulnerability? (See the Cyber Security Response section for more details regarding Cyber Security events)
k) Are there mitigation measures in place to correct the event?
l) Name and contact number for the point of contact

Has local law enforcement been notified by the reporting person/site? If yes, provide the contact information and case number if available. If not, work with Security Operations to determine the need to contact local law enforcement.

RECOGNIZING ACTS OF TERRORISM, HOSTILE INTRUDER & SIGNS OF POTENTIAL VIOLENCE

If a Hostile Intruder enters the Wheatridge Renewable Energy Facility I (WREFI) and Wheatridge Renewable Energy Facility II (WREFII), each person shall quickly determine the most reasonable way to protect his/her own life. Visitors and contractors are likely to follow the lead of employees and managers during a hostile intruder situation.

During such an event, each person shall take the following actions, accordingly:

1. EVACUATE
   - Have an escape route and plan in mind
   - Leave your belongings behind
   - Keep hands visible

2. HIDE OUT
   - Hide in area out of intruder's view
   - Block entry to your hiding place and lock the doors
   - Mute or turn off your cell phone

3. TAKE ACTION (As last resort and only when your life is in imminent danger)
   - Attempt to incapacitate the intruder
   - Act with physical aggression and throw items at the intruder

Note: Keep cell phones on mute/vibrate

4. Call 911 when it is safe to do so.

For additional information refer to Corporate Security Policy, Procedure #NEE-SEC-1720. Hostile Intruder Response Procedure.

An active shooter may be a current or former employee, or an outsider. Call Security Operations Center (SOC) at 561 694- 5000 if is believe an employee exhibits potentially violent behavior.

For employees, Indicators of potentially violent behavior may include one of the following:

- Increased use of alcohol and/or illegal drugs
- Unexplained increase in absenteeism, and/or vague physical complaints
- Depression/Withdrawal; Increased talk of problems at home
- Increased severe mood swings, noticeably unstable or emotional responses
- Increase in unsolicited comments about violence, firearms, other dangerous weapons and crimes

For additional information refer to Corporate Security Safe and Secure Workplace Policies, Procedure #NEE-SEC-1768

In the event that the site receives threatening correspondence either by phone or by other means of communications, the following actions should be performed immediately:

1. Actions by the person receiving the threat:

    a. Gather as much information as possible from the person making the threat.
    b. If the threat is via written correspondence, place the correspondence in a location in which it will not be touched or otherwise disturbed until police can be contacted.
    c. If the threat is being made verbally (phone, or other), communicate and obtain information from the individual making the threat for as long as possible. For phone threats note the time of the call, do not interrupt the caller and describe the tone of voice as well as any background sounds.
    d. Inform the Site/Plant Leader and/or General Manager of the situation.
    e. Contact Security Operations Center (SOC) at 561-694-5000
    f. Contact local law enforcement, as applicable (e.g. 911)
    g. Contact the (FCC) at 561-694-3600 or (ROCC) at 561-694-6363 (See Technology Table in section 5.0 Definitions)
    h. Communicate the Physical Security Event to all on-site personnel.
    i. Document / update the event in the Service Request application in Maximo.
    j. Refer to the PGD Sabotage Reporting procedure at: NEE-SEC-1764 - Security Notifications and Event Reporting
    k. This document should be consulted in order to assure adherence to the latest definitions and reporting instructions for sabotage and vandalism.
    l. Refer to the following procedure: PGD NERC Disturbance and Security Event Reporting EOP-004 Operating Plan

2. During the report describe what you have discovered/witnessed and the location of the affected facilities to include the items outlined below, as available:

    - The date and time of the incident
    - Description of the incident
    - Likely target
    - Number of people involved
    - Suspect and/or vehicle information
    - Type of equipment or material used for the activity
    - Generation capacity affected in Megawatts

- Was there an actual or suspected physical attack that could cause a major impact to the Bulk Electrical System (e.g. generator, transformer, fuel supply)?
- Was there any destruction of any security systems (cameras, badge readers, security barriers, locks) or any of its components?
- Was there any actual or suspected cyber or communication attack that could impact the Bulk Electrical System adequacy or vulnerability? (See the Cyber Security Response section for more details regarding Cyber Security events)
- Are there mitigation measures in place to correct the event?
- The name and contact number for the point of contact

3. The Plant Leader and/or General Manager may consider any or all the following actions to take in response to the threat situation, depending upon the circumstances of the threat:

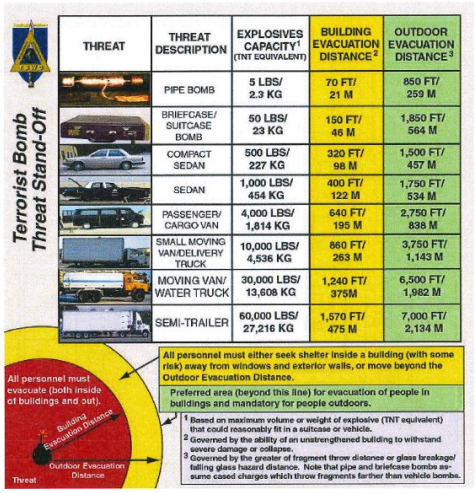
    - Order an evacuation of the facility
    - Never use radios or use cell phones near a suspected bomb
    - Call 911 for Police or Fire Assistance if they have not already been notified
    - Arrange for additional security personnel for the facility.
    - Direct plant personnel to commence a controlled shutdown of the facility.
    - Direct searches to be performed on vehicles entering the facility.

Note: The latest version of the corporate bomb threat report may be found through the following link: Bomb Threat Form

Refer to the following procedure: NEE-SEC-1760 – Responding to Bomb Threats

In case of an evacuation due to a bomb threat, please refer to the information below to maintain a safe distance.

BOMB THREAT EVACUATION DISTANCES



Note: At the first sign of a potential intruder trespassing into an accessible tall structure at the site, immediately proceed to back off, observe from a safe distance and call Corporate Security as well as the Local Law Enforcement. Law enforcement responders are trained to protect and serve their communities. Emergency responders from the local law enforcement department may require a quick training/briefing to safely enter and climb the structure (if applicable) as well as fall protection

equipment. After they provide a verbal command to the potential intruder(s), they may need access the structure. To the extent possible, facilitate their ability to enter without interfering with their efforts.

This is a copy of the CONTROLLED document.
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APPENDIX 4 - CYBER SECURITY EVENT

Detection:

1. Site personnel may take the role of a First Responder when they become aware of a cyber-incident or the potential for a cyber-incident from any of the following sources:
   - System page/email alert to an administrator/operator.
   - Employee or BU that first recognizes a potential incident that needs to be reported to NEE Security Operations Center.
   - Notification from the ROCC
   - Business Unit contacted by external agency: e.g., NERC, FERC, SERC, another outside source.
   - Outside source Notification may come as part of NEE's Security Notifications and Event Reporting Policy (NEE-SEC-1764 - Security Notifications and Event Reporting).
   -
2. Site must quickly assess if event is a cyber incident. This may require support from the ROCC, IT, Fleet Teams, Vendors, Information Security, etc. If this cannot be quickly determined, site must assume incident is cyber related and proceed with Response.

Response:

3. Site coordinates with ROCC makes the unit safe or stabilizes the unit as needed for the protection of personnel, environment and equipment, and plans the recovery if appropriate.

Use chart below for guidance of actions based on observations and/or unit conditions

Potential Operator Actions	Observations/Unit Conditions
Monitor Only	• Event appears to impact only corporate business applications and functions (IT only) • Units are not behaving erratic • All noted indications appear normal and appropriate (can validate using local indicators)
Place site in local SCADA control *(off AGC)*	• Notification of system compromise from the ROCC • Unit not responding to remote AGC setpoints or moving without AGC setpoint changes
Disconnect Control network from the IT network *(Island the site)* *Use your sites Off Normal Event procedure* ***"OT Disconnect Procedure"*** *for details to help identify locations of the network devices needed for OT disconnection* ***Possibly remove all units from service***	• Loss of local HMI's (if applicable) • Plant SCADA Networks slow/unresponsive • Multiple wind turbine/inverter trips with no obvious root cause • Suspected/abnormal alarms and/or unit indications • Loss of ability to control from ROCC using SCADA (Non-Responsive) • Observed unauthorized remote control of local SCADA servers • Under the directive of IT/CSIRP/I&C Fleet/ROCC/Renewables Fleet Teams

- First Responder should be prepared to describe the incident in detail to the Security Operations Center (SOC). The First Responder is not required to investigate and determine if the event is an actual cyber security incident.

- First Responder shall notify their Immediate Supervisor and the ROCC

4. Site Communicates to the appropriate parties which will trigger our Cyber Security Incident Response Plan (CSIRP), via available mode of communication (e.g. Cell phones, Satellite phones, Harris Radios, etc.).

a. Immediate Supervisor

b. Security Operations Center (561-694-5000) or the ITSC (305-552-4357)

c. Plant General or Regional Manager

d. ROCC (FPDC will release awareness notification)

- ROCC will follow PGD-JB-FPDC-ON 1315181201 NERC Security and Event Reporting EOP-004-2 Operating Plan for cyber-attack reporting purposes

e. Local Emergency Services, if appropriate

5. Plant shall follow directions as provided by Corporate CSIRP Team.

If possible, preserve current state of cyber devices for forensic evidence (e.g. don't disconnect, reset, reboot or power cycle) unless instructed to do so

Recovery:

6. Recovery instructions will be provided post event by Corporate CSIRP Team with EOSS support.

APPENDIX 5 CAPACITY / TRANSMISSION EVENT

Plant Site Roles and Responsibilities

1. Site Leader, ROCC Operator, or Person receiving CAPACITY SHORTFALL

   a. If the communication of a Capacity Short-Fall is for informational purposes and no Operator action is required the individual receiving the communication shall notify the ROCC, Site Leader/Plant Leader or other person in charge providing the information outlined below as available.

b. If the communication of a Capacity Short-Fall requires Operator Action the ROCC Operator or Person receiving a CAPACITY SHORTFALL notification from the respective Transmission Operator or other Reliability Entity e.g. Balancing Authority, Reliability Coordinator, shall immediately comply with directive / operating instructions received from the Transmission Operator or provide an explanation as to why the directive / operation instruction cannot be performed e.g., safety, environmental, reliability, regulatory, etc.

c. Three-part communication with the Reliability Entity shall be used and the communication shall be logged. The ROCC, Site Leader / Plant Leader or other person in charge shall be contacted and provided the information outlined below as available.
    1) Content of communication from the Reliability Entity
    2) Name of individual who called
    3) Time of call
    4) The general communication received, or the directive / operating instruction received.

2. Site leader/Plant Leader or other Person in Charge

    a. In response to receiving a CAPACITY SHORTFALL communication, the Site leader/Plant Leader or other Person in Charge will:

        1) Validate the notification with Transmission Operator if appropriate
        2) Validate the notification with the ROCC
        3) Once validated, Direct the CRO to follow the notification instructions
        4) Communicate the notification to site management

    b. If site management is not available, communicate directly with the Operations VP.
    c. For a NEER facility also contact project business management and ensure that other facility agreements are not violated. It is recommended that the potential for Transmission Operator requests should be vetted and documented before commercial operation of the facility.

        1) Communicate notification to the ROCC
        2) Prepare and review procedures for maximizing output and energy conservation
        3) Advise site personnel not to perform any discretionary maintenance, testing or evolutions (with the exception of approved thermal performance testing) which could present a risk to generation

3. All other site personnel not directly involved with responding

4. All other personnel that are not directly involved with responding to the CAPACITY SHORTFALL shall not perform any maintenance or activities that would put Mega Watts (MW's) at risk.

APPENDIX 6 ENVIRONMENTAL EVENT

The spill or release of any chemical, oil, fuels or Heat Transfer Fluid (HTF) is a potentially serious event, and appropriate response actions must be taken to minimize health hazards to personnel, as well as potential impacts to the environment. It is the policy of the facility that plant personnel will not respond to spills/releases but will instead call for trained outside responders to perform this function. For the purpose of clarification to plant personnel, the term “respond” in this context refers to actions taken to perform cleanup operations of spilled substances, and in some cases may even take the meaning of actually stopping the source of a spill. Taking basic response actions to a spill such as setting up barricades, placing containment media and stopping spills in situations such as the Step 1 Example below should not be construed to be acting in the role of a “responder”, as it is defined in OSHA HAZWOPER regulations.

The basic actions to be taken in response to a chemical, oil, fuels or HTF spill or release are the following:

1. If the spill or release is the direct result of an operational action performed on the system from which the release has originated, the person who performed the action should attempt to stop the release (if possible) if it can be stopped without incurring additional personal exposure to the substance.

   Example: A person opens the drain valve on a line that results in an unexpected release. If the person can immediately stop the release by closing the valve, this action should be taken if no additional exposure to the chemical will occur by doing so.

2. The person discovering a spill/release should immediately move to a location that is a safe distance upwind from the affected area,

   a. If it is safe to do so under prevailing conditions, remain within observation distance.
   b. If safe conditions are in doubt, do not risk exposure – leave the area immediately.

3. The person discovering the spill should look for other personnel in the area and warn them by any means available of the event that has occurred. The Site/Plant Leader should be notified immediately over the radio. Information provided should include all the following that are known:

   a. What type of chemical has been spilled/released?
   b. Location of the spill/release.
   c. If source of the spill/release has been stopped.
   d. If injuries or chemical exposure has occurred to personnel.
   e. Boundaries describing the area of the spill.
   f. Whether or not the spill is contained.
   g. Quantity released (if it can be estimated).
   h. Environmental Impacts (water bodies, streams, ground, roadways)

4. The Site/Plant Leader shall determine based upon the report from the person discovering the spill, whether the circumstances pose a threat to the surrounding community or the environment. If there is any threat to the surrounding community requiring the immediate response of public Emergency Response personnel, the person in charge shall immediately contact 911. The Site Leader shall also contact at least one of the following specialized emergency responders:

Organization	Expected Response Time	Contact Number
Heppner Volunteer Fire Department	.5 hrs.	541-676-2922 or 541-980-7962 or 911

5. At the Wheatridge site, some potential spills have a specific response plans/guidance that must be followed:

    a. SPCC

6. The Site/Plant Leader shall notify the Site/Plant Environmental Lead as soon as possible after an Environmental Event has been detected. The Site/Plant Environmental Lead shall contact the ES PGD Operations Support Director or Manager and follow the EMS-0300 Environmental Event Response Procedure – 1810251303 to determine regulatory reporting requirements.

7. If applicable, the Site Leader or the Site Environmental Leader shall closely coordinate with the PGD Emergency Response Coordinator, during pre and post event activities.

8. While remaining at a safe distance upwind from the spill/release, the person discovering the spill shall locate and place temporary containment around the outer boundaries of the spill, and place absorbent mats over any site drains that are near the location of the spill.

Note: This shall be performed only if it is safe to do so without risking chemical exposure.

9. The person discovering the spill shall attempt to barricade, restrict access or otherwise mark off safe boundaries around the spill to prevent others from inadvertently approaching the spill area.

Note: This shall be performed only if it is safe to do so without risking chemical exposure.

10. The person discovering the spill shall remain at a safe distance from the source of the spill/release until additional assistance or instructions are received.

11. Unless the person discovering the spill has reported unsafe conditions for approach of the area, the Environmental Lead shall immediately proceed to the spill area to evaluate severity of the incident.

Note: If any personnel are discovered to the unconscious or otherwise incapacitated upon approach to the spill scene, all personnel shall immediately move upwind away to a safe distance from the unknown threat

12. The Site Leader shall evaluate the adequacy of containment, barricades, and any other efforts that have been taken to prevent the spill from migrating to any additional areas or systems, and direct additional actions to be performed (unless it is deemed that any additional actions are unsafe to perform).

13. Once the Leader (or Emergency Coordinator, as appropriate) has determined that adequate containment and barricading of the spill area exists, they shall ensure that an adequately trained observer remains positioned a safe distance from the scene to observe the status of the spill and arrange for cleanup/mitigation actions

APPENDIX 7 GAS PIPELINE EVENT

Fuel Pipeline/Asset events have the potential to cause both safety and environmental risks. It is critical to understand your role and to have scheduled drills to prepare to react if such an incident were to occur.

Note: Natural gas is classed as a simple asphyxiant, meaning it has little or no toxic effects but can bring about unconsciousness and death by replacing air and thus depriving people of oxygen.The table below depicts the actions of the first individual discovering the event.

INITIAL RESPONSE ACTIONS **ONSITE RESPONSE TEAM**
1. **Make an Immediate Assessment of the Incident** & take actions to protect life and ensure safety of personnel. Determine: • Type & quantity of material released • Location & status of material released (contained/uncontained) • Status of source: (controlled/uncontrolled) • Status of all personnel/injuries
2. **Stop the Discharge & Shutoff Ignition Sources**, if safe to do so. (e.g., act quickly to secure pumps, valves, motors, open flames, etc.). If the incident is clearly the result of an operation that the Observer/First Responder can control safely, take immediate steps to correct the operation.
3.**Warn Personnel** – Alert the ROCC for them to complete the notification process & all facility personnel at or near the incident scene. The notifications by the ROCC shall include 911, Corporate Security, VP of Operations, Emergency Response Coordinator. **Note:** The ROCC will contact PGD Emergency Response Coordinator
4. **Isolate & Secure the Incident Scene -** Account for all personnel & evacuate nonessential personnel upwind of the area.
5. **Direct Termination of Appropriate Facility Operations** for the safety of personnel if necessary.
6. **Activate Site's Response Plan and all Necessary Response Organizations** (i.e., Onsite Response Team; Corporate Response Team; 911 as necessary)
7. **Establish Incident Command Post** with the following ICS roles: Command Staff, Finance, Logistics, Operations, and Planning.

APPENDIX 8 OIL PIPELINE EVENT

The spill or release of oil is a potentially serious event, and appropriate response actions must be taken to minimize health hazards to personnel, as well as potential impacts to the environment. It is the policy of the facility that plant personnel will not respond to spills/releases but will instead call for trained outside responders to perform this function. For the purpose of clarification to plant personnel, the term "respond" in this context refers to actions taken to perform cleanup operations of spilled substances, and in some cases may even take the meaning of actually stopping the source of a spill.

The person discovering a spill/release should immediately move to a location that is a safe distance from the affected area,

- If it is safe to do so under prevailing conditions, remain within observation distance.
- If safe conditions are in doubt, do not risk exposure – leave the area immediately.

The table below depicts the actions of the first individual discovering the event.

INITIAL RESPONSE ACTIONS
1. **Make an Immediate Assessment of the Incident** & take actions to protect life and ensure safety of personnel. Determine: • Type & quantity of material spilled • Location & status of material spilled: (contained/uncontained) • Status of source: (controlled/uncontrolled) • Status of all personnel/injuries
2. **Stop the Discharge & Shutoff Ignition Sources**, if safe to do so. (e.g., act quickly to secure pumps, valves, motors, open flames, etc.). If the incident is clearly the result of an operation that the Spill Observer/First Responder can control safely, take immediate steps to correct the operation.
3.**Warn Personnel** – Alert the ROCC for them to complete the notification process & all facility personnel at or near the incident scene. The notifications by the ROCC shall include 911, Corporate Security, VP of Operations, Emergency Response Coordinator. **Note:** The ROCC will contact PGD Emergency Response Coordinator
4. **Isolate & Secure the Incident Scene -** Account for all personnel & evacuate nonessential personnel from the area.
5. **Direct Termination of Appropriate Facility Operations** for the safety of personnel if necessary.
6. **Activate Site's Response Plan and all Necessary Response Organizations** (e.g., Onsite Response Team; local environmental services contractor, FPL Corporate Response Team; Fire Department as necessary)
7. **Establish Incident Command Post** with the following ICS roles: Command Staff, Finance, Logistics, Operations, and Planning.

APPENDIX 9 PANDEMIC EVENT

This section addresses the continued safe operation of PGD assets and references the NextEra Energy Business Continuity Plan. Individuals are expected to keep informed through the NextEra Energy communications. Individuals should practice social distancing and safe hygiene practices during high risk events. Travel restrictions may be implemented as part of the containment effort.

During a pandemic outbreak, to minimize the potential transmission of infectious disease in the workplace among essential personnel that must report to a company facility, screening stations and procedures may be implemented at the main entry points of critical company facility.

Visitors:
Visitors to the site shall follow the Pandemic Event site specific plan that can be found on the PGD Emergency Preparedness SharePoint site. ALL visitors to the site shall fill out a Visitor Log Form

Outside Vendors/ Contractors
Individual sites may deal directly with outside vendors when scheduling appointments and work. ALL outside vendors and contractors shall fill out a Visitor Log Form.

In the unlikely event that a confirmed exposure to a highly contagious disease (declared by the Center for Disease Control or World Health Organization) at the facility in areas such as control room, control centers and/or site O&M buildings is discovered, any of the scenarios and associated actions outlined on Table 1 may be triggered in order to isolate containment. Critical operations will be maintained with reduced staff at critical facilities or at home.

Activation of this plan is triggered by PGD senior leadership approval.

PGD sites work through the PGD business continuity coordinator to ensure all proper communications under the NextEra Energy Corporate Pandemic Plan are completed and proper alignment with corporate guidelines is executed.

Table 1: Potential actions for confirmed infection

Scenario One	Scenario Two	Scenario Three
Evacuate the affected individual and all non-essential workers exposed within the prior 7 days. Any Operations at the On-Site Facilities will follow special transition protocols to allow for cleaning and uninterrupted service. *	Quarantine all affected teammates at the site and shelter in place for 14 days or the applicable CDC recommendation to prevent spread	Evaluate generation need, shut the site down if feasible
All evacuated teammates will be quarantined in their homes for 14 days or the applicable CDC recommendation to prevent spread	Bring in provisions, accommodations and personal protective equipment for teammates	Evacuate all site personnel

Ensure major cleaning of facility in accordance with qualified pandemic removal protocols before individuals are permitted to return to work.	Go to minimum staffing as permitted for 14 days	Conduct major cleaning of facility before individuals are permitted to return to work
As applicable bring in new crews confirmed as not exposed to the contagious disease	Conduct major cleaning of facility before individuals are permitted to return to work	Bring in new crews confirmed as not exposed to the contagious disease to restart the site as generation needs change

*Special transition protocols: Operations will be controlled by ROCC, ROCC FPLCC Backup Center, ROCC Alternate Work Location, or by New Operations Local Crew. New crew entering the facility, must be wearing health care type personal protective equipment (PPE) such as protective clothing (Tyvek suit), gloves, face shields, goggles, facemasks and/or respirators or other equipment designed to protect the wearer from exposure of infection or illness. Concurrently the cleaning vendor will complete the decontamination of the facility, and any other affected areas. Upon completion, the site will transition with a new crew.

In the event a wind site is evacuated, the turbine repair would will be turned over to pre-determined back-up sites from within the clusters / regions managed by CWE. For more remote sites the site leader or designee will establish communication and arrangements with contracted companies.

Visitors to the site will follow the assigned site plans for Pandemic Event.

Third party contractors experiencing similar challenges, NextEra Energy may consider other methods of supplementing the work force. The temporary hiring of retired employees will be permitted, if the situation demands. This strategy will be particularly useful in those business areas where few individuals are familiar with the job responsibilities and the learning curve for new recruits is high

Provisions/Supplies:

PGD Emergency Preparation Team will work closely with Emergency Response Logistic team ahead of the event to ensure all provisions/supplies are quickly available for delivery.

A plan for acquiring food supplies, large amounts of bottled water, portable bedding, etc. should be tied to the appropriate phase of pandemic progress.

- Purchase orders should be established in advance of an outbreak.
- Emergency contact numbers for critical suppliers should be confirmed and tested.
- Known critical parts on order should be expedited.
- Establish ability to process emergency procurement from remote work locations such as home

The following vendor's/cleaning companies may be used to respond to the event.

Vendor Name	Contact Name	Contact Number	Contract #
National Response Corporation (NRC)	Global Response Operations Center	800-899-4672	CTR4600018348

- Additional vendors may be procured through the Emergency Response Logistic Team

Attachment 1: Sample checklist for WHO pandemic stages

Pre and during event:

□ PGD Emergency Preparedness GM meets with PGD senior leaders to assess possible pandemic threat.
□ Discuss possible staffing constraints within business area and possible workforce pools from which additional personnel can be obtained.
□ Identify and prioritize essential employees.
□ Consider pandemic budget items, volume and cost
□ Consider when or if your business area should establish a cost center and WBS # for pandemic associated expenses.
□ PGD Emergency Preparedness GM establishes regularly scheduled team meetings
□ Evaluate non -essential employees' skill sets for deployment to aid other business units
□ Consider meeting / communicating with business unit employees to assess concerns and needs
□ Contact working pool candidates to inquire about interest or ability to help in the event of a pandemic. These may include non-essential personnel in other departments with desired skill sets, recently retired employees, contractors, etc.
□ Consider timeline for cross training backup workers on critical business processes.
□ Begin considering alternative work shift schedules to lessen exposure vulnerabilities. Decide if and when the new schedules would be implemented, and when the workforce would revert back to standard work schedules.
□ Have employees who travel review the pandemic travel policies.
□ Verify any new pandemic related news and quell any false rumors.
□ Notify employees of possible vacation cancellations if the pandemic reaches the action levels. Vacation cancellation will be at the business area / supervisor's discretion.
□ Identify possible telecommuters.
□ Begin cross training, if it has not already taken place.
□ Test remote access for all personnel designated as telecommuters during a pandemic event.
□ Consider developing a transportation plan for those employees reliant upon public transportation to get to work
□ Initiate any new working schedules and personnel distancing policies.
□ Initiate teleconferencing policies. No large gatherings minimize personal contact as much as possible.
□ Re -evaluate business process prioritization.
□ If deemed appropriate, have approved employees begin telecommuting.
□ Track all additional costs associated with pandemic response efforts.

Post Event

□ Return departmental manning levels and shifts to their normal configuration.
□ Restock all supplies depleted during the prior wave.
□ Evaluate your business area's plan. Add additional information to the plan to reflect lessons learned.
□ Work with Supply Chain to re -evaluate critical vendors / suppliers

APPENDIX 10 IMMEDIATE SITE EVACUATION PROCEDURE

1. Personnel present in the Administrative Building shall immediately take the following actions:

    a. Locate and obtain the visitor/contractor sign-in sheet.

    b. Locate and obtain all immediately accessible hand-held radios.

    c. Determine the safest muster area to proceed to, depending upon the known circumstances of the emergency (as indicated in Appendix 3) and wind direction. Every site should have an identified off site muster area.

    d. Assign designated plant employees to assist any employees or visitors with special needs that would restrict their ability to get safely and expediently to the muster area.

Note: The ***primary*** muster area must be a predetermined location; alternate muster areas are to be selected only when egress routes to the primary muster area are unsafe to proceed along.

2. Pass the following information over the plant radio system:

    a. The muster area the employees will be proceeding to.
    b. Visitors/contractors known to be in the operating areas (as indicated by the visitor/contractor sign-in sheet).
    c. Once emergency personnel have completed the preceding steps, they shall immediately proceed to their designated muster area.
    d. Personnel in the Administrative Building should not delay in evacuating or wait on other personnel that they anticipate may arrive.
    e. Upon arriving at the designated muster area(s), the group shall designate a Person-in-Charge and take a head count of all personnel who are at the muster area, including contractors and visitors.

        1) After a roll call of all personnel present at the muster area is taken, the Person-in-Charge shall identify which operating area personnel are not accounted for.

        2) The Person-in-Charge will query by radio or cell phone for personnel who are unaccounted for.

        3) The Person-in-Charge shall establish radio communication with the Emergency Coordinator (if applicable) and relay information on personnel who are unaccounted for.

3. All personnel at the muster location shall remain at the muster location until an “ALL CLEAR” signal is sounded, or if directed by the Emergency Coordinator (if applicable) to leave the muster location.

4. The “ALL CLEAR” signal will be communicated by Radio or cellular telephone.

5. The Person-in-Charge shall continuously monitor the plant radio system when at the muster location.

6. Personnel present in the facility operating area (other than Administrative Building) shall immediately perform the following actions:

This is a copy of the CONTROLLED document.
Documents are required to be verified current with PGD Operational Model prior to use.

a. If not monitoring the plant radio system, immediately turn on hand-held radios.

7. Proceed to the designated Muster area, unless the egress route to the Muster area is not safe for travel. In such a case, proceed to an alternate Muster area.

8. Instruct any personnel (including visitors and contractors) who are seen along the way to proceed to the designated Muster area.

9. Upon reaching the appropriate Muster area, report to the Person-in-Charge and continue to monitor the plant radio system.

10. If no other personnel are present at the Muster area upon arrival, communicate this to the Site/Plant Leader.

11. Personnel not in the operating areas of the plant (to include the administration building and inside parking areas) shall immediately perform the following actions:

    a. Locate and obtain all immediately accessible hand-held radios.

    b. Proceed to the designated Muster area.

    c. A Person-in-Charge shall be designated for the Muster area. In many cases, this will be the Emergency Coordinator.

        1.) In the event that the Emergency Coordinator is in plant operating areas or has proceeded to an alternate muster area, he/she may elect to designate the muster area Person-in-Charge to act in the capacity of Emergency Coordinator during the emergency.

        2.) If the Emergency Coordinator is not present at the muster area, the Person-in-Charge at the muster area will coordinate outside responding agency activities until the Emergency Coordinator arrives.

        3.) The Person-in-Charge shall establish radio communications with operating area personnel and compare roll call lists to determine if any personnel are unaccounted for in the facility.

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Documents are required to be verified current with PGD Operational Model prior to use.

APPENDIX 11 DELAYED SITE EVACUATION PROCEDURE

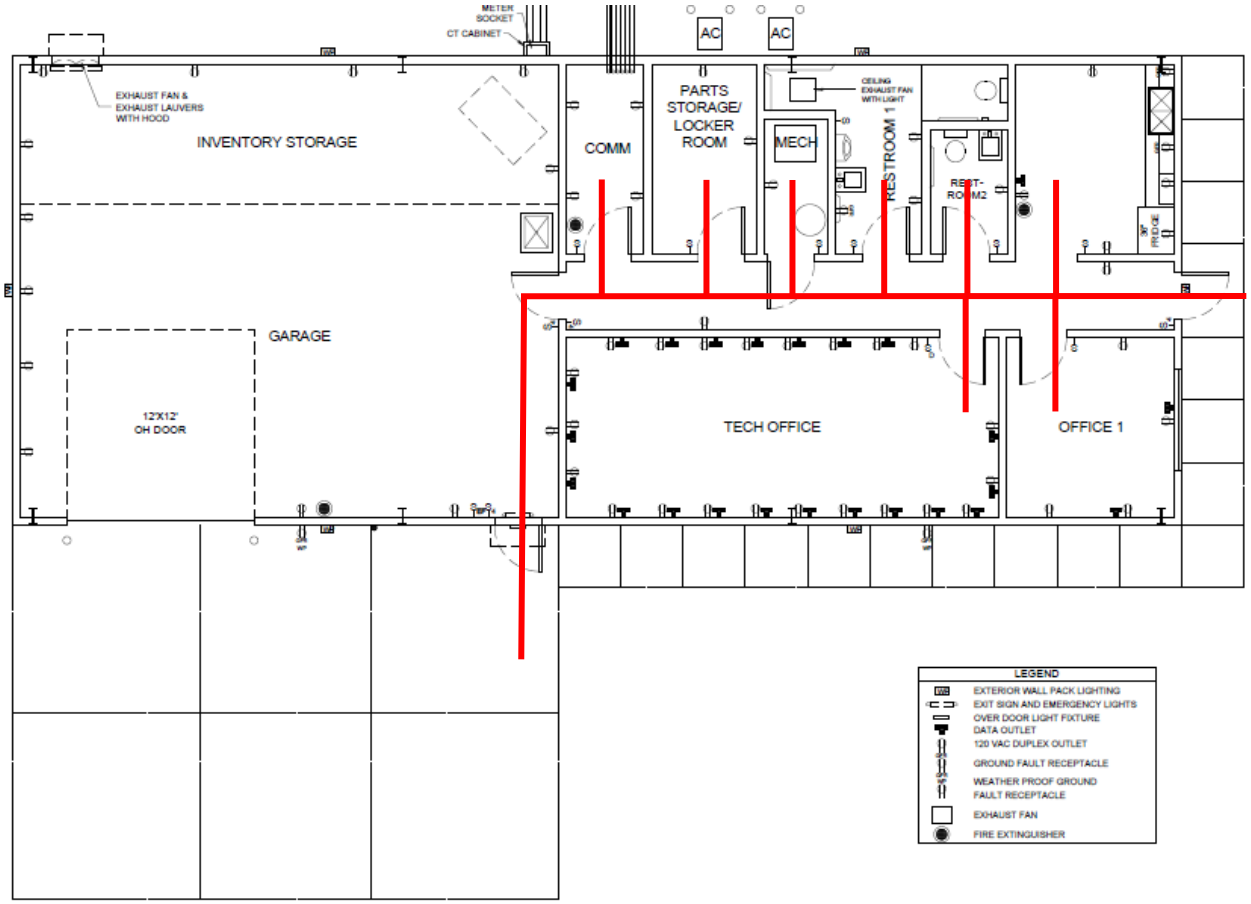
1. Personnel present in the Administrative Building shall immediately perform the following actions:
    a. Take necessary operating actions to place the facility in the most stable condition, based upon the type of emergency.
2. Locate and obtain the visitor/contractor sign-in sheet
    a. Communicate names of visitors/contractors currently in the operating areas to outside operating personnel.
    b. Instruct outside operating personnel to locate and direct all visitors/contractors to proceed to the Administrative Building for egress instructions.
3. When all visitors, contractors and non-essential operating personnel have been accounted for and are present in the Administrative Building, the Site Leader (or Emergency Coordinator, as appropriate) shall designate a trained person to escort all non-essential personnel to the designated Muster area along the safest egress route.
4. Notify the Emergency Coordinator and Production Staff of the current facility status, and evacuation details.
5. Perform a controlled shutdown in accordance with appropriate procedures and directions from the Emergency Coordinator.
6. Once the shutdown has been completed, all essential personnel shall gather in the Administrative Building and take roll call.
7. When all essential operating personnel are present and accounted for, evacuation to the designated Muster area shall be performed, unless the egress route is not safe for travel.
    a. If evacuation route to the designated muster area is not safe for travel, proceed to the alternate Muster area.
8. Personnel present in the facility operating areas (other than Administrative Building) shall immediately perform the following actions:
    a. Continuously monitor the radio system for information and instructions.
    b. Perform immediate response actions, as appropriate, to place the facility in the most stable condition, based upon the type of emergency.
    c. Locate and direct non-essential personnel to proceed to the Administrative Building immediately.
    d. Perform facility shutdown instructions as directed by the Site/Plant Leader.
    e. Upon completion of shutdown, or upon direction by the Emergency Coordinator, proceed to the Administrative Building for instructions.
9. Personnel not in the operating areas of the facility (to include the administration building and parking areas) shall immediately perform the following actions:
    a. Locate and obtain all immediately accessible hand-held radios.
    b. Proceed to the designated muster area (see Appendix12).
    c. A Person-in-Charge shall be designated for the muster area.
    d. The Person-in-Charge shall establish radio communications with operating area personnel and compare roll call lists to determine if any personnel are unaccounted for in the facility.
    e. The Person-in-Charge at the designated muster area will coordinate outside responding agency activities and provide assistance (to include personnel, resources, and administrative functions) to the Administrative Building as directed by the Emergency Coordinator and/or Site Leader.
10. The Emergency Coordinator shall immediately perform the following actions:
    a. Proceed to the Administrative Building, or to the location on the facility most appropriate for directing response actions for the emergency.

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Documents are required to be verified current with PGD Operational Model prior to use.

b. Coordinate actions related to the emergency and provide directions to muster area Persons-in-Charge.
c. In the event that the emergency escalates in severity or immediate danger to personnel, direct immediate evacuation of all essential operating personnel involved in plant shutdown activities.

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Documents are required to be verified current with PGD Operational Model prior to use.

APPENDIX 12 DESIGNATED EGRESS ROUTES & MUSTER AREAS FOR EVACUATIONS



Note: Each plant will designate emergency Muster point(s). These are the locations that all employees, visitors and contractors are to report to in the event of an emergency or a drill. Muster points should be identified with proper signage and the site manager should have means of communication. In the event of an emergency the site manager or designee should bring the plant sign in book to the muster point or designate someone to provide the information from the sign in log so that the site manager can account for all employees, contractors and visitors. The location of the Muster point(s) will be shown to all contractors and visitors as a part of the Contractor and Visitor PGD Orientation. Exit routes will be kept clear of clutter, and easily identified.

The Primary Muster Area is located at the O&M front gate.

The Alternate Muster Area is located Outside the substation gate across the road from the site.

The Primary Muster Area is the preferred gathering point for personnel and should be used during evacuations unless the emergency has rendered egress routes to the Primary Muster Area unsafe for travel. The Alternate Muster Area is the alternate gathering point for such circumstances.

APPENDIX 13 PERSONNEL INJURIES AND SERIOUS HEALTH CONDITIONS

The following sections provide basic guidelines for response actions that shall take in the event of emergencies related to personnel health.

Although facility personnel should take the most aggressive response actions that are prudent in an emergency situation, the first action will be to call 911 to initiate the response of outside medical responders.

To prepare facility personnel for such contingencies, it will be the PGD policy that all operating personnel and as many other personnel as possible should be trained in CPR (Cardiopulmonary Resuscitation), Bloodborne Pathogens and in the use of an AED (Automated External Defibrillator) if one is available.

Each site will maintain at least one well stocked first aid kit at the O&M building and one in each site vehicle. These will be inspected at least monthly. Each plant will determine the locations of their nearest non-emergency Workers' Compensation approved medical facility as well as the Occupational Nurse and post the name, address and phone number. In the event of an emergency, the 911 responders will determine the best location for emergency care.

AED(s) shall be maintained at the facility at a designated location known and accessible to all staff.

Locations

-O&M Shop

-Tower 16

-Tower 107

Automated External Defibrillators (AED) – NextEra sites with AEDs will follow their Maximo AED Standard Instruction Protocol

- Notify the local EMS of the existence, location, and type of AED

APPENDIX 14 PERSONNEL INJURIES AND SERIOUS HEALTH CONDITIONS (SUPPLEMENTAL INFORMATION FOR WIND ONLY)

Note: For NEER Wind Fleet only, reference site specific Code Blue Books for additional relevant information regarding injury and health conditions. These books shall be reviewed annually by site personnel during one of the quarterly drills.

This Wheatridge Renewable Energy Facility I (WREFI) and Wheatridge Renewable Energy Facility II (WREFII) Code Blue Book is stored in the OpModel.

WIND CODE BLUE PACKETS

Each wind site shall fill out and maintain an emergency quick reference guide “Code Blue” packet. The sites will supply each truck or crew with 2 code blue packets. One shall be kept in the work truck and the second in the emergency up-tower kit. Central maintenance shall also be supplied with 2 code blue packet per truck, at each site they work at.

Each site shall review their code blue annually to ensure the information is current. A new PM shall be created in MAXIMO to ensure this is completed.

Updating code blue packets

The steps for Updating Code Blue Packets is as follows: 1. Check Out Your "Code Blue Book" from the Op Model 2. Open in Native Content 3. Make Edits 4. Save 5. Check In 6. Send the revised copy through the Workflow for Approval. 7. Be sure to print new copies once updated for the site. If you need additional assistance at updating your Code Blue Book in the OP Model please reach out to the Document Management Team

New code blue packets

Print out at the site.

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1.0 PURPOSE AND SCOPE

1.1.1. The purpose of this procedure is to ensure timely and proper notification to Oregon Department of Energy aka ODOE. These notifications are additive and do not take the place of other required notifications.

2.0 REFERENCES AND COMMITMENTS

2.1 Performance References

2.1.1. Wheatridge Site Certificate

2.2 Developmental References

2.2.1. Wheatridge Site Certificate

2.3 Commitments

2.3.1. Adherence to Oregon State regulations and the Site Certificate

3.0 SAFETY AND ENVIRONMENTAL

3.1 Safety

3.1.1. NA

3.2 Environmental

3.2.1. NA

4.0 PREREQUISITES

4.1.1. Site Manager should read and understand Site Certificate

5.0 INSTRUCTIONS

5.1 Notification Requirements

Within 72 hours, sites must report any incident where,

1. There is an attempt by anyone to interfere with its safe operation.

2.There is a significant natural event such as a fire, earthquake, flood, tsunami or tornado, or human-caused event such as a fire or explosion.

3.There is any fatal injury at the facility.

In addition, certificate holders should also be aware that there are requirements in Division 29 that require reporting whenever they become aware of conditions or circumstances that may violate the terms or conditions of a site certificate or the terms or conditions of any order of the Council. In those cases, the responsible party must:

As soon as reasonably possible, notify the Department of the conditions or circumstances that may constitute a violation, giving all pertinent facts including an estimate of how long the conditions or circumstances have existed, how long they are expected to continue before they can be corrected, and whether the conditions or circumstances were discovered as a result of a regularly scheduled compliance audit.

As soon as reasonably possible, initiate and complete appropriate action to correct the conditions or circumstances and to minimize the possibility of recurrence.

Submit to the Department a written report within 30 days of discovery. The report must contain:

A discussion of the cause of the reported conditions or circumstances;

The date of discovery of the conditions or circumstances by the responsible party;

A description of immediate actions taken to correct the reported conditions or circumstances;

A description of actions taken or planned to minimize the possibility of recurrence; and

For conditions or circumstances that may violate the terms or conditions of a site certificate, an assessment of the impact on the resources considered under the standards of divisions 22 and 24 of this chapter as a result of the reported conditions or circumstances.

5.1.1.

5.1.2. Email EFSC.COMPLIANCE@energy.oregon.gov and cc the Department's Compliance Officer, Duane.KILSDONK@energy.oregon.gov. Written notification via email is always preferred but you can also call the compliance officer at 503-983-6484.

1. Information to include with notification.

a. Basic information

1. Name of the facility.

2. Date and time of the incident

3. Description of the incident

b. Any injuries?

c. If a spill

1. Substance spilled

2. Quantity

3. Where did the spilled material go?

4. Has it been reported to DEQ?

d. If a land fire

1. Has the fire been extinguished? If no, what is the containment status?

2. How many acres burned

3.Was it started by the facility

e. Operating status of the facility

f. Is equipment damaged or out of service?

END of Instructions

6.0 REVISION HISTORY

Rev #	Revision Description (Current Revision only)	Revised By: Job Role
"[n]"	"[Location and description of changes.]"	"[Job Role]"

Wheatridge I, II, and III EFSC Incident Log

Date/Time Of Incident	Location of Incident	Nature of Incident (Description)	Date ODOE Notified of Complaint

*Requirements. Per the Wheatridge Site Certificates (Condition GEN-OE-02) a non-compliance report system must be maintained:

- All columns of information must be completed.
- All Incidents must be reported to ODOE **within 72 hours** of Incident (Duane.Kilsdonk@energy.oregon.gov and EFSC.COMPLIANCE@energy.oreegon.gov) or call Compliance Officer at 503-983-6484
- All incidents for WREFI must also be reported to PGE (Lenna.Cope@pgn.com and Craig.Udy@pgn.com)

Attachment E-1: Draft Construction Wildfire Mitigation Plan

Contents

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Figure 2. Hazards to Potential Structures

Attachments

Attachment 1. Residence/Landowner Outreach Letter

DRAFT

Draft Construction Wildfire Mitigation Plan

1.0 Finalizing Wildfire Mitigation Plan Prior to Construction (PRE)

1.1 Update Applicable Sections of WMP

To finalize this WMP prior to construction of the facility:

The Certificate Holder will update Section 3.1 based on final facility design including a brief description of areas within the site that are subject to high wildfire risk, fire prevention features at the site, such as roads dimensions, setbacks, fire breaks, entry/exit locations, location of water truck(s) and fire protection equipment locations.

The Certificate Holder will update Section 3.2 and include in this WMP the facility site maps described in Section 3.2.

The Certificate Holder will update Section 3.4 with fire department, certificate holder, and construction manager contact information and emergency response procedures. The Certificate Holder will also update Section 3.4 to include the current landowners within the proposed Wagon Trail Solar II Site Boundary (and 0.5-miles from this site boundary), associated contact information, and confirmation of outreach letter transmittal.

The Certificate Holder will update section 3.7 to describe vegetation management and areas that will be managed to be vegetation-free, noncombustible space, or gravel surface.

2.0 Prior to Construction Task List (PRE)

Prior to construction of the facility, the Certificate Holder will complete the activities in Sections 2.1 and 2.2.

2.1 Training (PRE):

Before beginning construction, the Certificate Holder will hold an on-site training for contractors and construction personnel, inviting specialty contractors, local fire department(s), participating and adjacent landowners, emergency management office personnel, ODOE, and any other emergency management agency. The training will cover:

- Description of construction phasing;
- The type, location, and proper use of fire protection equipment;
- Fire protection equipment usage and maintenance requirements;
- The location(s) of water source(s) and proper usage, storing and maintenance for the pump, hose nozzle; and water hose;
- Overview of smoking policy and locations;
- Overview of procedures and restrictions of construction maintenance activities during Fire Season and Red Flag Warnings designated in this Plan;
- Rescue, Alarm, Contain and Extinguish RACE procedures including:

  - Rescue anyone in danger (if safe to do so);
  - Alarm – call the control room, who will then determine if 911 should be alerted;
  - Contain the fire (if safe to do so); and
  - Extinguish the incipient fire stage (if safe to do so).
- Provide information and encourage attendees to sign up for the County's emergency management notification system.

Training attendee list and training materials must be provided to the Department to demonstrate compliance.

The Certificate Holder will fill out and submit to the Department the template landowner outreach letter provided as Attachment 1 of this WMP. Once the Department confirms the letter to be sufficient, the certificate holder will confirm landowners within the 0.5-mile analysis area and mail copies of the letter to each address. The Certificate Holder will confirm mailing and submit to the Department.

2.2 Facility Site Map(s) Submission (PRE):

The Certificate Holder will submit updated site maps from Section 3.2 concurrently to local fire departments, first responders, and the Department.

3.0 Construction Wildfire Mitigation Plan (CON)

3.1 Summary of Facility Description with Design Features and Location of Fire Protection Equipment

No phases are proposed as part of the Wagon Trail Solar II construction. Temporary solar disturbance and vegetation removal will occur in association with the improvement of existing roads and the construction of collector and transmission lines, new roads, staging areas, and fences. Staging areas will be graveled during construction. Post-construction, this gravel will be removed, and the ground surface regraded to match adjacent contours and reseeded or planted as provided by the Revegetation Plan.

As shown in Figure 1, potential wildfire risk exists within the proposed Wagon Trail Solar II Site Boundary and 0.5-mile Analysis Area. Additionally, as shown in Figure 2, potential hazards to structures also exist within the proposed Wagon Trail Solar II Site Boundary and 0.5-mile Analysis Area.

The following fire prevention features will be present within the proposed Wagon Trail Solar II Site Boundary:

- Up to 16-foot-wide service and access roads, graveled or paved.
- Site access points (total number to be determined prior to construction).
- Fenced areas around the operations and maintenance (O&M) building, collector substation, and battery energy storage system (BESS) will be graveled, with no vegetation present.
- During construction the certificate holder must maintain an area clear of vegetation for fire prevention around construction sites.
- Smoke/fire detectors will be placed around the site that will be tied to the supervisory control and data acquisition (SCADA) system and will contact local firefighting services.

Commented [A1]: Min distance?

- O&M building will have basic firefighting equipment for use on site during maintenance activities, such as shovels, beaters, portable water for hand sprayers, fire extinguishers, and other equipment.
- Fire sensors, alarms, and in every battery container.
- The perimeter fencing will have vehicle and pedestrian access gates, including two 16-foot-wide gates and one 4-foot-wide gate.

3.2 Facility Site Map(s):

The following information will be verified and provided on a figure included in a revised final Construction WMP prior to construction.

- The phasing for construction of facility features and components;
- Location and dimensions of facility roads;
- Location of vegetation free, noncombustible, defensible spaces;
- Wildfire risk at the site;
- High-fire consequence areas/resources (includes existing infrastructure, residences, sensitive habitat, or cultural resources);
- The location of facility access points;
- A description and the location of emergency access procedures, including how emergency responders and/or adjacent landowners may access site for fire protection equipment or to extinguish an on-site fire when personnel will not be onsite;
- The type and location of fire protection equipment on site;
- The location(s) of water source(s) that will be on-site during construction.

3.3 Specifications for Fire Protection Equipment

The following fire suppression equipment will be carried in vehicles conducting maintenance activities and stored on-site at the O&M building at all times:

- Fire Extinguisher: Dry chemical. 2A:10BC (5 pound), properly mounted or secured;
- Pulaski;
- Hand Shovel: Round point. 26 to 28 in "D" Handle, blade - 12 inches long and 10 inches wide;
- Collapsible Pail or Backpack Pump: 5-gallon capacity; and
- Drip Can: 5-gallon capacity.

During fire season (as designated in this Plan) water truck(s)/water source, water buffalo, or tank with minimum 500-gallon capacity must be on site. The water truck or water supply shall include the following, unless approved by the Department:

- Pump should be maintained ready to operate and capable to provide a discharge of not less than 20 gallons per minute at 115 psi at pump level. Note: Volume pumps will not produce the necessary pressure to effectively attack a fire start. Pressure pumps are recommended.
- Provide enough hose (500 feet minimum) not less than 3/4" inside diameter to reach areas where power-driven machinery has worked.
- Water supply, pump, and at least 250' of hose with nozzle must be maintained as a connected, operating unit ready for immediate use.

All internal combustion engines must be equipped with exhaust systems, mufflers and screens, or

include an appropriate spark arrestor; and must be kept in good operating condition. All combustion engines (including but not limited to off road vehicles, chainsaws, and generators) will be equipped with a spark arrester that meets U.S. Forest Service Standard 5100-1.

All power-driven machinery will be kept free of excess flammable material which may create a risk of fire.

3.4 Facility Contact Information and Emergency Response Procedures

Local fire department and county emergency management contact information:

- Ione Rural Fire Protection District
  - (541) 422-7303
- Echo Rural Fire Protection District
  - (541) 481-3473
- Boardman Rural Fire Protection District
  - (541) 481-3473
- County Emergency Management
  - 9-1-1

Fire department response times to the site:

- The Certificate Holder will complete this information in coordination with the above listed fire responder(s) prior to construction.

Certificate holder primary contact and contact of construction contractor manager(s):

- David Lawlor
  Director of Development
  NextEra Energy Resources, LLC
  FEW/JB
  700 Universe Blvd
  Juno Beach, FL 33408
  David.Lawlor@nexteraenergy.com
  (403) 689-6285
- Construction contractor manager(s) contact information will be provided in the Final Construction WMP.

Contact 911 in the event of:

- A fire or emergency on-site that cannot be addressed by personnel on-site and requires the assistance of fire or emergency medical personnel;
- A fire ignition on-site that spreads out of the fence line;
- Any fire off-site that does not have emergency responders on site.
  - To the extent that construction personnel can safely assist and/or provide equipment to help extinguish off-site fires until emergency responders are on site, it is encouraged to do so to assist in the spread of the fire, loss of life, property and damage to the environment.

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3.5 Use of Vehicles and Power-Driven Machinery at Site

The following best management practices (BMPs) to minimize fire risk from vehicle travel, equipment use, and fueling activities will be implemented at the site during construction:

- The movement of vehicles will be planned and managed to minimize fire risk.
- The contractor(s) will be responsible for identifying and marking paths for all off-road vehicle travel. All off-road vehicle travel will be required to stay on the identified paths. No off-road vehicle travel will be permitted while working alone. Travel off road or parking in vegetated areas will be restricted during fire season as designated in this Plan.
- Areas with grass that are as tall or taller than the exhaust system of a vehicle must be wetted before vehicles travel through it.
- Workers will be instructed to shut off the engine of any vehicle that gets stuck, and periodically inspect the area adjacent to the exhaust system for evidence of ignition of vegetation. Stuck vehicles will be pulled out rather than "rocked" free and the area will be inspected again after the vehicle has been moved.
- The contractor(s) will designate a location for field fueling operations at the temporary construction yards. Any fueling of generators, pumps, etc. shall take place at this location only.
- Fuel containers, if used, shall remain in a vehicle or equipment trailer, parked at a designated location alongside a county right-of-way. No fuel containers shall be in the vehicles that exit the right-of-way except the five-gallon container that is required for the water truck pump.
- All power-driven machinery will be kept free of excess flammable material which may create a risk of fire.

3.6 Fire Precaution Levels and Restrictions during Fire Season

Definitions:

Non-Fire Season – Approximately October - May

Fire Season – Approximately June-September, formally designated by the Oregon Department of Forestry (ODF). Under ORS 478.960 (4), a Fire Chief can establish Fire Season within a Fire District when ODF, under ORS 477.505, declares Fire Season. Begins seasonal restrictions for public and industry.

Fire Weather Watch - A fire weather watch is issued when there is a high potential for the development of a red flag event. A watch is issued 18 to 96 hours in advance of the expected onset of criteria. Intent of a fire weather watch is to alert forecast users at least a day in advance for the purposes of resource allocation and fire fighter safety. A watch means critical fire weather conditions are possible but not imminent or occurring.

Red Flag Weather Warning - A red flag warning is used to warn of impending or occurring red flag conditions. Its issuance denotes a high degree of confidence that weather and fuel conditions consistent with local red flag event criteria will occur in 48 hours or less. Specific Red Flag criteria differ for each situation and district in Oregon. Be extremely careful with open flames and other activities that emit sparks.

Hot Work - Any cutting, grinding, welding, or other activity that creates spark or open flame.

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Fire Watch Service -

Fire watch shall:

- Be physically capable and experienced to operate firefighting equipment.
- Have facilities for transportation and communications to summon assistance.
- Observe portions of the facility where equipment activity occurred during the day.

Upon discovery of a fire, fire watch personnel must: First report the fire, summon any necessary firefighting assistance, describe intended fire suppression activities; then, after determining a safety zone and an escape route that will not be cut off if the fire increases or changes direction, immediately proceed to control and extinguish the fire, consistent with firefighting training and safety.

Fire-Prevention Measures and Restrictions Associated with Fire Season:

Certificate holder shall maintain a log when construction activities are impacted by Fire Restrictions during Fire Season as designed in this Section. The log will include:

- The date;
- Fire Precaution Level;
- Description of actions taken, including if any measures were taken to reduce wildfire risk that are not identified in this Plan.

Non-Fire Season

- All hot work (must be conducted on roads or on non-combustible surfaces.
- Smoking in designated areas only.

Fire Season

- Before the start of each daily shift, at approximately 07:00 a.m. local time, the Technician in charge will check the fire danger posting by the National Weather Service for any Red Flag Warnings for that day.
- All hot work (any cutting, welding, or other activity that creates spark or open flame) must be conducted on roads or on non-combustible surfaces.
- Water source meeting specifications in this Plan will be on site during fire season.
- Following the completion of hot work, the Certificate Holder or contractor(s) must maintain a fire watch for 60 minutes to monitor for potential ignition.
- Fire watch shall be on duty during any breaks and for one hour after all power driven machinery used by the operator has been shut down for the day.
- Smoking in designated areas only.

Fire Weather Watch

- No hot work permitted.
- Driving and parking only permitted on graveled surfaces.
- Fire watch shall be on duty during any breaks and for one hour after all power driven machinery used by the operator has been shut down for the day.
- No smoking on site.

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Red Flag Weather Warning

- No hot work permitted.
- On-site personnel must be aware of Red Flag Warning.
- Driving and parking only permitted on graveled surfaces.
- Fire watch shall be on duty during any breaks and for one hour after all power-driven machinery used by the operator has been shut down for the day.
- No smoking on site.

Table 1: Fire Prevention Measures During Fire Season Summary

Requirement	Non-Fire Season	Fire Season	Fire Weather Watch	Red Flag Warning
Fire weather advisory	Not required	Check for fire weather advisory daily before work begins.	Check for fire weather advisory daily before work begins.	Check for fire weather advisory daily before work begins. On-site personnel must be aware of Red Flag Warning.
On-site water source	N/A	As specified in Section 3.2	As specified in Section 3.2 and 3.3.	As specified in Section 3.2 and 3.3.
Hot work	Only permitted on roads or on non-combustible surfaces.	Only permitted on roads or on non-combustible surfaces; fire watch required for 60 minutes after completion	Not Permitted	Not Permitted
Fire Watch Service	Not required	During breaks and for 60 minutes after all power-driven machinery has been shut down for the day.	During breaks and for 60 minutes after all power-driven machinery has been shut down for the day.	During breaks and for 60 minutes after all power-driven machinery has been shut down for the day.

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Table 1: Fire Prevention Measures During Fire Season Summary

Requirement	Non-Fire Season	Fire Season	Fire Weather Watch	Red Flag Warning
Driving and Parking	As described in Section 3.5.	As described in Section 3.5.	Only permitted on roads or on non-combustible surfaces and Section 3.5.	Only permitted on roads or on non-combustible surfaces and Section 3.5.
Smoking	Designated areas only	Designated areas only	Not permitted	Not permitted

3.7 Vegetation Management

3.7.1 Vegetation-free, Noncombustible Space, and Vegetation Standards

Vegetation within the fence line and below the solar arrays will be maintained as follows:

- Vegetation will be limited to a height of 10-12 inches, with a minimum clearance of 12 inches from electrical equipment. Vegetation near, at, or taller than the maximum height shall be removed or mowed.
- Mowing must be done in advance of fire season or accordance to any fire restrictions.
- At no point shall vegetation come in contact with electrical equipment.
- Vegetation buildup in the fence line(s) shall be removed.
- Any vegetation removed from the site will be disposed of and not stored onsite. Certificate holder and contractors will prevent the accumulation of combustible "burn piles" on site.

The following areas will be managed to be vegetation-free, noncombustible space, or gravel surface:

- 16-foot-wide service roads within solar fence line – graveled
- 10-foot noncombustible, defensible space clearance along the fenced perimeter of the site boundary – vegetation free
- Within the fenced perimeter of the inverter/transformer pads, collector substation and battery energy storage system (BESS) – graveled, similar noncombustible base, or vegetation free
- Parking and O&M building perimeter – graveled

Vegetation in these areas will be managed by the following techniques:

- Mowing;
- Chemical (herbicide) spray; and
- Reseeding with low growing, native vegetation.

3.8 Construction Training(s)

3.8.1 Safety Training

Once a year after construction begins, organize and hold an on-site training with certificate holder and construction personnel, inviting equipment manufacturers, specialty contractors, local fire department(s), participating and adjacent landowners, emergency management office personnel, ODOE, and any other emergency management agency that covers:

- The location of electrical facility components and the fire safety measures associated with each component that have been constructed;
- Description of remaining construction phasing;
- The type, location, and proper use of fire protection equipment;
- Fire protection equipment usage and maintenance requirements;
- The location(s) of water source(s) and proper usage, storing and maintenance for the pump, hose nozzle, and water hose;
- Overview of smoking policy and locations;
- Overview of procedures and restrictions of construction activities during Fire Season, Fire Weather Watches, and Red Flag Warnings designated in this Plan;
- Rescue, Alarm, Contain and Extinguish (RACE) procedures including:
    - Rescue anyone in danger (if safe to do so);
    - Alarm – call the control room, who will then determine if 911 should be alerted;
    - Contain the fire (if safe to do so); and
    - Extinguish the incipient fire stage (if safe to do so).
- Provide information and encourage attendees to sign up for the County's emergency management notification system.

4.0 Plan Updates: Amendments and Reporting Requirements:

The following will be provided to the Department in the semi-annual construction report required per OAR 345-026-0080:

- Section 3.1 and 3.2, any changes in wildfire risk at the site or changes in facility components or preventative features.
- Section 3.4, any changes in local fire protection agency personnel and construction managers.
- Section 3.4, any changes in analysis area residence/landowner addresses or contact information.
- A copy of the Fire Season Restriction Log identified in Section 3.6.

This information may be used to establish the performance of the WMP. If determined by certificate holder or Department, adjustments or improvements must be proposed to ensure the WMP provides wildfire mitigation. Any Department required updates shall be implemented within 14 days, unless otherwise agreed to by the Department based on a good faith effort to address wildfire hazard.

This Plan may be amended from time to time by agreement of the certificate holder and the Oregon

Energy Facility Siting Council (EFSC) or ODOE, acting within its delegated authority of EFSC. Such amendments may be made without amendment of the site certificate. EFSC authorizes ODOE to agree to amendments to this Plan. ODOE will notify EFSC of all amendments, and EFSC retains the authority to approve, reject, or modify any amendment of this Plan agreed to by ODOE.

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Attachment 1: Residence/Landowner Outreach Letter

Attachment E-2: Draft Operational Wildfire Mitigation Plan

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Table 2. Operational Electrical Component and Vegetation Inspection and Maintenance Schedule and Results

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Figure 1. Overall Fire Risk

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Figure 2. Hazards to Potential Structures

Attachments

Attachment 1. Residence/Landowner Outreach Letter

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Draft Operational Wildfire Mitigation Plan

1.0 Finalizing Wildfire Mitigation Plan Prior to Operation (PRO)

1.1 Update Applicable Sections of WMP

At this time the Certificate Holder does not have a design for the portion of the previously approved Wheatridge Renewable Energy Facility III (Facility) to be sited within the proposed Wagon Trail II Solar Site Boundary. Prior to operation of the facility:

The Certificate Holder will update Section 3.1 based on final facility design including a brief description of areas within the site that are subject to high wildfire risk, fire prevention features at the site, such as road dimensions, setbacks, fire breaks, entry/exit locations, water truck(s) and fire protection equipment locations. Fire detection, fire suppression, and emergency shut off systems that will be activated in the event of a fire will also be described.

The Certificate Holder will update Section 3.2 and include in this WMP the facility site maps described in Section 3.2.

The Certificate Holder will update Section 3.4 with fire department, certificate holder, and operational manager contact information and emergency response procedures. Update Section 3.4 with analysis area residence contact information and confirm analysis area residence contact letter sent to residences within site boundary and 0.5 miles from the facility.

The Certificate Holder will update section 3.6 to describe vegetation management and areas that will be managed to be vegetation-free, noncombustible space, or gravel surface.

The Certificate Holder will update Section 3.7 and Table 2: *Operational Electrical Component and Vegetation Inspection and Maintenance Schedule and Results*, based on manufacturer recommendations associated with each type of facility component and vegetation management consistent with this WMP and Revegetation Plan; and include an appendix with excerpts of manufacturer recommendations.

The Certificate Holder will update Section 3.10 with any additional details about facility monitoring.

The Certificate Holder will update Section 4.0 with any additional standards for future review and plan updates. Note that Table 2: *Operational Electrical Component and Vegetation Inspection and Maintenance Schedule and Results*, will be used as a compliance checklist by the Department to establish the performance of the WMP. If determined by certificate holder or Department, adjustments or improvements must be proposed to ensure the WMP provides wildfire mitigation.

2.0 Prior to Operation Task list (PRO)

Prior to operation of the facility, the Certificate Holder will complete the activities in Sections 2.1 and 2.2.

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2.1 Training (PRO)

Before beginning operation, the Certificate Holder will hold an on-site training for operational personnel, inviting equipment manufacturers, specialty contractors, local fire department(s), participating and adjacent landowners, emergency management office personnel, ODOE, and any other emergency management agency. The training will cover:

- The location of electrical facility components and the fire safety measures associated with each component;
- Battery-specific safety protocols, including how to appropriately address chemical fires, in the event of an emergency;
- The type, location, and proper use of fire protection equipment;
- Fire protection equipment maintenance requirements;
- The location(s) of water source(s) and proper usage, storing and maintenance for the pump, hose nozzle; and water hose;
- Overview of smoking policy and locations;
- Overview of procedures and restrictions of operational maintenance activities during Fire Season and Red Flag Warnings designated in this Plan; Rescue, Alarm, Contain and Extinguish (RACE) procedures, including:
    - Rescue anyone in danger (if safe to do so);
    - Alarm – call the control room, who will then determine if 911 should be alerted;
    - Contain the fire (if safe to do so); and
    - Extinguish the incipient fire stage (if safe to do so).
- Provide information and encourage attendees to sign up for the County's emergency management notification system.

Training attendee list and training materials must be provided to the Department to demonstrate compliance.

The certificate holder will fill out and submit to the Department the template residence outreach letter provided as Attachment 1 of this WMP. Once the Department confirms the letter to be sufficient, the certificate holder will identify residences within the 0.5-mile analysis area and mail copies of the letter to each residence. The Certificate Holder will confirm mailing and submit to the Department.

2.2 Facility Site Map(s) Submission (PRO):

The Certificate Holder will submit updated site maps from Section 3.2 concurrently to local fire departments, first responders, and the Department.

3.0 Operational Wildfire Mitigation Plan (OPR)

3.1 Summary of As-Built Facility Description with Design Features and Location of Fire Protection Equipment

Once constructed, the Facility is anticipated to contain the following:

- Solar photovoltaic system (solar modules (mono- or poly-crystalline cells), tracker systems, posts);
- Combiner boxes, inverters, and transformers;

- Electrical collection system;
- Service roads, gates, and fencing; and
- Wheatridge West collector substation.

As shown in Figure 1, potential wildfire risk exists within the proposed Wagon Trail Solar II Site Boundary and 0.5-mile Analysis Area. Additionally, as shown in Figure 2, potential hazards to structures also exist within the proposed Wagon Trail Solar II Site Boundary and 0.5-mile Analysis Area.

The following fire prevention features will be present within the proposed Wagon Trail Solar II Site Boundary:

- Up to 16-foot-wide service and access roads, graveled or paved.
- Site access points (total number to be determined prior to construction).
- Fenced areas around the operations and maintenance (O&M) building, collector substation, and battery energy storage system (BESS) will be graveled, with no vegetation present.
- Smoke/fire detectors will be placed around the site that will be tied to the supervisory control and data acquisition (SCADA) system and will contact local firefighting services.
- O&M building will have basic firefighting equipment for use on site during maintenance activities, such as shovels, beaters, portable water for hand sprayers, fire extinguishers, and other equipment.
- Fire sensors, alarms, and aerosol fire extinguishing systems in every battery container.
- The perimeter fencing will have vehicle and pedestrian access gates, including two 16-foot-wide gates and one 4-foot-wide gate.

3.2 Facility Site Map(s):

The following information will be verified and provided on a figure included in a revised final Operational WMP prior to operation:

- Location and dimensions of facility roads;
- Location of vegetation free, noncombustible, defensible spaces;
- Wildfire risk at the site and date;
- High-fire consequence areas/resources (includes existing infrastructure, residences, sensitive habitat, or cultural resources);
- The location of facility access points;
- A description and the location of emergency access procedures, including how emergency responders and/or adjacent landowners may access site for fire protection equipment or to extinguish an on-site fire when personnel will not be onsite;
- The type and location of fire protection equipment on site;
- The location(s) of water source(s) that will be on-site during operations.

3.3 Specifications for Fire Protection Equipment

The following fire suppression equipment will be carried in vehicles conducting maintenance activities and stored on-site at the O&M building:

- Fire Extinguisher: Dry chemical. 2A:10BC (5 pounds), properly mounted or secured;
- Pulaski;
- Hand Shovel: Round point. 26 to 28 in "D" Handle, blade - 12 inches long and 10 inches wide;
- Drip Can: 5-gallon capacity.

All internal combustion engines must be equipped with exhaust systems, mufflers and screens, or include an appropriate spark arrestor; and must be kept in good operating condition. All combustion engines (including but not limited to off road vehicles, chainsaws, and generators) will be equipped with a spark arrester that meets U.S. Forest Service Standard 5100-1.

All power-driven machinery will be kept free of excess flammable material which may create a risk of fire.

3.4 Facility Contact Information and Emergency Response Procedures

Local fire department and county emergency management contact information:

- Ione Rural Fire Protection District
  - (541) 422-7303
- Echo Rural Fire Protection District
  - (541) 481-3473
- Boardman Rural Fire Protection District
  - (541) 481-3473
- County Emergency Management
  - 9-1-1

Fire department response times to the site:

- The Certificate Holder will complete this information in coordination with the above listed fire responder(s) prior to operation.

Certificate holder primary contact and contact of operational manager(s):

- David Lawlor
  Director of Development
  NextEra Energy Resources, LLC
  FEW/JB
  700 Universe Blvd
  Juno Beach, FL 33408
  David.Lawlor@nexteraenergy.com
  (403) 689-6285
- Operational manager(s) contact information will be provided prior to operations.

Contact 911 in the event of:

- A fire or emergency on-site that cannot be addressed by personnel on-site and requires the assistance of fire or emergency medical personnel;
- A fire ignition on-site that spreads out of the fence line; and
- Any fire off-site that does not have emergency responders on site.
  - To the extent that operational personnel can safely assist and/or provide equipment to help extinguish off-site fires until emergency responders are on site, it is encouraged to do so to assist in the spread of the fire, loss of life, property and damage to the environment.

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3.5 Fire Precaution Levels and Restrictions during Fire Season

Definitions:

Non-Fire Season – Approximately October - May



Fire Season – Approximately June-September, formally designated by the Oregon Department of Forestry (ODF). Under ORS 478.960 (4), a Fire Chief can establish Fire Season within a Fire District when ODF, under ORS 477.505, declares Fire Season. Begins seasonal restrictions for public and industry.



Fire Weather Watch - A fire weather watch is issued when there is a high potential for the development of a red flag event. A watch is issued 18 to 96 hours in advance of the expected onset of criteria. Intent of a fire weather watch is to alert forecast users at least a day in advance for the purposes of resource allocation and fire fighter safety. A watch means critical fire weather conditions are possible but not imminent or occurring.



Red Flag Weather Warning - A red flag warning is used to warn of impending or occurring red flag conditions. Its issuance denotes a high degree of confidence that weather and fuel conditions consistent with local red flag event criteria will occur in 48 hours or less. Specific Red Flag criteria differ for each situation and district in Oregon. Be extremely careful with open flames and other activities that emit sparks.

Hot Work -Any cutting, grinding, welding, or other activity that creates spark or open flame.

Fire Watch Service:

Fire watch shall:

- Be physically capable and experienced to operate firefighting equipment.
- Have facilities for transportation and communications to summon assistance.
- Observe portions of the operation on which activity occurred during the day.

Upon discovery of a fire, Firewatch personnel must: First report the fire, summon any necessary firefighting assistance, describe intended fire suppression activities; then, after determining a safety zone and an escape route that will not be cut off if the fire increases or changes direction, immediately proceed to control and extinguish the fire, consistent with firefighting training and safety.

Fire-Prevention Measures and Restrictions Associated with Fire Season:

Certificate Holder will maintain a log when operational activities are impacted by Fire Restrictions during Fire Season as designed in this Section. The log will include:

- The date;
- Fire Precaution Level;
- Description of actions taken, including if any measures were taken to reduce wildfire risk that are not identified in this Plan.

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Non-Fire Season

- All hot work must be conducted on roads or on non-combustible surfaces.
- Smoking in designated areas only.

Fire Season

- Before the start of each daily shift, at approximately 07:00 a.m. local time, the Technician in charge will check the fire danger posting by the National Weather Service for any Red Flag Warnings for that day.
- All hot work (any cutting, welding, or other activity that creates spark or open flame) must be conducted on roads or on non-combustible surfaces.
- Water source meeting specifications in this Plan will be on site during fire season.
- Following the completion of hot work, the Certificate Holder or contractor(s) must maintain a fire watch for 60 minutes to monitor for potential ignition.
- Fire watch shall be on duty during any breaks and for one hour after all power driven machinery used by the operator has been shut down for the day.
- Smoking in designated areas only.

Fire Weather Watch

- No hot work permitted.
- Driving and parking only permitted on graveled surfaces.
- Fire watch shall be on duty during any breaks and for one hour after all power driven machinery used by the operator has been shut down for the day.
- No smoking on site.

Red Flag Weather Warning

- No hot work permitted.
- On-site personnel must be aware of Red Flag Warning.
- Driving and parking only permitted on graveled surfaces.
- Fire watch shall be on duty during any breaks and for one hour after all power driven machinery used by the operator has been shut down for the day.
- No smoking on site.

Table 1: Fire Prevention Measures During Fire Season Summary

Requirement	Non-Fire Season	Fire Season	Fire Weather Watch	Red Flag Warning
Fire weather advisory	Not required	Check for fire weather advisory daily before work begins.	Check for fire weather advisory daily before work begins.	Check for fire weather advisory daily before work begins. On-site personnel must be aware of Red Flag Warning.

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Table 1: Fire Prevention Measures During Fire Season Summary

Requirement	Non-Fire Season	Fire Season	Fire Weather Watch	Red Flag Warning
On-site water source	N/A	As specified in Section 3.2	As specified in Section 3.2 and 3.3.	As specified in Section 3.2 and 3.3.
Hot work	Only permitted on roads or on non-combustible surfaces.	Only permitted on roads or on non-combustible surfaces; fire watch required for 60 minutes after completion	Not Permitted	Not Permitted
Fire Watch Service	Not required	During breaks and for 60 minutes after all power-driven machinery has been shut down for the day.	During breaks and for 60 minutes after all power-driven machinery has been shut down for the day.	During breaks and for 60 minutes after all power-driven machinery has been shut down for the day.
Driving and Parking	As described in Section 3.9.	As described in Section 3.9.	Only permitted on roads or on non-combustible surfaces and Section 3.9.	Only permitted on roads or on non-combustible surfaces and Section 3.9.
Smoking	Designated areas only	Designated areas only	Not permitted	Not permitted

3.6 Vegetation Management

3.6.1 Vegetation-free, Noncombustible Space

The following areas will be managed to be vegetation-free, noncombustible space, or gravel surface:

- 16-foot-wide service roads within solar fence line – graveled
- 10-foot noncombustible, defensible space clearance along the fenced perimeter of the site boundary – vegetation free
- Within the fenced perimeter of the inverter/transformer pads, collector substation and battery energy storage system (BESS) – graveled, similar noncombustible base, or vegetation free

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- Parking and O&M building perimeter – graveled
- Vegetation along service roads will be managed by mowing or other vegetation removal

Vegetation in these areas will be managed by the following techniques:

- Mowing;
- Chemical (herbicide) spray; and
- Reseeding with low growing, native vegetation.

3.6.2 Vegetation Standards, Surveys and Management

Vegetation within the fence line and below the solar arrays will be maintained in accordance with the approved Revegetation Plan for the Facility.

- Vegetation will be limited to a height of 10-12 inches, with a minimum clearance of 12 inches from electrical equipment. Vegetation near, at, or taller than the maximum height shall be removed or mowed.
- Mowing must be done in advance of fire season or accordance to any fire restrictions.
- At no point shall vegetation come in contact with electrical equipment.
- Vegetation buildup in the fence line(s) shall be removed.
- Any vegetation removed from the site will be disposed of and not stored onsite. Certificate holder and contractors will prevent the accumulation of combustible "burn piles" on site.

A vegetation assessment survey of the fenced area will be completed at least twice a year to monitor for vegetation clearances and maintenance of fire breaks, and wildfire hazards. One survey will occur before the fire season begins, in May or June. The second survey will occur in October or November. Additional vegetation surveys and management may be required throughout the year based on seasonally heightened fire risk, vegetation growth, or observations from operational maintenance staff.

The survey will be conducted by the a vegetation specialist and will be used to assess the frequency of upcoming vegetation maintenance and will assess and document the following:

- Location;
- Species;
- Height;
- Proximity to facility components;
- Estimated growth rate;
- Abundance;
- Clearance/setbacks; and
- Risk of fire hazard.

Results of surveys shall be provided in the annual updates to this WMP, designated in Section 4.0.

Vegetation control includes the following (to be consistent with this WMP, Revegetation Plan , Soil Reclamation Plan and Noxious Weed Plan):

- Mowing;
- Chemical (herbicide) spray; and
- Physical removal.

3.7 Inspections and Maintenance

Facility components will be inspected and maintained as designated in Table 2: *Operational Electrical Component and Vegetation Inspection and Maintenance Schedule and Results* below. Prior to operations, Table 2 will be updated based on manufacturer recommendations associated with each type of facility component and vegetation management consistent with this WMP and Revegetation Plan.

Table 2 includes an operational check list that will be filled out designating which personnel conducted inspections and maintenance, the dates of inspections and maintenance, and results. As designated in Section 4.0 of this WMP, this table checklist will be submitted to demonstrate compliance with the WMP and used to determine if changes to the WMP are necessary. Other checklists may be provided prior to operation and in the annual review of the WMP, as approved by the Department.

Prior to operation, manufacturers' recommendations, or excerpts for inspections and maintenance will be included as an appendix to this plan.

Lock Out/Tag Out Program:
During maintenance activities, electrical equipment is de-energized and physically locked or tagged in the de-energized positions to avoid inadvertent events that could result in arc flash.

- Ensure equipment is maintained to prevent and control sources of ignition.

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Table 2: Operational Electrical Component and Vegetation Inspection and Maintenance Schedule and Results

A completed table will be provided in a revised final Operational WMP prior to operation.

Facility Component(s)	Inspection Procedure	Inspection Frequency	Standard[1]	Maintenance Schedule	Date and Personnel Completing Inspection(s); Inspection Results	Date and Personnel Completing Maintenance; Maintenance Results
System Protection	Protection Relays • Verify calibration and check functionality. Breaker Trip Testing • Verify the ability to trip breakers via coil.	X	Manufacturer's maintenance recommendations	Repair or replace once every 5 years	Date: Personnel:	Date: Personnel:
					Results: Notes:	Results: Notes:
System Protection	System Protection Potential Transducers ("PTs") and Current Transducers ("CTs") • Verify calibration and check functionality.	X	Manufacturer's maintenance recommendations	Repair or replace once every 11 years	Date: Personnel:	Date: Personnel:
					Results: Notes:	Results: Notes:
Solar Inverter	• Visual inspection of inverter and surrounding area. • Verify torque specifications. • For alternating current (AC)/direct current (DC), perform inspection of communication and control power terminations. • Cycle AC/DC disconnects, inspect AC/DC contactors and cooling fans. • Perform infrared scan. Inverter Testing and Preventative Parts Replacement • Preventative maintenance replacement of inverter parts (e.g.: cooling system and power supplies that are operating effectively but scheduled for replacement per manufacturer's recommendations).		Spill Prevention, Control, and Countermeasures (SPCC) Plan[3] Manufacturer's maintenance recommendations	• Monthly SPCC Plan • Bi-annual Preventative Maintenance • Per manufacturer's recommendations	Date: Personnel:	Date: Personnel:
					Results: Notes:	Results: Notes:
	Vegetation: Visual inspection during component inspections and visual inspections during vegetation surveys twice a year.	Vegetation: Twice a year during vegetation surveys and additional visual inspections during routine inspections of components.	Vegetation: Herbicide application on gravel pad around inverter to prevent vegetation growth. IEEE 80 NEC 70	Vegetation: Yearly, depending on vegetation condition. Or more frequent based on vegetation survey results or upon visual inspections listed above.	Date: Personnel:	Date: Personnel:
					Results: Notes:	Results: Notes:
Tracker System	• Perform visual inspection of tracking components; sync data with the Certificate Holder's Operations Center. • Perform visual inspection of module clamps and rail fasteners for integrity. • Perform visual inspection of gear drives and shaft assemblies for alignment. • Grease gear boxes and/or drive shaft. • Verify wind stow functionality and lubricate slew ring.		Manufacturer's maintenance recommendations	• Per manufacturer's recommendations	Date: Personnel:	Date: Personnel:
					Results: Notes:	Results: Notes:

Table 2: Operational Electrical Component and Vegetation Inspection and Maintenance Schedule and Results

A completed table will be provided in a revised final Operational WMP prior to operation.

Facility Component(s)	Inspection Procedure	Inspection Frequency	Standard[1]	Maintenance Schedule	Date and Personnel Completing Inspection(s); Inspection Results	Date and Personnel Completing Maintenance; Maintenance Results
Solar Array Structures	• Perform visual inspection of mounting structures, grounding, and cabling.		Manufacturer's maintenance recommendations	Repair or replace annually	Date: Personnel:	Date: Personnel:
					Results: Notes:	Results: Notes:
Solar Array Panels, Harnesses, and Combiner Boxes	At Certificate Holder's sole discretion, to perform one of the following options: • Infra-red ("IR") Flyover a. IR scan of Site providing DC health of the Facility down to string level reporting; or • Physical DC Health Inspection a. Perform visual inspection of whips and wires connectors for damage or exposed conductors in gutters of harness combiner boxes. b. Measure and record current of each whip using clamp-on meter and identify low performing whips.		Certificate Holder's discretion Manufacturer's maintenance recommendations	Repair or replace annually	Date: Personnel:	Date: Personnel:
					Results: Notes:	Results: Notes:
	Vegetation: Visual inspection during component inspections and visual inspections during vegetation surveys twice a year.	Vegetation: Twice a year during vegetation surveys and additional visual inspections during routine inspections of components	Vegetation: Vegetation under solar arrays will be maintained to a height of 10-12 inches, with a minimum clearance of 12 inches from electrical equipment. Methods include manual removal, mowing, or as designated in this Plan.	Vegetation: Twice a year, or more often, as designated in this Plan.	Date: Personnel:	Date: Personnel:
					Results: Notes:	Results: Notes:
Collector Substation	• Perform visual inspection of the grounding system. • Perform thermographic and visual inspection. • Perform uninterrupted power supply (UPS) inspection and maintenance.		Manufacturer's maintenance recommendations North American Electric Reliability Corporation (NERC)	Repair or replace annually	Date: Personnel:	Date: Personnel:
	Vegetation: Visual inspection during component inspections and visual inspections during vegetation surveys twice a year.	Vegetation: Twice a year during vegetation surveys and additional visual inspections during routine inspections of components.	Vegetation: Herbicide application on substation gravel pad. IEEE 80 NEC 70	Vegetation: Yearly, depending on vegetation condition. Or more frequent based on vegetation survey results or upon routine visual inspections.	Results: Notes:	Results: Notes:
BESS	• Set battery maintenance (system check, cell balancing).		Manufacturer's	Repair or replace annually	Date:	Date:

Table 2: Operational Electrical Component and Vegetation Inspection and Maintenance Schedule and Results

A completed table will be provided in a revised final Operational WMP prior to operation.

Facility Component(s)	Inspection Procedure	Inspection Frequency	Standard[1]	Maintenance Schedule	Date and Personnel Completing Inspection(s); Inspection Results	Date and Personnel Completing Maintenance; Maintenance Results
	• Battery cable, appearance, grounding, dust removal. • Inspect battery management system alarms. • Visual inspection of electrical terminations using thermal imager.		maintenance recommendations		Personnel:	Personnel:
	Vegetation: • Visual inspection during component inspections and visual inspections during vegetation surveys twice a year.	Vegetation: Twice a year during vegetation surveys and additional visual inspections during routine inspections of components.	Vegetation: Herbicide application on substation gravel pad. IEEE 80 NEC 70	Vegetation: Yearly, depending on vegetation condition. Or more frequent based on vegetation survey results or upon routine visual inspections.	Results: Notes:	Results: Notes:
Unit Control Enclosure Battery	• Check for correct operations of battery monitoring system and battery charging system. • Perform visual inspection of the battery room, mounting rack, batteries, and connections.		Manufacturer's maintenance recommendations	Repair or replace monthly	Date: Personnel:	Date: Personnel:
					Results: Notes:	Results: Notes:
Unit Control Enclosure Battery	• Perform individual cell float charge and specific gravity checks.		Manufacturer's maintenance recommendations	Repair or replace quarterly	Date: Personnel:	Date: Personnel:
					Results: Notes:	Results: Notes:
Unit Control Enclosure Battery	• Measure float cell voltage, pilot cell voltage, and electrolyte temperature of pilot cell.		Manufacturer's maintenance recommendations	Repair or replace annually	Date: Personnel:	Date: Personnel:
					Results: Notes:	Results: Notes:
Supervisory, Control and Data Acquisition (SCADA) & Network Equipment	• Plant equipment will be evaluated every 5 years to determine state of health and provide recommendations.		Manufacturer's maintenance recommendations	Upgrade, repair, or replace every 5 years	Date: Personnel:	Date: Personnel:
					Results: Notes:	Results: Notes:
					Results: Notes:	Results: Notes:

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Table 2: Operational Electrical Component and Vegetation Inspection and Maintenance Schedule and Results

A completed table will be provided in a revised final Operational WMP prior to operation.

Facility Component(s)	Inspection Procedure	Inspection Frequency	Standard[1]	Maintenance Schedule	Date and Personnel Completing Inspection(s); Inspection Results	Date and Personnel Completing Maintenance; Maintenance Results
Medium Voltage (MV) and High Voltage (HV) Breaker	• Clean out dirt and debris. • Perform a manual operation test. • Perform an electrical test. • Perform a gas leakage test.		Manufacturer's maintenance recommendations NERC	Repair or replace per manufacturer's recommendations	Date: Personnel:	Date: Personnel:
					Results: Notes:	Results: Notes:
Generator Step-Up (GSU) Transformer	• Perform a visual inspection and check for proper operation of fan motor, oil pump motor, and breather. • Inspect and maintain substation transformer bushings and control panel. • Perform visual inspection of bushings for indications of local heating, oil leaks, proper oil level and indication of contaminants.		SPCC Plan[3] Manufacturer's maintenance recommendations	Repair, overhaul, refurbish, or replace per manufacturer's recommendations	Date: Personnel:	Date: Personnel:
					Results: Notes:	Results: Notes:
Inverter Step-up Transformer	• Perform infrared scans on low side of transformer when power is >80%. • Verify temperature and pressure sync with the contractor's Operations Center. • Perform visual inspection of the physical integrity of the enclosure and check for oil leakage. • Perform visual inspection for damage or discoloration of bushings. • Perform oil sample analysis on MV transformer(s). • Collect MV transformer oil sample(s) for 3rd party analysis. • Perform electrical test of transformer. • Verify integrity of surge arresters and check for proper tap position.		SPCC Plan[3] Manufacturer's maintenance recommendations	Replace or repair per manufacturer's recommendation	Date: Personnel:	Date: Personnel:
					Results: Notes:	Results: Notes:
	Vegetation: Visual inspection during component inspections and visual inspections during vegetation surveys twice a year.	Vegetation: Twice a year during vegetation surveys and additional visual inspections during routine inspections of components.	Vegetation: Herbicide application on gravel pad around inverter to prevent vegetation growth. IEEE 80 NEC 70	Vegetation: Yearly, depending on vegetation condition. Or more frequent based on vegetation survey results or upon visual inspections listed above.	Date: Personnel:	Date: Personnel:
					Results: Notes:	Results: Notes:
Overhead electrical lines	Visual inspection of components, grounding and APLIC measures.		APLIC		Date: Personnel:	Date: Personnel:

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Table 2: Operational Electrical Component and Vegetation Inspection and Maintenance Schedule and Results

A completed table will be provided in a revised final Operational WMP prior to operation.

Facility Component(s)	Inspection Procedure	Inspection Frequency	Standard[1]	Maintenance Schedule	Date and Personnel Completing Inspection(s); Inspection Results	Date and Personnel Completing Maintenance; Maintenance Results
	Vegetation: Visual inspection of vertical clearance distance between conductor and vegetation.		Vegetation: National Energy Reliability Corporation (NERC) - Vegetation maintenance standard FAC-003-0. Mow vegetation to achieve clearance requirements between conductor and ground.	Vegetation: Yearly, depending on vegetation condition.	Results: Notes:	Results: Notes:

1. The Operational SPCC Plan for the Facility will require these components to be inspected monthly for spills. During these inspections, Operational Staff will also visually inspect the component and surrounding area.

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3.8 Use of Vehicles and Power-Driven Machinery at Site

The following best management practices (BMPs) to minimize fire risk from vehicle travel, equipment use, and fueling activities will be implemented at the site during operational activities:

- The movement of vehicles will be planned and managed to minimize fire risk.
- As necessary, contractor(s) or operational personnel will be responsible for identifying and marking paths for all off-road vehicle travel. All off-road vehicle travel will be required to stay on the identified paths. No off-road vehicle travel will be permitted while working alone. Travel off road or parking in vegetated areas will be restricted during fire season as designated in this Plan.
- Areas with grass that are as tall or taller than the exhaust system of a vehicle must be wetted before vehicles travel through it.
- Workers will be instructed to shut off the engine of any vehicle that gets stuck, and periodically inspect the area adjacent to the exhaust system for evidence of ignition of vegetation. Stuck vehicles will be pulled out rather than "rocked" free and the area will be inspected again after the vehicle has been moved.
- Fuel containers, if used, shall remain in a vehicle or equipment trailer, parked at a designated location alongside a county right-of-way. No fuel containers shall be in the vehicles that exit the right-of-way except the five-gallon container that is required for the water truck pump.
- All power-driven machinery will be kept free of excess flammable material which may create a risk of fire.

3.9 Operational Training(s)

3.9.1 Annual or Biannual Safety Training

The Certificate Holder will organize and hold an on-site training with operational personnel, inviting equipment manufacturers, specialty contractors, local fire department(s), participating and adjacent landowners, emergency management office personnel, ODOE, and any other emergency management agency, that covers:

- The location of electrical facility components and the fire safety measures associated with each component;
- Battery-specific safety protocols, including how to appropriately address chemical fires, in the event of an emergency;
- The type, location, and proper use of fire protection equipment;
- Fire protection equipment maintenance requirements;
- The location(s) of water source(s) and proper usage, storing and maintenance for the pump, hose nozzle, and water hose;
- Overview of smoking policy and locations;
- Overview of procedures and restrictions of operational maintenance activities during Fire Season and Red Flag Warnings designated in this Plan; Rescue, Alarm, Contain and Extinguish (RACE) procedures, including:
    - Rescue anyone in danger (if safe to do so);
    - Alarm – call the control room, who will then determine if 911 should be alerted;
    - Contain the fire (if safe to do so); and
    - Extinguish the incipient fire stage (if safe to do so).

- Provide information and encourage attendees to sign up for the County's emergency management notification system.

Training attendee list and training materials must be provided to the Department to demonstrate compliance.

3.9.2 Electrical Safety Program

All operational workers will be trained in electrical safety and the specific hazards of the facility. This training will address:

- Minimum experience requirements to work on different types of electrical components;
- Lockout/tagout procedures;
- Electrical equipment testing and troubleshooting;
- Switching system;
- Provisions for entering high voltage areas (e.g., substation);
- Minimum approach distances; and
- Required personal protective equipment.

3.10 Facility Monitoring

Facility components that are monitored via the supervisory, control, and data acquisition (SCADA) system are the solar inverters, collector substation, battery energy storage system (BESS), and overhead electrical lines associated with the alternate gen-tie line.

Facility components will be monitored remotely with the SCADA system 24 hours a day, 7 days a week.

Smoke and fire detectors are placed throughout the facility, will be connected to the SCADA system, and will contact local firefighting services if needed. The BESS will also have integrated fire safety and monitoring systems to detect and alarm if a fire condition is detected.

The Facility will have the ability to be remotely operated and shut down by the Renewable Operation Control Center, which will be staffed 24 hours a day, 7 days a week.

4.0 Plan Updates: Amendments and Reporting Requirements

The following information will be provided to the Department in the annual report, as required by OAR 345-026-0080:

- Section 3.1 and 3.2, any changes in wildfire risk at the site or changes in facility components or preventative features.
- Section 3.4, any changes in local fire protection agency personnel and operational managers.
- Section 3.4, any changes in analysis area residence/landowner addresses or contact information.
- Fill out Table 2: *Operational Electrical Component and Vegetation Inspection and Maintenance Schedule and Results*, with the dates, personnel, and results of inspections and maintenance performed. A different form or checklist of operational inspection, vegetation management, and maintenance may be used if approved by the Department.

- A copy of the Fire Season Restriction Log identified in Section 3.5.

The certificate holder must review this WMP annually to determine if updates to the WMP are necessary. In its annual review, the certificate holder will evaluate changes in standards, policies, future technologies or best practices that could be implemented at the facility to address wildfire prevention or protection, including but not limited to those identified in Table 3, below.

Information from the annual reporting and from the certificate holder or Department review of sources in Table 3 may be used to establish the performance of the WMP. If determined by certificate holder or Department, adjustments or improvements must be proposed to ensure the WMP provides wildfire mitigation. Any Department required updates shall be implemented within 14 days, unless otherwise agreed to by the Department based on a good faith effort to address wildfire hazard.

This Plan may be amended from time to time by agreement of the certificate holder and the Oregon Energy Facility Siting Council (EFSC) or ODOE, acting within its delegated authority of EFSC. Such amendments may be made without amendment of the site certificate. EFSC authorizes ODOE to agree to amendments to this Plan. ODOE will notify EFSC of all amendments, and EFSC retains the authority to approve, reject, or modify any amendment of this Plan agreed to by ODOE.

Table 3: Standards for Future Review

Reference	Description	Method
American Clean Power	Industry ground that establishes best practices for renewable energy projects.	The Certificate Holder is a member of ACP and participates in best practice development[1].
National Electric Reliability	National Energy Reliability Corporation develops electrical standards for large energy facilities.	The Certificate Holder will follow NERC Standard FAC-003-0 for its vegetation management program of transmission lines[2], or updates to this standard as approved by NERC.
Oregon Specialty Building Codes	Building codes applicable to inhabitable spaces, including the O&M building and the substation enclosure.	Remodeling to the O&M and enclosure structure that requires permits will follow any updates to the Oregon Specialty Building Codes at that time.
Oregon Fire Code	The Oregon State Fire Marshal adopts the Oregon Fire Code, establishing minimum fire prevention and protection systems requirements applicable to certain structures, including but not limited to, energy systems.	The Certificate Holder will adhere to any applicable standards of the Oregon Fire Code and will incorporate features necessary to meet those standards into the design of the facility. Certificate holder will annually review and apply applicable standards that may apply to an operational facility.

Table 3: Standards for Future Review

Reference	Description	Method
NFPA Codes and Standards	The National Fire Protection Association publishes codes and standards intended to minimize the possibility and effects of fire and other risks.	The Certificate Holder will identify and adhere to any applicable codes and standards and will incorporate features necessary to meet those standards into the design of the facility. Certificate holder will annually review and apply applicable standards that may apply to an operational facility.
APLIC	Avian protection methods for electrical facility reduce fires related to bird/mammal nests on electrical equipment.	The Certificate Holder is a member of APLIC[3]. An operational wildlife monitoring program will inspect for wildlife nesting on facilities that could cause fire, and take actions following applicable laws (e.g., MBTA).
ORS chapter 477, OAR chapter 629-043	Standards and rules for fire prevention in forest and range land administered by Oregon Department of Forestry.	The Certificate Holder will be familiar with and operate consistently with the applicable standards, including any updates to rules or standards and will provide a summary of standards that are updated and implemented at the facility.
OAR chapter 860, division 024	Safety standards for transmission lines adopted by Oregon PUC.	The Certificate Holder will maintain consistency with any applicable vegetation clearance requirements, pruning standards, and high fire risk zone safety standards and will provide a summary of standards that are updated and implemented at the facility.

1. Link to ACP Standards & Practices: https://cleanpower.org/resources/types/standards-and-practices/.
2. NERC FAC-003-0: https://www.nerc.com/pa/Stand/Reliability%20Standards/FAC-003-0.pdf.
3. Link to APLIC member organization: https://www.aplic.org/member_websites.php.

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Attachment 1: Residence/Landowner Outreach Letter

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Attachment F: Decommissioning Cost Estimate and Assumptions

Estimate Summary
TETRA TECH, INC.
Job Code: Wagon Trail Solar II
Description: Decommissioning Estimate

CBS Position Code	Quantity	UM	Cost Item Description	UM/Day	Cost Source	Currency	Unit Cost	Total Cost
1	1.00	Lump Sum	WAGON TRAIL II SOLAR RETIREMENT	0.00	Detail	U.S. Dollar	9,474,116.29	9,474,116.29
1.1	1.00	Lump Sum	Equipment & Facilities Mob / Demob	0.20	Detail	U.S. Dollar	131,143.17	131,143.17
1.1.1	1.00	Lump Sum	Equipment Mob	0.00	Detail	U.S. Dollar	61,200.00	61,200.00

Resource Code	Description	Hours	Quantity	UM	Currency	Unit Cost	Total Cost
UERNTRLG	Rental Equip Transp-Large		6.00	Each	U.S. Dollar	10,000.00	60,000.00
UERNTRSM	Rental Equip Transp-Small		8.00	Each	U.S. Dollar	150.00	1,200.00

1.1.2	1.00	Lump Sum	Site Facilities	0.00	Detail	U.S. Dollar	2,200.00	2,200.00

Resource Code	Description	Hours	Quantity	UM	Currency	Unit Cost	Total Cost
UOCONMOB	Connex Box Mob		2.00	Each	U.S. Dollar	300.00	600.00
UOTRLTRN	Trailer Trnsp/Setup/Trdwn		2.00	Each	U.S. Dollar	800.00	1,600.00

1.1.3	3.00	Day	Crew Mob & Site Setup	1.00	Detail	U.S. Dollar	13,548.63	40,645.90

Resource Code	Description	Hours	Quantity	UM	Currency	Unit Cost	Total Cost
L060100	GENERAL LABORER	720.00	24.00	Each (hourly)	U.S. Dollar	43.52	31,337.50
L010101	OPERATOR	180.00	6.00	Each (hourly)	U.S. Dollar	51.71	9,308.40

1.1.4	2.00	Day	Crew Demob & Site Cleanup	1.00	Detail	U.S. Dollar	13,548.63	27,097.27

Resource Code	Description	Hours	Quantity	UM	Currency	Unit Cost	Total Cost
L060100	GENERAL LABORER	480.00	24.00	Each (hourly)	U.S. Dollar	43.52	20,891.66
L010101	OPERATOR	120.00	6.00	Each (hourly)	U.S. Dollar	51.71	6,205.60

1.2	6.00	Month	Project Site Support	0.05	Detail	U.S. Dollar	56,701.60	340,209.58
1.2.1	6.00	Month	Site Facilities	0.00	Detail	U.S. Dollar	2,205.00	13,230.00

Resource Code	Description	Hours	Quantity	UM	Currency	Unit Cost	Total Cost
URCONNEX	Connex Box		6.00	Month	U.S. Dollar	150.00	900.00
UROFFTRL	Office Trailer -12x60		6.00	Month	U.S. Dollar	500.00	3,000.00
UO1STAID	1st Aid Supplies		6.00	Month	U.S. Dollar	300.00	1,800.00
UOOFFSUP	Office Supplies($/prs/mo)		6.00	Month	U.S. Dollar	55.00	330.00
URPRTAJH	Port-a-John Unit(s) (4)		24.00	Month	U.S. Dollar	300.00	7,200.00

1.2.2	6.00	Month	Field Management	0.05	Detail	U.S. Dollar	54,496.60	326,979.58

Resource Code	Description	Hours	Quantity	UM	Currency	Unit Cost	Total Cost
L90FXX02	Field - Proj Superintendent	1,320.00	1.00	Each (hourly)	U.S. Dollar	125.40	165,528.00
RPUTRK05	F-250 4X4 3/4 TON PICKUP	2,640.00	2.00	Each (hourly)	U.S. Dollar	11.88	31,363.20
L90FEL00	Field - Engr. Tech	1,320.00	1.00	Each (hourly)	U.S. Dollar	98.55	130,088.38

1.3	3.00	Mile	AG Collection Removal	0.45	Detail	U.S. Dollar	7,289.64	21,868.92
1.3.1	3.00	Mile	Conductor Removal	1.10	Detail	U.S. Dollar	2,790.34	8,371.01
1.3.1.1	3.00	Mile	Cut / Lower Cable, Size & Loadout	1.10	Detail	U.S. Dollar	2,290.34	6,871.01

Resource Code	Description	Hours	Quantity	UM	Currency	Unit Cost	Total Cost
L060100	GENERAL LABORER	109.09	4.00	Each (hourly)	U.S. Dollar	43.52	4,748.11
*RXMISC14	MAN LIFT GAS 125ft	27.27	1.00	Each (hourly)	U.S. Dollar	54.88	1,496.73
RLIFTS05	JCB 508C, 8,000lbs FRKLFT	27.27	1.00	Each (hourly)	U.S. Dollar	22.96	626.18

1.3.1.2	1.00	Each	Trucking - Per Load	0.00	Detail	U.S. Dollar	1,500.00	1,500.00

Resource Code	Description	Hours	Quantity	UM	Currency	Unit Cost	Total Cost

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CBS Position Code	Quantity	UM	Description	Cost Item UM/Day	Cost Source	Currency	Unit Cost	Total Cost
USTRUCKING	Trucking Sub			1,500.00 Each		U.S. Dollar	1.00	1,500.00

Notes: **********
Assumption: 45,000 lbs per load
****

1.3.2	80.00	Each	Wood Pole Removal	20.00	Detail	U.S. Dollar	168.72	13,497.91
1.3.2.1	80.00	Each	Cut & Load Poles	20.00	Detail	U.S. Dollar	112.47	8,997.91

Resource Code	Description	Hours	Quantity	UM	Currency	Unit Cost	Total Cost
*REXCAV06A	Excav 100K w/ Bucket & Grapple	40.00	1.00	Each (hourly)	U.S. Dollar	129.71	5,188.40
L010101	OPERATOR	40.00	1.00	Each (hourly)	U.S. Dollar	51.71	2,068.53
L060100	GENERAL LABORER	40.00	1.00	Each (hourly)	U.S. Dollar	43.52	1,740.97

1.3.2.2	3.00	Each	Trucking - Per Load	0.00	Detail	U.S. Dollar	1,500.00	4,500.00

Resource Code	Description	Hours	Quantity	UM	Currency	Unit Cost	Total Cost
USTRUCKING	Trucking Sub		4,500.00	Each	U.S. Dollar	1.00	4,500.00

Notes: **********
Assumption: 45,000 lbs per load
****

1.4	26.00	Each	BESS Unit Removal	0.77	Detail	U.S. Dollar	8,106.56	210,770.44
1.4.1	26.00	Each	BESS Unit Removal	0.99	Detail	U.S. Dollar	6,640.08	172,641.96
1.4.1.1	26.00	Each	Disconnect Electrical	10.00	Detail	U.S. Dollar	99.51	2,587.35

Resource Code	Description	Hours	Quantity	UM	Currency	Unit Cost	Total Cost
L010110	ELECTRCIAN	26.00	1.00	Each (hourly)	U.S. Dollar	55.99	1,455.72
L060100	GENERAL LABORER	26.00	1.00	Each (hourly)	U.S. Dollar	43.52	1,131.63

1.4.1.2	1,944.29	Gallon	Glycol Recovery & Disposal	747.86	Detail	U.S. Dollar	3.63	7,067.38

Resource Code	Description	Hours	Quantity	UM	Currency	Unit Cost	Total Cost
USLIQUID	Liquids T&D		1,944.29	Each	U.S. Dollar	1.00	1,944.29
L060100	GENERAL LABORER	103.99	4.00	Each (hourly)	U.S. Dollar	43.52	4,526.17
RLIFTS05	JCB 508C, 8,000lbs FRKLFT	26.00	1.00	Each (hourly)	U.S. Dollar	22.96	596.91

1.4.1.3	26.00	Each	Battery Removal & Recycling	1.95	Detail	U.S. Dollar	3,009.32	78,242.25
1.4.1.3.1	13.32	Day	Remove Batteries, Load For Transport	1.00	Detail	U.S. Dollar	1,970.57	26,242.25

Resource Code	Description	Hours	Quantity	UM	Currency	Unit Cost	Total Cost
L060100	GENERAL LABORER	532.68	4.00	Each (hourly)	U.S. Dollar	43.52	23,184.65
RLIFTS05	JCB 508C, 8,000lbs FRKLFT	133.17	1.00	Each (hourly)	U.S. Dollar	22.96	3,057.60

1.4.1.3.2	26.00	Each	Trucking - Per Load	0.00	Detail	U.S. Dollar	2,000.00	52,000.00

Resource Code	Description	Hours	Quantity	UM	Currency	Unit Cost	Total Cost
USTRUCKING	Trucking Sub		52,000.00	Each	U.S. Dollar	1.00	52,000.00

1.4.1.4	26.00	Each	Unit Removal	3.33	Detail	U.S. Dollar	3,259.42	84,744.97
1.4.1.4.1	26.00	Each	Remove Misc Waste	5.00	Detail	U.S. Dollar	394.11	10,246.97

Resource Code	Description	Hours	Quantity	UM	Currency	Unit Cost	Total Cost
L060100	GENERAL LABORER	208.00	4.00	Each (hourly)	U.S. Dollar	43.52	9,053.05
RLIFTS05	JCB 508C, 8,000lbs FRKLFT	52.00	1.00	Each (hourly)	U.S. Dollar	22.96	1,193.92

1.4.1.4.2	26.00	Each	Loadout Unit For Transport	10.00	Detail	U.S. Dollar	165.31	4,298.00

Resource Code	Description	Hours	Quantity	UM	Currency	Unit Cost	Total Cost

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Cost Item								
CBS Position Code	Quantity UM	Description		UM/Day	Cost Source	Currency	Unit Cost	Total Cost
RHYDCR06	GROVE RT880 73 TON		26.00	1.00 Each (hourly)	U.S. Dollar		70.07	1,821.82
L010101	OPERATOR		26.00	1.00 Each (hourly)	U.S. Dollar		51.71	1,344.55
L060100	GENERAL LABORER		26.00	1.00 Each (hourly)	U.S. Dollar		43.52	1,131.63
1.4.1.4.3	26.00 Each	Trucking - Per Load		0.00	Detail	U.S. Dollar	1,500.00	39,000.00
Resource Code	**Description**		**Hours**	**Quantity UM**	**Currency**		**Unit Cost**	**Total Cost**
USTRUCKING	Trucking Sub			39,000.00 Each	U.S. Dollar		1.00	39,000.00
1.4.1.4.4	390.00 Ton	Waste Recyling & Disposal Cost		0.00	Detail	U.S. Dollar	80.00	31,200.00
Resource Code	**Description**		**Hours**	**Quantity UM**	**Currency**		**Unit Cost**	**Total Cost**
USDISPOSAL	Disposal Fee's			31,200.00 Each	U.S. Dollar		1.00	31,200.00
1.4.2	11.00 Each	Inverter Removal		3.33	Detail	U.S. Dollar	2,558.24	28,140.66
1.4.2.1	11.00 Each	Disconnect Electrical		10.00	Detail	U.S. Dollar	99.51	1,094.65
Resource Code	**Description**		**Hours**	**Quantity UM**	**Currency**		**Unit Cost**	**Total Cost**
L010110	ELECTRCIAN		11.00	1.00 Each (hourly)	U.S. Dollar		55.99	615.88
L060100	GENERAL LABORER		11.00	1.00 Each (hourly)	U.S. Dollar		43.52	478.77
1.4.2.2	11.00 Each	Remove Misc Waste		10.00	Detail	U.S. Dollar	197.06	2,167.63
Resource Code	**Description**		**Hours**	**Quantity UM**	**Currency**		**Unit Cost**	**Total Cost**
L060100	GENERAL LABORER		44.00	4.00 Each (hourly)	U.S. Dollar		43.52	1,915.07
RLIFTS05	JCB 508C, 8,000lbs FRKLFT		11.00	1.00 Each (hourly)	U.S. Dollar		22.96	252.56
1.4.2.3	11.00 Each	Loadout Inverter For Transport		10.00	Detail	U.S. Dollar	165.31	1,818.38
Resource Code	**Description**		**Hours**	**Quantity UM**	**Currency**		**Unit Cost**	**Total Cost**
RHYDCR06	GROVE RT880 73 TON		11.00	1.00 Each (hourly)	U.S. Dollar		70.07	770.77
L010101	OPERATOR		11.00	1.00 Each (hourly)	U.S. Dollar		51.71	568.85
L060100	GENERAL LABORER		11.00	1.00 Each (hourly)	U.S. Dollar		43.52	478.77
1.4.2.4	82.00 Ton	Waste Recycling & Disposal Cost		0.00	Detail	U.S. Dollar	80.00	6,560.00
Resource Code	**Description**		**Hours**	**Quantity UM**	**Currency**		**Unit Cost**	**Total Cost**
USDISPOSAL	Disposal Fee's			6,560.00 Each	U.S. Dollar		1.00	6,560.00
1.4.2.5	11.00 Each	Trucking - Per Load		0.00	Detail	U.S. Dollar	1,500.00	16,500.00
Resource Code	**Description**		**Hours**	**Quantity UM**	**Currency**		**Unit Cost**	**Total Cost**
USTRUCKING	Trucking Sub			16,500.00 Each	U.S. Dollar		1.00	16,500.00
1.4.3	182.00 Cubic Yard	Concrete Pad Removal - BESS Units		60.00	Detail	U.S. Dollar	41.54	7,560.92
1.4.3.1	182.00 Cubic Yard	Excavate / Remove Foundation - Various Depth		150.00	Detail	U.S. Dollar	29.52	5,372.65
Resource Code	**Description**		**Hours**	**Quantity UM**	**Currency**		**Unit Cost**	**Total Cost**
L060100	GENERAL LABORER		12.13	1.00 Each (hourly)	U.S. Dollar		43.52	528.09
L010101	OPERATOR		24.27	2.00 Each (hourly)	U.S. Dollar		51.71	1,254.91
*REXCAV06C	Excav 100K w/ Hammer		12.13	1.00 Each (hourly)	U.S. Dollar		166.14	2,015.83
*REXCAV06A	Excav 100K w/ Bucket & Grapple		12.13	1.00 Each (hourly)	U.S. Dollar		129.71	1,573.81
1.4.3.2	182.00 Cubic Yard	Concrete Transport Offsite		100.00	Detail	U.S. Dollar	12.02	2,188.26
Resource Code	**Description**		**Hours**	**Quantity UM**	**Currency**		**Unit Cost**	**Total Cost**
RDUTRK06	CAT D350D, 18CY-24CY		18.20	1.00 Each (hourly)	U.S. Dollar		76.71	1,396.12
L080940	TEAMSTER		18.20	1.00 Each (hourly)	U.S. Dollar		43.52	792.14
1.4.4	11.00 Cubic Yard	Concrete Pad Removal - Inverters		60.00	Detail	U.S. Dollar	41.54	456.98

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CBS Position Code	Quantity	UM	Description	Cost Item UM/Day	Cost Source	Currency	Unit Cost	Total Cost
1.4.4.1	11.00	Cubic Yard	Excavate / Remove Foundation - Various Depth	150.00	Detail	U.S. Dollar	29.52	324.72

Resource Code	Description	Hours	Quantity	UM	Currency	Unit Cost	Total Cost
L060100	GENERAL LABORER	0.73	1.00	Each (hourly)	U.S. Dollar	43.52	31.92
L010101	OPERATOR	1.47	2.00	Each (hourly)	U.S. Dollar	51.71	75.85
*REXCAV06C	Excav 100K w/ Hammer	0.73	1.00	Each (hourly)	U.S. Dollar	166.14	121.84
*REXCAV06A	Excav 100K w/ Bucket & Grapple	0.73	1.00	Each (hourly)	U.S. Dollar	129.71	95.12

1.4.4.2	11.00	Cubic Yard	Concrete Transport Offsite	100.00	Detail	U.S. Dollar	12.02	132.26

Resource Code	Description	Hours	Quantity	UM	Currency	Unit Cost	Total Cost
RDUTRK06	CAT D350D, 18CY-24CY	1.10	1.00	Each (hourly)	U.S. Dollar	76.71	84.38
L080940	TEAMSTER	1.10	1.00	Each (hourly)	U.S. Dollar	43.52	47.88

1.4.5	1.00	Day	UG Cable Removal	1.00	Detail	U.S. Dollar	1,969.92	1,969.92

Resource Code	Description	Hours	Quantity	UM	Currency	Unit Cost	Total Cost
L010101	OPERATOR	10.00	1.00	Each (hourly)	U.S. Dollar	51.71	517.13
L060100	GENERAL LABORER	20.00	2.00	Each (hourly)	U.S. Dollar	43.52	870.49
RBACKH09	Deere 710J BACKHOE, 1.62CY	10.00	1.00	Each (hourly)	U.S. Dollar	35.27	352.70
RLIFTS05	JCB 508C, 8,000lbs FRKLFT	10.00	1.00	Each (hourly)	U.S. Dollar	22.96	229.60

1.5	26.00	Each	Inverter / Transformer Removal	5.00	Detail	U.S. Dollar	1,820.23	47,325.87

1.5.1	26.00	Each	Disconnect Electrical	10.00	Detail	U.S. Dollar	111.39	2,896.23

Resource Code	Description	Hours	Quantity	UM	Currency	Unit Cost	Total Cost
L010110	ELECTRCIAN	26.00	1.00	Each (hourly)	U.S. Dollar	55.99	1,455.72
L060100	GENERAL LABORER	26.00	1.00	Each (hourly)	U.S. Dollar	43.52	1,131.63
RPUTRK05	F-250 4X4 3/4 TON PICKUP	26.00	1.00	Each (hourly)	U.S. Dollar	11.88	308.88

1.5.2	26.00	Each	Loadout Inverter & Transformer	10.00	Detail	U.S. Dollar	208.83	5,429.63

Resource Code	Description	Hours	Quantity	UM	Currency	Unit Cost	Total Cost
L060100	GENERAL LABORER	52.00	2.00	Each (hourly)	U.S. Dollar	43.52	2,263.26
L010101	OPERATOR	26.00	1.00	Each (hourly)	U.S. Dollar	51.71	1,344.55
RHYDCR06	GROVE RT880 73 TON	26.00	1.00	Each (hourly)	U.S. Dollar	70.07	1,821.82

1.5.3	26.00	Each	Trucking - Per Load	0.00	Detail	U.S. Dollar	1,500.00	39,000.00

Resource Code	Description	Hours	Quantity	UM	Currency	Unit Cost	Total Cost
USTRUCKING	Trucking Sub		39,000.00	Each	U.S. Dollar	1.00	39,000.00

1.6	26.00	Each	Inverter / Transformer Pad Removal	8.08	Detail	U.S. Dollar	308.38	8,017.89

1.6.1	193.00	Cubic Yard	Excavate / Remove Foundation - Various Depth	150.00	Detail	U.S. Dollar	29.52	5,697.37

Resource Code	Description	Hours	Quantity	UM	Currency	Unit Cost	Total Cost
L060100	GENERAL LABORER	12.87	1.00	Each (hourly)	U.S. Dollar	43.52	560.01
L010101	OPERATOR	25.73	2.00	Each (hourly)	U.S. Dollar	51.71	1,330.76
*REXCAV06C	Excav 100K w/ Hammer	12.87	1.00	Each (hourly)	U.S. Dollar	166.14	2,137.67
*REXCAV06A	Excav 100K w/ Bucket & Grapple	12.87	1.00	Each (hourly)	U.S. Dollar	129.71	1,668.94

1.6.2	193.00	Cubic Yard	Concrete Transport Offsite	100.00	Detail	U.S. Dollar	12.02	2,320.52

Resource Code	Description	Hours	Quantity	UM	Currency	Unit Cost	Total Cost
RDUTRK06	CAT D350D, 18CY-24CY	19.30	1.00	Each (hourly)	U.S. Dollar	76.71	1,480.50
L080940	TEAMSTER	19.30	1.00	Each (hourly)	U.S. Dollar	43.52	840.02

1.7	1.00	Lump Sum	Solar Array Retirement	0.01	Detail	U.S. Dollar	5,083,731.87	5,083,731.87

1.7.1	72,864.00	Linear Feet	Fence Removal	5,124.80	Detail	U.S. Dollar	1.31	95,231.17

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CBS Position Code	Quantity	UM	Description	Cost Item UM/Day	Cost Source	Currency	Unit Cost	Total Cost
1.7.1.1	72,864.00	Linear Feet	Fence Removal	5,124.80	Detail	U.S. Dollar	1.02	74,231.17

Resource Code	Description	Hours	Quantity	UM	Currency	Unit Cost	Total Cost
L010101	OPERATOR	426.54	3.00	Each (hourly)	U.S. Dollar	51.71	22,057.69
L060100	GENERAL LABORER	853.08	6.00	Each (hourly)	U.S. Dollar	43.52	37,129.50
RBACKH09	Deere 710J BACKHOE, 1.62CY	426.54	3.00	Each (hourly)	U.S. Dollar	35.27	15,043.98

1.7.1.2	14.00 Each	Trucking - Per Load	0.00	Detail	U.S. Dollar	1,500.00	21,000.00

Resource Code	Description	Hours	Quantity	UM	Currency	Unit Cost	Total Cost
USTRUCKING	Trucking Sub		21,000.00	Each	U.S. Dollar	1.00	21,000.00

1.7.2	261,181.00 Each	Solar Panel Removal & Recycling	4,800.00	Detail	U.S. Dollar	7.03	1,835,896.76
1.7.2.1	261,181.00 Each	Solar Panel Removal	4,800.00	Detail	U.S. Dollar	3.11	812,176.76

Resource Code	Description	Hours	Quantity	UM	Currency	Unit Cost	Total Cost
RLIFTS05	JCB 508C, 8,000lbs FRKLFT	3,264.76	6.00	Each (hourly)	U.S. Dollar	22.96	74,958.95
L010101	OPERATOR	3,264.76	6.00	Each (hourly)	U.S. Dollar	51.71	168,831.81
L060100	GENERAL LABORER	13,059.05	24.00	Each (hourly)	U.S. Dollar	43.52	568,386.01

Notes: **********
Assumed production: 20 panels per laborer per hour,
Includes packaging and preparing for shipment offsite.
****

1.7.2.2	360.00 Each	Trucking - Per Load	0.00	Detail	U.S. Dollar	1,500.00	540,000.00

Resource Code	Description	Hours	Quantity	UM	Currency	Unit Cost	Total Cost
USTRUCKING	Trucking Sub		540,000.00	Each	U.S. Dollar	1.00	540,000.00

Notes: **********
Assumption: 45,000 lbs per load
****

1.7.2.3	8,062.00 Ton	Recyclingl Cost	0.00	Detail	U.S. Dollar	60.00	483,720.00

Resource Code	Description	Hours	Quantity	UM	Currency	Unit Cost	Total Cost
USDISPOSAL	Disposal Fee's		483,720.00	Each	U.S. Dollar	1.00	483,720.00

1.7.3	10,684.00 Each	Solar Rack (Trackers) & Post Removal	141.82	Detail	U.S. Dollar	295.08	3,152,603.94
1.7.3.1	10,045.00 Each	Solar Rack (Trackers) & Post Removal	133.33	Detail	U.S. Dollar	280.40	2,816,603.94

Resource Code	Description	Hours	Quantity	UM	Currency	Unit Cost	Total Cost
L010101	OPERATOR	12,054.00	16.00	Each (hourly)	U.S. Dollar	51.71	623,352.72
L060100	GENERAL LABORER	6,027.00	8.00	Each (hourly)	U.S. Dollar	43.52	262,320.96
*REXCAV06A	Excav 100K w/ Bucket & Grapple	6,027.00	8.00	Each (hourly)	U.S. Dollar	129.71	781,762.17
*REXCAV06E	Excav 100K w/ Shear	6,027.00	8.00	Each (hourly)	U.S. Dollar	190.67	1,149,168.09

Notes: **********
Crew to include
1 excavator w/shear, 1 excavator w/grapple, 2 operators and 2
laborers. Includes post removal and sizing of steel for sale as scrap,
and loadout to haul trucks.
****

1.7.3.2	224.00 Each	Trucking - Per Load	0.00	Detail	U.S. Dollar	1,500.00	336,000.00

Resource Code	Description	Hours	Quantity	UM	Currency	Unit Cost	Total Cost
USTRUCKING	Trucking Sub		336,000.00	Each	U.S. Dollar	1.00	336,000.00

Notes: **********
Assumption: 45,000 lbs per load
****

1.8	1.00 Lump Sum	Site Restoration - Partial Site Seeding	0.01	Detail	U.S. Dollar	726,683.79	726,683.79
1.8.1	45,936.00 Linear Feet	Strip & Decompact Roads	2,500.00	Detail	U.S. Dollar	1.43	65,515.77

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CBS Position Code	Quantity	UM	Description	Cost Item UM/Day	Cost Source	Currency	Unit Cost	Total Cost

Resource Code	Description	Hours	Quantity	UM	Currency	Unit Cost	Total Cost
*RDOZER08	CAT D6 LGP Dozer	367.49	2.00	Each (hourly)	U.S. Dollar	60.82	22,350.62
L010101	OPERATOR	551.23	3.00	Each (hourly)	U.S. Dollar	51.71	28,506.05
*RFELWH08C	CAT 980 LOADER	183.74	1.00	Each (hourly)	U.S. Dollar	79.78	14,659.10

Notes: **********
Decompaction to include discing and regrading
Assume removed road base transported offsite at no charge
****

1.8.2	516.00 Acre	Spot Grade Disturbed Areas	8.00	Detail	U.S. Dollar	281.33	145,168.02

Resource Code	Description	Hours	Quantity	UM	Currency	Unit Cost	Total Cost
*RDOZER08	CAT D6 LGP Dozer	1,290.00	2.00	Each (hourly)	U.S. Dollar	60.82	78,457.80
L010101	OPERATOR	1,290.00	2.00	Each (hourly)	U.S. Dollar	51.71	66,710.22

Notes: **********
Assumtion: 1,473 acres total property area.
Assume that 35% of the area distrubed by construction
will be regraded.
****

1.8.3	516.00 Acre	Re-Seed With Native Vegetation - Roads & Areas Disturbed By Construction	0.00	Detail	U.S. Dollar	1,000.00	516,000.00

Resource Code	Description	Hours	Quantity	UM	Currency	Unit Cost	Total Cost
USLANDSCAPE	Landscape Sub		516.00	Acre	U.S. Dollar	1,000.00	516,000.00

Notes: **********
Assumtion: 1,473 acres total property area.
Assume that 35% of the area distrubed by construction
will be re-seeded.
****

1.9	1.00 Lump Sum	Contractor Markups	0.00	Detail	U.S. Dollar	1,225,258.67	1,225,258.67
1.9.1	1.00 Lump Sum	Home Office, Project Management (5% Of Cost)	0.00	Detail	U.S. Dollar	328,487.60	328,487.60

Resource Code	Description	Hours	Quantity	UM	Currency	Unit Cost	Total Cost
USMARKUP5	5% Markup		6,569,752.00	Each	U.S. Dollar	0.05	328,487.60

1.9.2	1.00 Lump Sum	Contractor OH & Fee (13% Of Cost)	0.00	Detail	U.S. Dollar	896,771.07	896,771.07

Resource Code	Description	Hours	Quantity	UM	Currency	Unit Cost	Total Cost
USMARKUP	13% Markup		6,898,239.00	Each	U.S. Dollar	0.13	896,771.07

1.10	1.00 Lump Sum	ODOE Mandated Contingencies	0.00	Detail	U.S. Dollar	1,679,106.10	1,679,106.10
1.10.1	1.00 Lump Sum	20% Contingency on BESS	0.00	Detail	U.S. Dollar	42,154.00	42,154.00

Resource Code	Description	Hours	Quantity	UM	Currency	Unit Cost	Total Cost
UODCBESS	20% ODOE Mandated Contingency		210,770.00	Each	U.S. Dollar	0.20	42,154.00

1.10.2	1.00 Lump Sum	1% Performance Bond	0.00	Detail	U.S. Dollar	77,950.10	77,950.10

Resource Code	Description	Hours	Quantity	UM	Currency	Unit Cost	Total Cost
UODOE1	ODOE 1% Markup		7,795,010.00	Each	U.S. Dollar	0.01	77,950.10

1.10.3	1.00 Lump Sum	10% Administrative and Project Management	0.00	Detail	U.S. Dollar	779,501.00	779,501.00

Resource Code	Description	Hours	Quantity	UM	Currency	Unit Cost	Total Cost
UODOE2	ODOE 10% Markup		7,795,010.00	Each	U.S. Dollar	0.10	779,501.00

1.10.4	1.00 Lump Sum	10% Future Development Contingency	0.00	Detail	U.S. Dollar	779,501.00	779,501.00

Resource Code	Description	Hours	Quantity	UM	Currency	Unit Cost	Total Cost
UODOE2	ODOE 10% Markup		7,795,010.00	Each	U.S. Dollar	0.10	779,501.00

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CBS Position Code	Quantity	UM	Description	Cost Item UM/Day	Cost Source	Currency	Unit Cost	Total Cost
Report Total:								9,474,116.29

Category	Total
Labor	2,208,141.22
Rented Equipment	2,207,156.01
Supplies	2,130.00
Subcontract	3,373,438.67
Travel-Risk-Adj	1,944.29
ODCs	1,681,306.10

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