

BEFORE THE
ENERGY FACILITY SITING COUNCIL
OF THE STATE OF OREGON

In the Matter of the Application for Site Certificate
for the Yellow Rosebush Energy Center

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~~PROPOSED~~ FINAL ORDER ON
APPLICATION FOR SITE
CERTIFICATE

Approved: DATE XX, 2026
Issued: DATE XX, 2026

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- Attachment A: ~~Draft~~ Site Certificate
- Attachment B: Reviewing Agency Comments on pASC/ASC (relied upon in DPO)
- Attachment C: Draft Proposed Order Index/Comments
- Attachment I: Draft Fugitive Dust Control Plan
- Attachment K-1: Farm Forest Easement
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- Attachment P-1: Draft Revegetation and Reclamation Plan
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ACRONYMS AND ABBREVIATIONS

ADT	Average Daily Trip
<u>ALJ</u>	<u>Administrative Law Judge</u>
Applicant	Yellow Rosebush Energy Center, LLC
AR	antireflective
ASC	Application for Site Certificate
BESS	Battery energy storage system
BLM	Bureau of Land Management
BLA	Big Lead Assembly
BMP	Best Management Practice
CadnaA	Computer Aided Noise Abatement
CAFE	Corona and Fields Effect Program Model (BPA)
CGWA	Critical Ground Water Area
CFR	Code of Federal Regulations
Council	Oregon Energy Facility Siting Council
CSZ	Cascadia Subduction Zone
CTUIR	Confederated Tribes of the Umatilla Indian Reservation
CTWSRO	Confederated Tribes of the Warm Springs Reservation of Oregon
dba	A-weighted decibel
Department	Oregon Department of Energy
DEQ	Oregon Department of Environmental Quality
DC	Direct current
DOGAMI	Oregon Department of Geology and Mineral Industries
<u>DOJ</u>	<u>Oregon Department of Justice</u>
DPO	Draft Proposed Order
DSL	Oregon Department of State Lands
EFSC	Oregon Energy Facility Siting Council
EFU	Exclusive Farm Use
EPA	United States Environmental Protection Agency
ESCP	Erosion and Sediment Control Plan
FAA	Federal Aviation Administration
FEMA	Federal Emergency Management Agency
GW	Gigawatt
GWh	Gigawatt hours
GSU	Generator-step up (transformer)
HMA	Habitat Mitigation Area
HMP	Habitat Mitigation Plan
HPRCSTs	Historic Properties of Religions and Cultural Significance to Indian Tribes
HRA	Historic Research Associates
HVAC	Heating, ventilation, and air conditioning
HVF	High-value farmland

ACRONYMS AND ABBREVIATIONS

ISO	International Organization for Standardization
ISU	Inverter step-up (transformer)
km	kilometers
kV	kilovolts
LCDC	Land Conservation and Development Commission
Li-ion	Lithium-Ion
LLC	Limited liability company
LOS	Level of Service
MGD	Million gallons per day
MW	Megawatt
MWh	Megawatt hours
NB	Nonburnable
NIFC	National Interagency Fire Center
NOI	Notice of Intent
NFPA	National Fire Protection Association
NPDES	National Pollutant Discharge Elimination System
NPS	National Park Service
NPS CMP	National Park Service's Comprehensive Management
NRCS	Natural Resources Conservation Service
NRHP	National Register of Historic Places
NSR	Noise Sensitive Receptor
<u>OAH</u>	<u>Office of Administrative Hearings</u>
O&M	Operations and Maintenance
OAR	Oregon Administrative Rule
ODAg	Oregon Department of Agriculture
ODFW	Oregon Department of Fish and Wildlife
ODOE	Oregon Department of Energy
ODOT	Oregon Department of Transportation
OPRD	Oregon Parks and Recreation Department
ORBIC	Oregon Biodiversity Information Center
Oregon CWPP	Oregon Community Wildfire Protection Planning Tool
ORS	Oregon Revised Statutes
OWRD	Oregon Water Resources Department
Parent Company	Savion, LLC
pASC	Preliminary Application for Site Certificate
<u>PCCO</u>	<u>Proposed Contested Case Order</u>
PILOT	Payment in-lieu of Taxes
Proposed facility	Yellow Rosebush Energy Center
PV	Photovoltaic
RAI	Request for Additional Information

ACRONYMS AND ABBREVIATIONS

ROW	Right of way
RPS	Renewable Portfolio Standard
RV	Recreational vehicle
SAG	Special Advisory Group
SCADA	Supervisory Control and Data Acquisition system
SHPO	State Historic Preservation Office
SLIDO	Oregon Statewide Landslide Data Layer
SPCC	Spill Prevention Control and Countermeasure Plan
TCP	Traditional Cultural Property
T&E	Threatened and Endangered
TIA	Traffic Impact Analysis
USGS	United States Geological Survey
USFWS	United States Fish and Wildlife Service
U.S.	United States
WEGS	Wind Erodibility Groups
WUI	Wildland-urban interface

I. INTRODUCTION

In accordance with Oregon Revised Statutes (ORS) 469.370(1), the ~~Oregon Department of Energy (Department)~~ Energy Facility Siting Council (Council or EFSC) issues this ~~Proposed-Final Order regarding approving the Application for Site Certificate (ASC) for the Yellow Rosebush Energy Center (proposed facility)~~ Application for Site Certificate (ASC). And granting issuance of a site certificate.

Subject to conditions of approval imposed through this Order, the site certificate authorizes Yellow Rosebush Energy Center, LLC (applicant), a subsidiary of Savion, LLC (parent company), ~~seeks authorization from the Energy Facility Siting Council (Council)~~ to construct and operate an 800 megawatt (MW) solar photovoltaic power generation facility and related or supporting facilities, collectively called the Yellow Rosebush Energy Center.

The proposed facility would permanently use or occupy up to approximately 7,026 acres (10.9 sq. miles) of private, Exclusive Farm Use (EFU) zoned land, located within a site boundary of 8,075 acres. The site is comprised entirely of arable land, meaning lands that are cultivated or suitable for cultivation, in Wasco and Sherman counties.¹

~~The Department's role is to review an Application for a Site Certificate (ASC) (or Request for Amendment of a site certificate) and assess whether the ASC meets the criteria established in statute for Council to approve the ASC and issue a site certificate. In a Proposed Order, the Department evaluates issues raised on the record of the Draft Proposed Order (DPO), taking into consideration applicant responses to DPO comments, comments of the Council, and agency consultation with state agencies, and local and tribal governments. The Proposed Order provides the Department's final assessment and recommendations to Council. Ultimately, Council decides whether to approve an ASC and issue a site certificate in a Final Order. This Proposed Order includes recommended conditions of approval for inclusion in the site certificate to ensure or maintain compliance with applicable rules and standards during proposed facility construction, operation and retirement. Based upon its review of the ASC, as presented in recommended findings of fact, conditions and conclusions of law, the Department recommends Council approve the ASC and issue a site certificate for the proposed facility.~~

Under ORS 469.310, the Council is charged with ensuring that the siting, construction, and operation of energy facilities is accomplished "in a manner consistent with protection of the public health and safety."² The applicant is subject to the applicable substantive criteria in

¹ OAR 660-033-0130(38)(a).

² ORS 469.401(2) provides that in issuing a site certificate for an energy facility, the Council must establish conditions for the protection of the public health and safety, for the time for completion of construction, and to ensure compliance with the standards, statutes and rules described in ORS 469.501 and ORS 469.503. The site certificate or amended site certificate shall require both parties to abide by local ordinances and state law and the rules of the council in effect on the date the site certificate or amended site certificate is executed, except that upon a clear showing of a significant threat to the public health, safety or the environment that requires

effect on the date the preliminary Application for Site Certificate (pASC) was submitted, and the rules and standards of the Council and state laws in effect on the date the site certificate is executed. A site certificate is a binding agreement between the State of Oregon and an applicant, authorizing an applicant to design, construct, operate, and retire a facility within an approved site, incorporating all conditions imposed by the Council in the site certificate.³ The Council has continued authority over the site for which a site certificate is issued and may inspect, or direct Department staff 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 the site certificate.⁴

The Council does not have jurisdiction over matters that are not included in and governed by the site certificate, including design-specific construction or operating standards and practices that do not relate to siting, as well as matters relating to employee health and safety, building code compliance, wage and hour or other labor regulations, or local government fees and charges.⁵ Matters of land-acquisition, land purchases, land leases and right-of-way easements are also outside of the Council's jurisdiction. Nothing in this Order or ORS chapter 469 shall be construed to preempt the jurisdiction of any state agency or local government over matters that are not included in and governed by the site certificate.⁶

II. PROCEDURAL HISTORY

II.A. Notice of Intent

The applicant submitted a Notice of Intent to File an Application for Site Certificate (NOI) on September 28, 2023. On October 10, 2023, the Department sent notice of the NOI to persons on the Council's general mailing list and to the owners of record for all tax lots located within 500 feet of properties that contain the site boundary. A Public Notice appeared in The Dalles Chronicle, a newspaper of general circulation for Wasco County, on October 18, 2023. Public notice also appeared in the East Oregonian, a newspaper of general circulation for Sherman County, on October 17, 2023. The Public Notice provided information regarding the proposed facility and the EFSC review process and announced that a public informational meeting on the NOI would be held in Maupin on November 2, 2023. The Public Notice requested public

application of later-adopted laws or rules, the council may require compliance with such later-adopted laws or rules.

³ ORS 469.401(3) Subject to the conditions set forth in the site certificate or amended site certificate, any certificate or amended certificate signed by the chairperson of the council shall bind the state and all counties and cities and political subdivisions in this state as to the approval of the site and the construction and operation of the facility. After issuance of the site certificate or amended site certificate, any affected state agency, county, city and political subdivision shall, upon submission by the applicant of the proper applications and payment of the proper fees, but without hearings or other proceedings, promptly issue the permits, licenses and certificates addressed in the site certificate or amended site certificate, subject only to conditions set forth in the site certificate or amended site certificate.

⁴ ORS 469.430.

⁵ ORS 469.401(4).

⁶ Id.

comment on the NOI and established December 1, 2023 as the comment deadline.

The Department held the public informational meeting on the NOI on November 2, 2023. The Department and the applicant appeared at the informational meeting and provided information about the siting process and the proposed facility and responded to questions from the public.

During the NOI comment period, the Department received 7 public comments and comments from both Special Advisory Groups, 2 federal agencies, 9 state agencies, 1 local government, 1 emergency fire services agency and 1 tribe.

ORS 469.480(1) requires the Council to designate the governing body of any local government within whose jurisdiction a facility is proposed to be located as a Special Advisory Group (SAG). On October 10, 2023, the Department sent letters notifying both Wasco and Sherman counties that through delegation by Council, the Department had appointed both the Wasco County Board of Commissioners and the Sherman County Court as SAGs for all EFSC proceedings associated with this proposed facility. The Department followed that notification with letters on October 13, 2023 requesting comments and recommendations on applicable local substantive criteria from both SAGs and requested to schedule conference calls with both county planning departments.

On October 10, 2023, the Department separately requested comments from the Tribal Councils of the Confederated Tribes of Warm Springs (CTWS), Confederated Tribes of the Umatilla Indian Reservation (CTUIR), Confederated Tribes of Grande Ronde, and Confederated Tribes of Siletz. Comments were received from CTUIR, confirming that the proposed facility is outside of their area of interest and that they deferred review to CTWS.

II.B. Project Order

On January 26, 2024, the Department issued a Project Order establishing the state statutes and administrative rules, and local and state regulations, ordinances and other requirements applicable to the siting of the facility as required by ORS 469.330(4) and OAR 345-015-0180.⁷ The Project Order also describes what information under OAR 345-021-0010 must be included in the ASC and establishes the analysis areas for the proposed facility's impacts.⁸ The Department or Council may amend the Project Order at any time and the Project Order is not a final order.⁹ As indicated in the Project Order, if significant impacts associated with the applicable Council standards could occur beyond the analysis areas described in the Project Order, then the applicant must assess those impacts in the ASC and show how the facility would comply with the applicable standard with regard to the larger area where impacts could occur.

⁷ YRBNOIDoc42 Project Order 2024-01-2.

⁸ OAR 345-015-0160(1)(f) and OAR 345-001-0010(2).

⁹ ORS 469.330(3,) ORS 469.330(4) and OAR 345-015-0160(3).

II.C. Application for Site Certificate

The Department received the preliminary application for site certificate (pASC) on August 30, 2024. On September 9, 2024, the Department posted an announcement on its project website notifying the public that the pASC had been received.

On September 11, 2024, the Department distributed the pASC to reviewing agencies, Wasco County Board of Commissioners and Sherman County Court, as the appointed SAGs, and tribal governments, and requested pASC review and comment by October 15, 2024. The Department received responses from the Oregon Department of Agriculture (ODA) Native Plant Conservation Program, the Oregon Department of Fish and Wildlife (ODFW), the Oregon Department of State Lands (DSL), Oregon Department of Environmental Quality (DEQ), Oregon Department of Geology and Mineral Industries (DOGAMI), Oregon State Historic Preservation Office (SHPO), the Bakeoven-Shaniko Rural Fire Protection Association, the Sherman County Special Advisory Group (SAG) and the Wasco County SAG. These comments are included in Attachment B of this order.

On October 29, 2024, the Department issued a determination that the pASC was incomplete and provided Requests for Additional Information (RAIs). The applicant provided initial responses to the RAI1 on February 24, 2025, March 20, 2025, April 3, 10, and 15, 2025, May 12, 2025, and July 3, 2025. On July 10 and 17, 2025 the Department issued a second set of RAIs (RAI2). The applicant provided responses to RAI2, and responses to outstanding requests from RAI1 on August 4, 14 and 21, 2025.

On August 28, 2025, the Department determined that the pASC, with the revisions to exhibits included in the RAI responses, was complete.¹⁰ The applicant filed the complete on September 5, 2025

On September 10, 2025 Public Notice of the Complete ASC was mailed to property owners within 500-feet of the property on which the proposed facility site boundary would be located and sent via email to all individuals signed up to receive email notices from the Department regarding the proposed facility or all EFSC facilities. The Public Notice was also published in The Dalles Chronicle/The Columbia Gorge News on September 10, 2025. The Department held an in-person (Maupin) and remote public informational meeting on the complete ASC on Thursday September 25, 2025. Pursuant to OAR 345-015-0200, the Department distributed electronic copies of the complete ASC to reviewing agencies, along with a request for agency reports on the complete ASC by September 26, 2025.

Reviewing agency comments received on the pASC and ASC that are discussed in this order are included as Attachment B and briefly summarized in the table below.

¹⁰ Pursuant to OAR 345-015-0190(5), an ASC is complete when the Department finds that the applicant has submitted information adequate for the Council to make findings or impose conditions on all applicable Council standards.

Table 1: Summary of Reviewing Agency Comments on the pASC/ASC Relied Upon in this Order

Date(s) Received	Commenter Name/Title	Agency	Comment Summary	Related EFSC Standard/ASC Exhibit/Section in Order
9/16/2025	Teara Farrow Ferman, Cultural Resources Program Manager	Confederated Tribes of the Umatilla Indian Reservation	CTUIR defers this matter to the Confederated Tribes of the Warm Springs Reservation of Oregon.	Historic, Cultural and Archaeological Resources Standard; Exhibit S: Historic, Cultural and Archaeological Resources; Section IV.K
9/26/2025	Jordan Brown, Lead Conservation Biologist	Oregon Department of Agriculture, Oregon Native Plant Conservation Program	ODAg reviewed and agreed with recommended site certificate condition to require the applicant survey unsurveyed areas in the transmission line corridor for T&E plants prior to construction.	Threatened & Endangered Species Standard; Exhibit Q: Threatened & Endangered Species; Section IV.I
9/26 and 9/30/2025	Blaine Carver, Chair	Bakeoven-Shaniko Rural Fire Protection Agency	Requests fire break outside the fenceline and encourages sheep grazing to manage vegetation. Satisfied with applicants' response for 50 foot defensible area within fenceline, however, still has concerns with site access and wildfire which will be worked through in finalizing the WMPs.	Land Use Standard; Exhibit K: Land Use; Section IV.E Public Services Standard; Exhibit U: Public Services; Section IV.M Wildfire Prevention and Risk Mitigation Standard; Wildfire Section IV.N
9/26/2025 and 9/29/2025	Jessica Clark, Regional Habitat Biologist	Oregon Department of Fish and Wildlife	Review of ASC Exhibit and comments on draft Revegetation and Reclamation, Noxious Weed Control, and Habitat Mitigation Plans, ODFW mitigation ratios for HMP and temporary impacts.	Fish & Wildlife Habitat Standard; Exhibit P: Fish & Wildlife Habitat; Section IV.H

Table 1: Summary of Reviewing Agency Comments on the pASC/ASC Relied Upon in this Order

Date(s) Received	Commenter Name/Title	Agency	Comment Summary	Related EFSC Standard/ASC Exhibit/Section in Order
	Jessica Salgado, Wetland Ecologist	Oregon Department of State Lands	DSL is reviewing final revisions to Wetland Delineation Report and is preparing concurrence letter.	Removal-Fill Law ORS chapter 196 and OAR chapter 141; Exhibit J: Wetlands; Section IV.R
08-25 to 09-30- 2025	Sean Bailey, Planner; Daniel Dougherty, Planning Director; Arthur Smith, Public Works Director	Wasco County/ Special Advisory Group	Review of ASC and no additional comments on ASC. Requesting that applicant continue to coordinate with Wasco County Sheriff's Office, Oregon State Fire Marshall, and Bakeoven-Shaniko RFPA on Police and Fire Public Services. Feedback on interpretation of WCLUDO definition. Feedback on load restrictions for roads/bridges in Maupin addressed with third party permits and Road Use Agreement Conditions.	Land Use Standard; Exhibit K: Land Use; Section IV.E Public Services Standard; Exhibit U: Public Services; Section IV.M Wildfire Prevention and Risk Mitigation Standard; Wildfire Section IV.N
9-25-2025	Lane Magill, Sheriff	Wasco County Sheriff's Office	Issues with increased traffic and infractions associated with construction which is addressed with Public Services Conditions requiring coordination with Sheriff's Office. Concerns about complaint notification systems and points of contact at the facility and emergency protocols area addressed in Emergency Response Plan in Land Use Condition.	Land Use Standard; Exhibit K: Land Use; Section IV.E Public Services Standard; Exhibit U: Public Services; Section IV.M
03-31- 2025	Aspen Kemmerlin, Special Project Archaeologist	Oregon State Historic Preservation Office	Concurs with applicant's recommendations for not eligible resources. Requests additional evaluation for two historic properties and all	Historic, Cultural and Archaeological Resources Standard;

Table 1: Summary of Reviewing Agency Comments on the pASC/ASC Relied Upon in this Order

Date(s) Received	Commenter Name/Title	Agency	Comment Summary	Related EFSC Standard/ASC Exhibit/Section in Order
			unevaluated resources. Applicant consultant provides revised analysis and Department makes recommendations for methodologies and evaluation in Section IV.K. Condition recommended to ensure avoidance to unevaluated resources.	Exhibit S: Historic, Cultural and Archaeological Resources; Section IV.K
9/26/2025	Eduardo Guerrero, Geology Hazard Specialist	Oregon Department of Geology and Mineral Industries	General approval of methods used, and sources used in Exhibit H. Provides additional recommendations for sources in the required site specific geotechnical study.	Structural Standard; Exhibit H: Geological Soil Stability; Section IV.C

II.D. Council Review Process

II.D.1 Draft Proposed Order

The Department issued the Draft Proposed Order (DPO) on October 1, 2025 and, on the same date, issued Public Notice, initiating a 32-day comment period closing on Monday, November 3, 2025 at 5:00 pm Pacific Time. The Council ~~w~~ conducted a public hearing on the DPO on Thursday, October 23, 2025, at the Maupin Civic Center in Maupin, Oregon.

In addition to accepting oral comments at the public hearing, the Council also accepted written comments until the close of the Public Comment period on November 3, 2025. At the close of the public comment period, the Department received comments from three reviewing agencies, the applicant, and 107 public comments (16 public comments; 66 members of the Laborer’s Union International of North America (LIUNA) 25 members of Green Light America).

At the October 23, 2025 DPO public hearing, the Council extended the deadline for the applicant to respond to DPO public comments by from November 3 to November 7, 2025, based on applicant’s request, to provide an adequate opportunity to respond to comments. The applicant provided responses to comments on November 7, 2025.

At its November 21, 2025 meeting, Council reviewed the DPO, comments received on the record of the DPO, applicant responses to comments and Department recommendations for the Proposed Order. Changes presented in the Proposed Order in responses to issues raised in comments received are summarized in Table A-1 below.

Table A-1: Council Review of Issues Raised in Comments Received and Proposed Order Revisions

Name of Commenter/Organization	Comment Summary	Applicant Response	Department Evaluation / Recommendation
Reviewing Agencies			
Daniel Evans / Wetlands Specialist, Department of State Lands	DSL Concurrence with Wetland Delineation Report with notes on 3 vernal pools in analysis area.	N/A	Department recommends-recommended updating Proposed Order Section IV.R., Removal Fill to cite to the DSL letter and update the wetlands and WOS table.
Sean Bailey / Planner, Wasco County Planning Department ¹¹	Response to the Department’s request for confirmation of legal parcel status, confirming legal parcel status of 04S15E000000100, a parcel within the proposed site boundary.	N/A	Department recommended changes in the Proposed Order Section IV.E.1.1 deleting recommended Land Use Condition 1, which required that, prior to construction, the applicant obtain confirmation from Wasco County on the legal parcel of 04S15E000000100. This condition is no longer needed given the county’s confirmation obtained through agency consultation.
Carol Beatty / Mayor, City of Maupin	Oral Comments on potential impacts to housing from influx of up to 400 workers and lack of locally available workforce housing during construction.	Following the public hearing, the applicant followed up with the Mayor and is committed to addressing these concerns to ensure adequate housing is available for workers during construction of the facility. The applicant represents a new site certificate condition that commits to developing a housing plan for the construction workers in coordination with ODOE, the town of Maupin, and Wasco County prior to construction, which will identify strategies to minimize impacts to the local housing supply based on an ongoing evaluation of patterns of uses and potential shortages or changes in housing demand. The applicant proposes the following condition: <i>Prior to construction of any phase of the facility, the certificate holder shall provide to the Department and Wasco County a temporary housing plan for the construction workforce. The plan shall provide for coordination with contractors and local officials on housing options and strategies to minimize impacts to local housing supply based on an ongoing evaluation of patterns of uses and potential shortages or changes in housing demand.</i>	The Department recommends-recommended updating Proposed Order Section IV.M., <i>Public Services</i>, with recommended Public Services Condition 6 and 7 which implements the applicant’s representation to develop and implement a Construction Workforce Housing Plan with Wasco County and the City of Maupin. Under OAR 345-015-0230(2), the Department coordinated with Mayor Beatty and Wasco County on the condition to confirm adequacy in addressing potential impacts to local services from increased demand.¹²
EFSC			
Anne Beier EFSC Council Member	Request for clarification in the Proposed Order about the Council’s delegation of its authority for	N/A	Pursuant to ORS 469.402, the Council may delegate future review and approval of compliance with site certificate conditions to the

¹¹ Comments from Wasco County Planning Department were a result of agency consultation rather than comments on the record of the DPO, but are included here because it results in a recommended condition change.

¹² (2) Following the Council's meeting to review the draft proposed order, the Department must issue a proposed order in accordance with ORS 469.370(4), taking into consideration the comments of the Council, any public comments made at a public hearing, written comments received before the close of the record of the public hearing, and agency consultation...

Table A-1: Council Review of Issues Raised in Comments Received and Proposed Order Revisions

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	the Department’s future approval of mitigation plans and conditions.		Department. The Department recommends-recommended providing clarifying language for the Council’s future delegation of authority for Department approval of mitigation plans and conditions in the Proposed Order.
Applicant Comments on DPO			
Applicant	Requested change or clarification for Recommended Retirement and Financial Assurance Condition 5 (CON-RF-01) and 6 (OPR-RF-01), specifically, subsection (c) contains a new clause reserving to the Department and Council “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.” Applicant requests that the Department clarify the rationale for this clause, which seems to allow the Department to modify the retirement cost estimate at its discretion. Such a modification could result in significant cost to the Certificate Holder to maintain a higher bond amount without definition as to the circumstances under which such a change would be considered.	N/A	The Department has recommended, and Council has approved multiple recent site certificates that include subsection (c) 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 that the facility is not operated in compliance with the terms and conditions of the site certificate, and the established decommissioning estimate may no longer be viable for site restoration. To ensure that the applicant has the ability to restore the site to useful, nonhazardous condition, the Department recommends-recommended Council authorize review and adjustment of contingencies applied to the decommissioning estimate, based on the Department’s ongoing review of onsite environmental conditions and site certificate compliance. The circumstances that would merit the Department or Council adjusting the contingencies would be if there are recurring, ongoing, and/or severe issues with facility maintenance, or issues with health and safety of the public or the environment. The Department recommends-recommended subsection (c) be maintained in the conditions and the above clarification be provided to Section IV.G., in the Proposed Order.
Applicant	Requested changes to the Draft Site Certificate conditions PRE-FW-03, PRE-FW-04, PRE-FW-07. The applicant requests that these conditions be modified to include phasing options similar to PRE-FW-01 and PRE-FW-02: Prior to construction of the facility, facility component or phase, as applicable, the certificate holder shall submit the draft legal agreement for review and approval by the Department, in consultation with ODFW..	N/A	The Department concurs-concurred that adding the language “of the facility, facility component or phase, as applicable” is consistent with condition language in other conditions. The language also allows flexibility with how the applicant implements its construction phasing and pre-construction compliance. The Department recommends-recommended the applicants’ proposed condition language changes be made to Proposed Order Section IV.H., to Recommended Fish and Wildlife Condition 8 and in the draft site certificate.

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	Applicant requests that the condition language or Draft Habitat Mitigation Plan, or both, acknowledge the potential that the plan may be modified during construction and operation of the facility.		
Applicant	Requested changes to the Draft Site Certificate condition Recommended Noise Control Condition 1 (PRE-NC-01). Applicant requests that condition be modified to specify that these copies are required only where there are exceedances. Prior to construction of solar arrays, substation or battery energy storage system, the certificate holder must submit to the Department copies of executed legally effective easement(s) or real covenant(s) for each noise-sensitive property where the certificate holder relies on a noise waiver to demonstrate compliance with [criteria]".	N/A	The Department concurs<u>concurred</u> with the applicants’ request and suggested condition clarifying language. The applicant’s suggested language does not substantively change the condition, but clarifies that the “noise waiver” would only be required to be submitted to the Department where it relies on the waiver/easement to demonstrate compliance with OAR 340-035-0035.
Applicant	Goal 3 exception analysis: argues that sufficient weight was not given to the overall analysis for the “local economic benefit” reason; and disagrees with the recommended rejection of the “minimal impacts to other resources” reason. See applicant comments for more details supporting their basis.	N/A	The Department disagrees<u>disagreed</u> with the applicants’ arguments related to local economic benefits and discourages reliance on spending on support services (such as payment to local weed spray services) to demonstrate a benefit to the agricultural economy. The Department disagrees<u>disagreed</u> with the applicants’ arguments related to the recommended rejection of the “minimal impact to other resources” reason. The other EFSC projects that relied on this reason were different than the proposed facility in that they all truly resulted in minimal impacts on other resources. The projects referred to by the applicant as those that set precedent for accepting this reason included: West End, Madras, and Sunstone. These projects truly had a minimal amount of significant or important habitat. The Madras Site was all Cat 4 and 5 habitat, West End was mostly Cat 4 and 5 with 20 acres of Cat 3; and Sunstone was only expected to impact around 40 acres of habitat total, mostly Cat 4 and 5 with 0.5 acres Cat 2 habitat. Yellow Rosebush is impacting nearly 5,000 acres of Cat 2 habitat. There is no comparison of this reason for this site to the other projects referenced.

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			The Department recommends <u>recommended</u> that no changes be made in response to these comments.
Applicant	Requests that the Proposed Order Section IV.M.2.2, Table 22 be corrected to reflect total estimated use of 54.6 Mg. Requests that the sentence below, presented in Section IV.M.2.2, be revised: <i>Water during operation would not be provided by a public or private service provider or through an approved onsite well.</i>	N/A	The Department recommends <u>recommended</u> that the Proposed Order Section IV.M.2.2 be amended as requested. The information should be corrected.
Applicant	Requests that the number of homesites references within the analysis area established for the Wildfire Prevention and Mitigation Standard be updated as follows: <i>ASC Exhibit V indicates that there are four homesites within the analysis area and two homesites within the site boundary, would be removed prior to construction.</i>	N/A	The Department recommends <u>recommended</u> that the Proposed Order Section IV.D.1.1. be amended as requested. The applicant’s explanation of the discrepancy provides an acceptable reason to update the recommended findings of fact.
Public Comments			
Keela Carver	Oral Comments on permanent impacts to soils – it is all permanent; increased wildfire risk from facility and components and limited resources and capacity of an all volunteer RFPA; potential health risks and hazards if facility equipment burned for firefighters and need for specialized training and equipment; traffic impacts and safety hazards from influx of onsite workers during construction; local workforce promises versus realities (most workers are not local; visual impacts from facility).	See applicant responses by subject (soil, wildfire risk, firefighting resources).	Comment raised issues on several topics; however, issues were general in nature. See response in this table and applicant response by subject. No changes to the Proposed Order recommended in response to this comment.
Wendell Claudfeller	Oral Comments on the value of the canyons and wildlife habitat that is to be avoided; issues with transmission and the 4.5 mile proposed alternative; fire risk and the issues of insurance cost for landowners; liability if fire burns onto the facility from an adjacent property; does not see likelihood of cheaper energy costs from the facility.	See applicant responses by subject (habitat, alternative transmission line route, wildfire risk and landowner liability, insurance rates).	Comment raised issues on several topics; however, issues were general in nature. See response in this table and applicant response by subject. Issues associated with land leases, purchases and property values are outside of EFSC jurisdiction.

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			No changes to the Proposed Order recommended in response to this comment.
Michelle VanEynde	Water Requirements: ORS 537.143 and ORS 537.144: Inconsistent water need estimates; adverse impacts from water use at the site without mitigation.		
	The applicant has failed to provide mitigation plans regarding an extremely scarce resource and is in direct conflict with OAR 345-021-0010(1)(o)(G). The applicant has also failed to mention the stress this enormous quantity of water puts on the water table, neighboring wells and the surrounding cities.	Applicant provided evidence from multiple potential sources of water to show that the Project is not limited to obtaining water from one source. Specific water source(s) will be confirmed by the Department as part of the pre-construction compliance process (Public Services Condition 1 [PRE-PS-01])	The DPO includes recommended Public Services Condition 1, which would require that the applicant demonstrate to the Department that all construction-phase water is legally obtained through contract, purchase agreement or third-party permit. A requirement to demonstrate that water is legally obtained ensures that the source has an existing, reviewed water right or permit issued by Oregon Department of Water Resources, which is the regulatory agency responsible for ensuring that water use does not cause or create impacts on existing users or water sources. Changes to the Proposed Order are <u>were</u> not recommended in response to this comment.
	actual documented requested emails from the developer, the actual needs do not match the documentation provided. The developer has requested 1M gallons of water annually from each of the potential water sources just for panel washing. Thus, it appears the document is not accurate. The most updated (derived from the actual correspondence) states the following water needs: 1,018,250 gallons annually (2,790 gallons per day)	N/A	To ensure that operational water sources are legally obtained and that there is sufficient water supply available, the Department recommends <u>recommended</u> changes to the Proposed Order Section IV.M.2.2, <i>Water Service</i> , to include Recommended Public Services Condition 2 (similar to Public Services Condition 1), but applicable to water uses and sources during facility operations.
	ORS 537.143 and ORS 537.144 are very regulated and do not necessarily allow for a blind approval process. license is good for five years. The project is not intended to start for another two to three years at best and includes two phases of three years each. Limited licenses are not allowed for ongoing operations. None of the water suppliers have entered into a contract with the developer, nor have promised to sell bulk water	Each license only allows water to be used for construction for a maximum of five consecutive years and is authorized using a separate process from a groundwater permit, a surface water permit, or a water right transfer. Pursuant to ORS 537.143(2), a limited license is subordinate to all other authorized uses that rely upon the same source, or water affected by the source, and may be revoked at any time by OWRD if it is determined the use causes injury to any other water right or minimum perennial streamflow. If a landowner is not able to provide water to the Project, other bulk water providers either alone or in combination have the ability to provide the estimated water needs of the Project. See Public Services Condition 1 [PRE-PS-01])	Applicant response sufficient. No changes to the Proposed Order recommended in response to this comment.
	Soil Protection: The applicant cannot prove that “no water used on the site will be discharged into wetlands, streams and other waterways.”		

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	topography of the project shows hills throughout the project, as well, as areas that drain into the Buck Hollow Creek, which in turn flow into the Deschutes River and finally ending up in the Columbia River. The site boundary slopes range from 0 to 95 percent, with an average of 7.6 percent. The steepest slopes are located along the drainages on the northern and eastern boundaries along Buck Hollow Creek and the tributary drainage. Without a comprehensive soil erosion study, the water standards of OAR 345-021-0010(1)(o)(C) cannot be met.	Typically, solar panels will be set back at least 50 feet and often more than 500 feet from steeper slopes to minimize the potential for erosion and allow implementation of suitable best management practices in these areas, as well as to provide a fire break between solar panels and the canyon rims. Together, the desktop information and the requirements of the site certificate to conduct a site-specific geotechnical investigation (PRE-SS-01), obtain a 1200-C NPDES permit (PRE-SP-02), and implement best management practices with a Fugitive Dust Control Plan during construction (GEN-SP-01) allow the Council to ensure compliance with the standard. The setbacks implemented between the facility fenceline and the canyons, along with implementation of best management practices and Erosion and Sediment Control measures required under the Facility’s NPDES permit will prevent such erosion from transporting sediment off-site. See Attachment 2 of the applicant responses which is the Oregon Department of Environmental Quality (ODEQ) 1200-C General Permit, that identifies measures that must be taken to avoid erosion during construction.	The solar microsites area fenceline would be approximately 0.25 miles from ridges. Additionally, there will be a 50-foot50-foot vegetation maintenance area from the fenceline to the facility components that will act as a fire break and further separative distance from the major facility components to topographical features of concern. Clarifying edits to the Proposed Order Section. Applicant response sufficient. A “comprehensive soil erosion study” is not required by Council’s rules or standards.
	Wildfire: Section incomplete and misleading; applicant has NOT adequately characterized wildfire risk within the analysis area using current data from reputable sources. The applicant has not developed a fire mitigation plan with many sections in draft form.		
	analysis fails to mention how quickly fire spreads in eastern Oregon with our dry summers and extremely high winds.	At the time the data for the Overall Fire Risk table and figure was obtained (August 2023), there was limited data available for the area as exhibited by the “No Data” for 97 percent of the Project Site Boundary in Table V-7 of Exhibit V. Since the original data was gathered in 2023, the data gap has been significantly reduced in the Oregon CWPP Planning Tool, and a revised table has been developed. Applicant provides updated Overall Fire Risk Rating for the site, which concludes that Overall Wildfire risk is moderate.	DPO Section IV.N.1. describes Baseline and Seasonal Wildfire Risk and includes a discussion of Fuel Models (FM) that best describes vegetation at the site and analysis area. It describes that FM 122, which makes up 65 percent of the site boundary, is categorized as moderate load dry climate grass-shrub; which has an overall high spread rate. The Department recommends-recommended changes to the Proposed Order Section IV.N.1 to incorporate the applicant’s updated Overall Fire Risk Rating Table, based on updated data obtained from the Oregon CWPP Planning Tool.
	data used extremely outdated data sets from 2018.		See applicant response. As provided in the above response, the Department recommends-recommended changes to the Proposed Order Section IV.N.1 to incorporate the applicant’s updated Overall Fire Risk Rating Table, based on updated data obtained from the Oregon CWPP Planning Tool.

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	Table V-7 – Overall Fire Risk, 92 % of data is missing		This is a result of data gaps in the previous CWPP data set. See response above. Importantly, in DPO Section IV.N.1, the Department recommends <u>recommended</u> Council find that wildfire fire is moderate during winter (seasonally wetter) months and high during the summer months, during fire season.
	The local fire district is run by volunteers. They are not trained in solar fires. They do not have the equipment or training to extinguish solar fires.	To further address the concern regarding training for volunteer firefighters and emergency responders, the applicant proposes that the following condition be included in the Site Certificate: <i>Prior to and during facility construction and operation, the certificate holder shall provide annual advanced emergency response and fire training to local first responders. This training must be:</i> <i>(a) tailored to emergency and fire response at utility-scale solar and battery energy storage facilities,</i> <i>(b) conducted by qualified instructors, and</i> <i>(c) made available to the Southern Wasco County Ambulance Service, the Bakeoven-Shaniko Rural Fire Protection Association, the South Sherman Fire District, the Wasco County Sheriff’s Office, and other local first responders at no cost to the attendees. If allowed by emergency response organization bylaws, the certificate holder shall compensate attendees for their time at a rate to be agreed with the emergency response organization.</i>	DPO Attachments W-1 and W-2 include construction and operational WMPs, which include pre-construction and operational training for fire departments and safety personnel. The Department recommends <u>recommendeds</u> incorporating the applicant’s training representations into the draft WMPs (that will be attached to the Proposed Order) with revisions to support implementation. To ensure that the Bakeoven-Shaniko Rural Fire Protection Association and Southern Wasco County Ambulance Service are compensated in the form of a donation, the Department recommends-recommended the following language be added to both the construction and operational WMP Section 2.1: Training, “Training will be provided at no cost to emergency service personnel. Certificate holder shall donate to Bakeoven-Shaniko Rural Fire Protection Association and Southern Wasco County Ambulance Service, Southern Wasco County Ambulance Service for their time and any necessary equipment for training.”
	Positioning one water truck for a project this large is unrealistic and places undue fire risks on neighboring farms, as well as, the existing and surrounding counties.	The WMPs are based on ODOE’s wildfire management plan templates to ensure that fire risks and mitigation strategies are comprehensively addressed. Measures included in the draft plans include vegetation-free, noncombustible space or gravel surfaces around service roads within the fence line, the interior side of the perimeter fence line, the collector substation, O&M building, and BESS. In order to further reduce fire risk associated with mowing and vegetation maintenance, the applicant proposes to follow the mowing and vegetation management schedule described in the draft construction and operation WMPs in relation to the fire season and fire danger levels:	The draft WMP’s describe that water truck(s) or water sources must be onsite and must include equipment such as hoses, nozzles, and pumps to adequately extinguish fires that may occur. Construction occurs in phases, generally focusing in one location and for certain facility components (rather than site-wide), therefore, water truck(s) would be placed in proximity to the construction activities. The Department recommends-recommended incorporating the applicant’s representations into the draft WMPs (that will be attached to the Proposed Order) with revisions to support implementation.

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		- Non-Fire Season (Approx. October to May): Mowing is allowed at all times - Fire Season (Approx. June to September or as designated by ODF): Mowing is allowed before 1pm and after 8pm - Fire Weather Watch: Mowing is allowed before 10am or after 8pm - Red Flag Weather Warning: Mowing is prohibited at all times	
	Public Services: Temporary housing and road wear		
	Housing temporary workers onsite. These additional drinking water and sewage needs have not been factored into the analysis presented. In fact, the analysis provides only for drinking water for 162 average onsite workers	See response above to comments from Mayor Beatty. The applicant represents a new site certificate condition that commits to developing a housing plan for the construction workers in coordination with ODOE, the town of Maupin, and Wasco County prior to construction, which will identify strategies to minimize impacts to the local housing supply based on an ongoing evaluation of patterns of uses and potential shortages or changes in housing demand.	In the ASC and the DPO the applicant does not propose, and Department does<u>did</u> not recommend onsite temporary housing. DPO Section IV.M.2.8 states “.. the County later commented that Wasco County does not allow for temporary on site worker housing through a CUP or TUP.”¹³” No changes recommended in the Proposed Order in response to this specific comment.

¹³ Wasco County allows accessory labor housing in conjunction with farm or forest use and allows for a limited number of Temporary Use Permits (TUP) in Chapter 8 of the LUDO. Specific allowed temporary uses provided for within most zones include Medical Hardship Dwellings. YRBAPPDc25 pASC Wasco County SAG Comments 2025-01-21.

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	There is no mention as to the wear on the roads or the congestion this would place on the community. This affects emergency response teams as well. If trucking from Maupin, the trucks would have to drive through the middle of town. This is not a feasible ongoing plan.	As required by Wasco County, a road use agreement will be signed with the county to ensure that roadways will be maintained, and any damage will be repaired during the construction process. Applicant proposed a new condition clarifying that a Traffic Management Plan will be required and incorporated with the County Road use Agreement or separately if not included. Applicant will implement the BMPs identified in the draft Construction Traffic Management Plan in ASC Exhibit U and addressed below, to reduce impacts along transportation routes and to minimize traffic through the City of Maupin during construction. Further, as required by Wasco County, a road use agreement will be signed with the county to ensure that roadways will be maintained and any damage will be repaired during the construction process. <i>Applicant proposes that the following condition be included in the Site Certificate:</i> <i>Prior to construction of the facility, or facility component, as applicable, the certificate holder shall:</i> <i>a. Submit to the Department an executed road use agreement between Wasco County and the certificate holder or its contractor. Any Final Construction Traffic Management Plan that is part of the road use agreements shall include, at a minimum, the provisions designated in ASC Exhibit U.</i> <i>b. If a Final Construction Traffic Management Plan designated in sub (a) is not included in road use agreements executed with Wasco County, then submit a Final Traffic Management Plan. A copy of the Final Traffic Management Plan shall be provided to the Department and the Wasco County Public Works Department. The Construction Traffic Management Plan shall, at a minimum, include the provisions in ASC Exhibit U.</i>	Impacts on roads and traffic concerns are discussed in Proposed Order, Section IV.M.2.5, <i>Traffic Safety</i>. To ensure that the measures addressed in the County’s Road Use Agreement are implemented, which include compensation for any necessary road repairs from construction related damage, the Department recommended the Council impose Public Services Condition 2 and 3, which require the execution and implementation of a Road Use Agreement. Public Services Condition 2 also states that haul trucks are precluded from accessing the site via Highway 197 through Maupin, unless approved by ODOT and/or City of Maupin. To ensure that the measures addressed in the County’s Road Use Agreement are implemented, which include compensation for any necessary road repairs from construction related damage, the Department recommended the Council impose Public Services Condition 2 and 3, which require the execution and implementation of a Road Use Agreement. The Department recommended amending Public Services Condition 2 to incorporate the Construction Traffic Management Plan and attach the plan to the Proposed Order.
	Roads will be destroyed for the six years of construction, along with the forty years of operation with water trucks continuing to drive through the town of Maupin and tear up the roads.	See response directly above.	See response directly above.
Constance Lee	Soils (OAR 345-022-0022; Structural Standard: Noncompliance and incompleteness. Exhibit I relies primarily on NRCS desktop sources and omits basic geotechnical data and erosion analyses		

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	No site-specific geotechnical data. The application provides no borings, laboratory testing (e.g., Atterberg limits, gradations), or compaction characteristics to evaluate construction suitability and reclamation feasibility.	Together, the desktop information and the requirements of the site certificate to conduct a site-specific geotechnical investigation (PRE-SS-01), obtain a 1200-C NPDES permit (PRE-SP-02), and implement best management practices with a Fugitive Dust Control Plan during construction (GEN-SP-01) allow the Council to ensure compliance with the standard.	The information requirements of the Structural Standard at OAR 345-022-0020(4)(b) and (c) establish that the DOGAMI consultation determines whether site-specific geotechnical work must be done for the purposes of inclusion in an ASC/determining the ASC complete. Otherwise, site-specific geotechnical work is a preconstruction requirement of the site certificate. As provided on the record of the ASC, Exhibit H Attachment H-1 includes the DOGAMI consultation notes, where site-specific geotechnical work necessary for ASC completeness was not requested/identified. Therefore, the site specific geotechnical work will be completed as part of a preconstruction condition requirement under Recommended Structural Condition 1, as presented in DPO Section IV.C.1. No recommended changes to the Proposed Order in response to this comment.
	No quantitative erosion modeling. There is no RUSLE/WEPP or equivalent analysis to estimate soil loss and sediment delivery from grading, road building, and vegetation removal—particularly important on canyon side-slopes.	See response above and description about the location of facility components set back from steep slopes and ridges. The setbacks implemented between the facility fenceline and the canyons, along with implementation of best management practices and Erosion and Sediment Control measures required under the Facility’s NPDES permit, will prevent such erosion from transporting sediment off-site.	OAR 345-022-0022(2)(b) expressly states that information from reasonably available sources be used to identify soil conditions and assess potential impacts. While “quantitative erosion modeling” could be used to inform the analysis, it is not required under Council’s rules or for the Soil Protection or Structural Standard. No recommended changes to the Proposed Order in response to this comment.
	No slope stability or hydrologic mapping. The record lacks a site-specific assessment of mass wasting/gully risks and sediment routing into Buck Hollow and other drainages.	See response above and description about the location of facility components set back from steep slopes and ridges.	No recommended changes to the Proposed Order in response to this comment.
	project area includes steep and highly erodible terrain feeding into the Buck Hollow drainage, which ultimately contributes to the Deschutes River basin and, downstream, the Columbia River. Construction-related disturbance, grading, and loss of vegetative cover can accelerate erosion and sedimentation	See response above and description about the location of facility components set back from steep slopes and ridges.	The Department recommends-recommended clarification added to the findings of fact in Proposed Order Section IV.D., <i>Soil Protection</i> , describing the distances of the solar micrositing area/facility components from ridges, slopes and waterways.
	Permanent alteration of canyon hydrology and slope stability, increasing landslide or gully formation risk.	See response above and description about the location of facility components set back from steep slopes and ridges.	No facility components are proposed within canyons or steep slopes, therefore, permanent alteration of canyon hydrology and slope

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			stability, increasing landslide or gully formation risk is not likely to occur as a result of facility construction. No recommended changes to the Proposed Order in response to this comment.
	Wildlife Habitat & Species (OAR 345-022-0060; OAR 345-022-0070; ODFW Policy OAR 635-415-0025; ORS 496.012): Mitigation plan is conceptual, geographically disconnected, and unsupported by measurable ecological standards or ratios; the application does not meet EFSC’s wildlife habitat and species standards.		
	The applicant references ODFW categories but does not provide methods, data sources, or quantitative impact tables (temporary vs. permanent acres by habitat type/category)	As described in Exhibit P of the ASC, the applicant provided substantial evidence showing compliance with the Fish and Wildlife Habitat standard. The applicant has been in consultation with ODFW since May 2023 to coordinate and confirm survey protocols, discuss findings, and assess habitat avoidance and mitigation requirements and options.	DPO Section IV.H., <i>Fish and Wildlife Habitat</i> , Table 16 includes Estimated Habitat Impacts from Proposed Facility Construction and Operation, Table 17 includes Estimated Habitat Impacts and ODFW Habitat Mitigation Ratios. ASC Exhibit P, Section 4.0 includes a Description of Biological and Botanical Surveys Performed. Exhibit P, Attachment P-1: Draft Botanical Survey Report, Section 2.0 explains in more detail the methods for surveys for plants. The Department recommends-recommended adding a sentence and footnote summarizing methodologies for biological surveys to Section IV.H., of the Proposed Order.
	mitigation is proposed “on the Columbia Plateau” at Tygh Ridge Ranch and “within the facility boundary,” yet provides no maps or distances between these areas and the impact. The mitigation concept (e.g., Tygh Ridge Ranch “on the Columbia Plateau”) is off-site and separated from the project by steep canyons and the Deschutes River, with no functional corridor for displaced mule deer/elk. Without mapped locations, distances, and travel pathways—and without wildlife-friendly fencing and designated corridors—the proposal does not maintain movement or replace ecological function as required by OAR 345-022-0060(3) and ODFW’s Habitat Mitigation Policy.	Avoidance measures identified in consultation with ODFW is that the fenced areas containing solar panels be contained on the plateau above Buck Hollow and Hauser Canyon, which reduces impacts to Priority Wildlife Connectivity Areas (PWCAs) and higher quality habitats including shrub-steppe habitats. Although the site boundary includes portions of these canyons, the Micrositing Corridor (area where facilities may be placed) avoid the canyons, and indeed the facility layout depicted in the ASC also avoids tributary channels leading to the canyons. Figure C-2 in Exhibit C demonstrates how canyons and their tributary channels are being avoided by the facility layout. The Draft Habitat Mitigation Plan states that the HMA Tygh Ridge Ranch is located 15 miles northwest of the facility, Figure 1 of Attachment P-2 shows the boundary of the Tyge Ridge Ranch and its location.	Applicant response sufficient. To reduce confusion about the location of the HMA and ODFW-recommended migration and mitigation value of the HMA, the Department recommends-recommended clarifying findings be added to Proposed Order Section IV.H., <i>Fish and Wildlife Habitat</i> .
	Mitigation plan offers no analysis of how wildlife will travel between disturbed areas and mitigation lands, nor how fences, roads, and arrays will affect migration corridors. Without designated open	The HMA was identified by ODFW as a priority area for conservation because it is used for seasonal elk migration between the Deschutes River and higher elevation forests, and because it extends into a PWCA region as well as two connectors	Applicant response sufficient. See response directly above.

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	corridors or wildlife-friendly fencing, the mitigation cannot offset lost connectivity, contrary to OAR 345-022-0060(3), which requires design measures to maintain wildlife movement.	that facilitate big game movement between regions. The HMA is sited along the northern boundary and borders Buck Hollow and Hauser Canyons, which are also mapped ODFW PWCAs. By protecting these PWCAs, big game movement is facilitated in the areas they are already most likely to use.	
	Additionally, Big Horned Sheep that are rare but present in the canyons around the Deschutes Rivers were not included in the wildlife survey. I believe that there are bighorn sheep and/or mountain goats that live in canyons adjacent to the project, yet there was no mention of them in their review	The applicant understands that there are herds of bighorn sheep in the area. Potential impacts to big game species were addressed in Exhibit P and impacts will be minimized through avoidance of the PWCAs. ODFW did not identify a need for species-specific surveys for any big game species (e.g. mule deer, elk, or bighorn sheep).	The applicant conducted a literature review, desktop analysis, used ODFW mapped habitat categories and species information, as well as information from field surveys to inform the habitat categorization for Exhibit P and information used under the Fish and Wildlife Habitat standard. Species-specific surveys are not required under the F&W habitat standard unless justified by ODFW and the Department. Big Horned Sheep are not listed in Oregon as a special status or T&E species,¹⁴ therefore, species-specific field surveys are not required. Department recommends recommended adding this statement to a footnote in Section IV.H., of the Proposed Order. The facility is setback from the canyons and ridges where Big Horned Sheep occupy, buffered with the HMA, as described elsewhere in this response table.
	Indirect effects to listed fish. The record lacks an erosion/sedimentation analysis for downstream steelhead habitat despite clear hydrologic connectivity. EFSC’s wildlife standard requires avoidance/minimization of impacts to species’ survival/recovery, regardless of federal vs. state listing labels. - Degradation of spawning habitat (from erosion and runoff) for native fish species, including steelhead, Chinook salmon, and trout in the Deschutes and Columbia Rivers. - Siltation of streambeds, reducing oxygenation and smothering aquatic invertebrates essential to riverine food webs.	The setbacks implemented between the facility fenceline and the canyons, along with implementation of best management practices and Erosion and Sediment Control measures required under the facility’s NPDES permit required under (PRE-SP-02) and Fugitive Dust Control Plan under (GEN-SP-01), will prevent erosion from transporting sediment off-site and into waterways. See Attachment 2 of the applicant responses which is the Oregon Department of Environmental Quality (ODEQ) 1200-C General Permit, that identifies measures that must be taken to avoid erosion during construction.	See applicant response and responses above. The solar micrositing areas are within the site boundary and further setback from the ridges and canyons; at the closest point, the solar micrositing area is approximately 0.25 miles from the ridge. Comment does not take into consideration facility location in proximity to canyons, ridges and the implementation of the 1200-C permit. Comment does not provide facts to support degradation of fish spawning habitat or siltation of streambeds. No recommended changes to the Proposed Order in response to this comment.
	Threatened and Endangered Species OAR 345-022-0070: Species survey inadequacy		

¹⁴ https://www.dfw.state.or.us/wildlife/diversity/species/threatened_endangered_candidate_list.asp

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	Sensitive species and survey adequacy. Portions of the analysis area (including steep canyon habitats most likely to host rare plants) were not surveyed. EFSC cannot conclude compliance with OAR 345-022-0070 when surveys are incomplete or mistimed.	The majority of the areas that were not surveyed are too steep for placement of facility components and will instead be included in the facility HMA. Due to access restrictions, the Alternate Gen-Tie route also has not yet been field surveyed. If the alternative gen-tie route is selected for construction, the site certificate contains conditions (PRE-TE-01, PRE-HC-01) requiring that field surveys be completed and results reviewed for impact assessment prior to construction. Botanical surveys were conducted from June 6–June 14, 2023, a timeframe when all of the target species, with the exception of sessile mouse-tail, were likely to be in flower (see Attachment P-1 in Exhibit P).	Applicant response sufficient. No recommended changes to the Proposed Order in response to this comment.
	Field surveys for rare plants were conducted in June 2023, outside the documented blooming season for sessile mouse-tail (<i>Myosurus sessilis</i>), which occurs March through May. The Applicant admits this limitation yet claims the species is “unlikely to occur.”	Surveys were conducted just after the typical period of flowering for sessile mouse-tail (March-May) because only one vernal pool wetland (the plant’s habitat) was found within the survey area. This wetland and the surrounding area were surveyed closely for sessile mouse-tail individuals but there was no evidence of the plant. Moreover, no element occurrence was identified in the Oregon Biodiversity Information Center (ORBIC) database within 5 miles of the Micrositing Corridor. This survey methodology and survey findings as well as impact analysis were reviewed by the Oregon Department of Agriculture to support a conclusion that the facility is not likely to adversely impact sessile mouse-tail.	During the review of the pASC, the Department consulted with Oregon Department of Agriculture (ODA), Native Plant Conservation Program on the adequacy of the methods/surveys completed to evaluate potential presence of listed T&E plants. On September 18, 2024, ODA staff confirmed review of pASC Exhibit Q and stated that, “The methods are adequate for locating T&E plants, and it looks like the steps they took to develop their target plan list was also adequate. We don’t have any further comments on their methods of findings.” The Department recommends<u>recommended</u> adding supplemental findings in the record to Section IV.I, <i>Threatened and Endangered Species</i>, in the Proposed Order in response to this comment.
	Land Use: ORS 469.501(1)(c) and OAR 345-022-0000 through 345-022-0110: Goal 6 and Goal 5, By not addressing erosion risk in a site-specific, measurable manner, this application fails to demonstrate compliance with these land use goals		
	Goal 6 – Air, Water, and Land Resources Quality: Prohibits land uses that degrade water quality or cause soil erosion and sedimentation beyond acceptable limits, and Goal 5 – Natural Resources, Scenic and Historic Areas, and Open Spaces: Requires protection of sensitive natural resources and fish habitat.	N/A	Although the comments cited Land Use Goals, each of the goals cited is associated with water quality or natural resource impacts, raised in more specificity in other comments. No recommended changes to the Proposed Order in response to this comment.
	Water (OAR 345-021-0010(1)(o); OAR 345-022-0080; ORS ch. 537; ORS 540.610): Insufficient and uncertain supply		
	Municipal providers express limitations or uncertainty; informal emails are not binding water-right commitments.	Applicant provided evidence from multiple potential sources of water to show that the Project is not limited to obtaining water from one source. Specific water source(s) will be confirmed by	The DPO includes recommended Public Services Condition 1, which would require that the applicant demonstrate to the Department that all construction-phase water is legally obtained through contract, purchase agreement or third-party permit. A requirement to

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		the Department as part of the pre-construction compliance process (Public Services Condition 1 [PRE-PS-01]).	demonstrate that water is legally obtained ensures that the source has an existing, reviewed water right or permit issued by Oregon Department of Water Resources, which is the regulatory agency responsible for ensuring that water use does not cause or create impacts to existing users or water sources. Changes to the Proposed Order are <u>were</u> not recommended in response to this comment.
	Reliance on private wells via temporary limited licenses (ORS 537.143) is inherently interruptible and subordinate, especially during drought or priority calls	If a landowner is not able to provide water to the Project, other bulk water providers either alone or in combination have the ability to provide the estimated water needs of the Project.	DPO Section IV.S., Water Rights, explains that 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. Under Recommended Water Rights Condition 2, during operation, the certificate holder shall verify that any onsite exempt wells do not use more than 5,000 gallons of ground water a day, collectively, and shall monitor the volume of groundwater used on a daily basis, maintain a record of such use and make the monitoring records available to the Department upon request. Changes to the Proposed Order are <u>were</u> not recommended in response to this comment.
	High fire risk area with limited water, however, applicant states that “no mitigation is necessary” there are no commitments to - monitor groundwater levels at nearby wells; - Coordinate with local water districts on timing of withdrawals; or - Establish a reserve or emergency water supply for wildfire response.	See response above.	See response above. Additionally, Recommended Water Rights Condition 1 requires that, prior to operation, certificate holder shall provide the Department a copy of the map, well log and all other information it provided to OWRD pursuant to ORS 537.545 and ORS 537.765 to qualify for an exempt ground water use for any onsite exempt wells. Changes to the Proposed Order are <u>were</u> not recommended in response to this comment.
	Public Services (OAR 345-022-0080): Public services/fire water conflict; Public Safety and Emergency Response Deficiencies		
	Diverting limited regional supplies for construction and O&M would strain small systems needed for firefighting and agricultural uses during peak fire seasons. The application proposes no groundwater monitoring, withdrawal timing coordination, or emergency reserves—failing the intent of OAR 345-022-0080 (Public Services).	Applicant provided evidence from multiple potential sources of water to show that the Project is not limited to obtaining water from one source. Specific water source(s) will be confirmed by the Department as part of the pre-construction compliance process (Public Services Condition 1 [PRE-PS-01]).	See responses above regarding site certificate conditions which require a demonstration that construction water is obtained from a legal source; well log monitoring as well as withdrawal limitations; and the recommended new Public Services Condition 2 in Proposed Order Section IV.M, to similarly require that during O&M, if water is obtained from offsite sources, that the applicant be required to demonstrate it has been obtained from a legal source.

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			Comment does not provide enough detail about potential impacts to “agricultural uses during peak fire season” to respond to. Changes to the Proposed Order are <u>were</u> not recommended in response to this comment.
	Diverting limited regional supplies for construction and O&M would strain small systems needed for firefighting and agricultural uses during peak fire seasons. Maupin Rural Fire Protection District and South Wasco County Fire & Rescue—are small volunteer departments with limited water supply, inadequate tools and training for fighting electrical and lithium battery fires, and staffing.	To further address the concern regarding training for volunteer firefighters and emergency responders, the applicant proposes a new condition in the site certificate which addresses training fire and emergency personnel for fire protections with specific equipment on site. The applicant represents that, if permissible by the organizations, the applicant would compensate attendees for their time at a rate to be agreed with the emergency response organization. With an anticipated maximum of 400 workers on-site during construction of the Yellow Rosebush facility, it is highly unlikely that any fatal injuries would occur (average of less than 0.04 per 400 workers), while less than 2 non-fatal slips, trips, and falls would be anticipated annually on average, the majority of which would not require ambulance support. On-site protocols will focus on ways to prevent injuries in the first place, while also providing on-site treatment capability to avoid or minimize the need for off-site transfer. Attachment 1 to this letter provides an example safety plan from construction of a Savion facility; A similar plan will be implemented for Yellow Rosebush to aid in minimizing the likelihood of any emergency response need.	DPO Attachments W-1 and W-2 include construction and operational WMPs, which include pre-construction and operational training for fire departments, ambulance services and safety personnel. The training includes advanced instruction specific to utility scale solar components and battery storage systems. The Department recommends <u>recommended</u> updating Section IV.M., Public Services, to incorporate the applicant’s updated analysis of the probability of injuries on site and to amend the Construction and Operational WMP’s to include following language be added to both the construction and operational WMP Section 2.1: Training, “Training will be provided at no cost to emergency service personnel. Certificate holder shall donate to Bakeoven-Shaniko Rural Fire Protection Association and Southern Wasco County Ambulance Service, Southern Wasco County Ambulance Service for their time and any necessary equipment for training.” Recommended Land Use Condition 7 and 8 require the submission and implementation of the certificate holder’s Emergency Response Plan during construction and Recommended Land Use Condition 9 and 10 require the submission and implementation of the certificate holder’s Emergency Response Plan during operation of the facility. The Department recommends<u>recommended</u> amending these conditions to cite the parent company’s emergency and safety plans.
	Wildfire (OAR 345-022-0115): Incomplete/insufficient Wildfire Mitigation Plan (WMP), Risk characterization issues, Public safety, Community and Equity Considerations		
	The application provides draft plans with key items “to be provided later,” contrary to OAR 345-022-0115(1)(b)’s requirement that EFSC review a complete plan before certification. Mapped defensible space, BESS-specific suppression design, Operational triggers, responder coordination.	The applicant developed Draft Construction Wildfire Management Plan (CON WMP) and a Draft Operational Wildfire Management Plan (OPR WMP) based on ODOE templates and in coordination with ODOE and the Oregon State Fire Marshal’s Office, Maupin Volunteer Fire Department, Shaniko Volunteer Fire Department, South Sherman Fire District, and Bakeoven-Shaniko Rural Fire Protection Association. Consistent with Council precedent, the plans are prepared as draft plans, with the requirement that they be finalized prior to construction once the construction contractor is selected and final design has been	OAR 345-022-0115 requires that the facility be constructed and operated consistent with a WMP, and not a “complete plan before certification”. Large energy facilities permitted with EFSC generally have not been though their final design and do not have equipment selected. As described in this response table and in the DPO, because final studies are conducted prior to construction and are based on final design of the facility, site certificate conditions refer to “draft” plans that must be finalized prior to construction or operation of the facility. Pursuant to ORS 469.402, the Council may delegate future review and approval of compliance with site certificate conditions to the

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		developed. This practice allows for the final plans to be tailored to construction methodologies and final equipment selection, and also affords the opportunity for continued coordination with local fire response agencies as the time of construction grows closer.	Department. All recent Council-approved energy facilities include conditions of approval in the site certificate that stipulate that pre-construction surveys be completed based on final design, where future review of the plan is delegated to the Department based on the criteria in the plan that are approved by Council. The measures that would be finalized in the CON and OPR WMP are final design features for wildfire mitigation and would be based on the final design and would be applicable to the facility as it would be constructed and operated. Changes to the Proposed Order are-were not recommended in response to this comment.
	The site is mapped as very high fire hazard, yet the narrative labels overall risk “moderate.” Large portions of the site show “No Data,” undermining the credibility of the risk analysis. Maps also show “No Data” for approximately 97% of the site boundary”	At the time the data for the Overall Fire Risk table and figure was obtained (August 2023), there was limited data available for the area as exhibited by the “No Data” for 97 percent of the Project Site Boundary in Table V-7 of Exhibit V. Since the original data was gathered in 2023, the data gap has been significantly reduced in the Oregon CWPP Planning Tool, and a revised table has been developed. Applicant provides updated Overall Fire Risk, which concludes that Overall Wildfire risk is moderate.	DPO Section IV.N.1., <i>Wildfire Prevention and Risk Mitigation</i>, describes <u>described</u> Baseline and Seasonal Wildfire Risk and includes a discussion of Fuel Models (FM) that best describes vegetation at the site and analysis area. It describes that FM 122, which makes up 65 percent of the site boundary, is categorized as moderate load dry climate grass-shrub; which has an overall high spread rate. The Department recommends-recommended changes to the Proposed Order Section IV.N.1 to incorporate the applicant’s updated Overall Fire Risk Rating Table, based on updated data obtained from the Oregon CWPP Planning Tool. Importantly, in DPO Section IV.N.1, the Department recommends <u>recommended</u> Council find that wildfire fire risk is moderate during winter (seasonally wetter) months and high during the summer months, during fire season.
	South Wasco County as a High Fire Danger Area and a Wildland-Urban Interface (WUI) priority zone. Approving a large-scale industrial solar facility—introducing thousands of ignition points, electrical components, and transformers—directly conflicts with those public-safety efforts. Key risk factors include: • High winds funneled through canyon topography; • Continuous fine fuels (cheatgrass and dry forbs) with high ignition potential;	See applicant responses above.	See response above. Applicant evaluates the Wasco Council CWPP in ASC Exhibit W. DPO Section IV.N.1. evaluates the Wasco County 2024 Community Wildfire Protection Plan and WUIs. The facility is not located within any WUIs designated in the CWPP. Changes to the Proposed Order are-were not recommended in response to this comment.

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	- Limited access roads and long response times for local volunteer fire districts; - Battery Energy Storage System (BESS) introducing additional ignition and toxic smoke risks		
	Assuming municipal water or on-site water engines as a primary control measure is unrealistic for energized electrical/BESS events. Without proven methods and resources matched to local capability, EFSC cannot find the facility “is not likely to result in significant adverse impacts to people or property due to wildfire.” Once the project is in operation water is an incorrect tool to fight electrical fire. In the recent fire in the Bakeoven facility in August of 2025 the fire had to be put out with shovels and dirt as the facility was energized and water would not extinguish the fire.	To further address concerns regarding training for volunteer firefighters and emergency responders, the applicant proposes that the following condition be included in the Site Certificate: <i>Prior to and during facility construction and operation, the certificate holder shall provide annual advanced emergency response and fire training to local first responders. This training must be:</i> (a) <i>tailored to emergency and fire response at utility-scale solar and battery energy storage facilities,</i> (b) <i>conducted by qualified instructors, and made available to the Southern Wasco County Ambulance Service, the Bakeoven-Shaniko Rural Fire Protection Association, the South Sherman Fire District, the Wasco County Sheriff’s Office, and other local first responders at no cost to the attendees. If allowed by emergency response organization bylaws, the certificate holder shall compensate attendees for their time at a rate to be agreed with the emergency response organization.</i>	ASC Exhibit W and DPO Section IV.N.1., <i>Wildfire Prevention and Risk Mitigation</i>, describe water sources and one of the uses for water would be for fire mitigation. Under Public Services Condition 1 [PRE-PS-01], water quantities and sources would be verified prior to construction. As designated in the CON and OPR WMP, attached to the DPO, construction and operational personnel would be trained to prevent onsite fires and to extinguish fires, depending on the type and ignition source of the fire (vegetation , battery, electrical, etc.). The Department recommends<u>recommended</u> incorporating the applicants’ representations for additional, facility-specific trainings be incorporated into those plans.
	Council should also recognize the disproportionate burden placed on small rural communities—higher insurance costs, tax pressures for additional fire protection, and long-term public safety liabilities; avoid transferring long term risks to residents.	N/A	Issues such as insurance costs, land values, land purchasing, leasing, and building codes are matters outside of Council jurisdiction (ORS 469.401(4)). Issues associated with long-term public safety liabilities; avoid transferring long term risks to residents are not raised with enough detail to respond to. Changes to the Proposed Order are<u>were</u> not recommended in response to this comment.
Susie Miles	Public Services: Road conditions and impacts from construction; Impacts to South Wasco Co Ambulance		
	Area of concern is Bakeoven Road between Maupin and the construction site. While the draft states traffic will come in via Hwy 97 (north and southbound), then east on Bakeoven RD, there is not a way to enforce that. Trucking will haul the shortest route, which will be across the bridge in Maupin and east on Bakeoven Rd.	Applicant will implement the BMPs identified in the draft Construction Traffic Management Plan in ASC Exhibit U and addressed in the applicant’s represented new condition, to reduce impacts along transportation routes and to minimize traffic through the City of Maupin during construction. Further, as required by Wasco County, a road use agreement will be signed	Public Services Condition 2 states that haul trucks are precluded from accessing the site via Highway 197 through Maupin, unless approved by ODOT and/or City of Maupin. To ensure that the measures addressed in the County’s Road Use Agreement are implemented, which include compensation for any necessary road repairs from construction related damage, the

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		with the county to ensure that roadways will be maintained and any damage will be repaired during the construction process.	Department recommended the Council impose Public Services Condition 2 and 3, which require the execution and implementation of a Road Use Agreement. Changes to the Proposed Order are <u>were</u> not recommended in response to this comment.
	How will the road be fixed?	The applicant will implement the BMPs identified in the draft Construction Traffic Management Plan to reduce impacts along transportation routes and to minimize traffic through the City of Maupin during construction and required by the road use agreement.	The Department recommends <u>recommended</u> updated findings and amending Public Services Condition 3, requiring the inclusion of the draft Construction Traffic Management Plan with the execution and implementation of a Road Use Agreement.
	South Wasco Co Ambulance is completely staffed by volunteer EMTs. highly consider two means of support: 1) Provide funding for training additional EMTs, in the form of reimbursements. 2) Support the South Wasco County Ambulance with its own dispatch and response to emergencies, as it currently operates	Applicant spoke with a representative of Southern Wasco County Ambulance Service (SWCAS) and commits to maintaining an ongoing dialogue with SWCAS and other stakeholders to support volunteer emergency responders. Applicant is amenable to contributing financially to SWCAS to ensure they can adequately support the facility through construction and operation. Additionally, the applicant proposes additional on-site trainings and that, if permissible by the organizations, the applicant would compensate attendees for their time at a rate to be agreed with the emergency response organization. Applicant provides evaluation of statical probability of severe and minor injuries occurring onsite. Attachment 1 to the applicant responses provides an example safety plan from construction of a Savion facility; a similar plan will be implemented during construction and operation of the facility.	The Department recommends <u>recommended</u> updating Section IV.M., Public Services, to incorporate the applicant’s updated analysis of the probability of injuries on site. The Department recommends <u>recommended</u> amending Attachments W-1 and W-2 which are the construction and operational WMPs, adding in the details for pre-construction and operational training for fire departments, ambulance services and safety personnel; and requiring the applicant to compensate/donate to participating emergency service providers that attended the training. Specifically, the WMP Section 2.1: Training states, “Training will be provided at no cost to emergency service personnel. Certificate holder shall donate to Bakeoven-Shaniko Rural Fire Protection Association and Southern Wasco County Ambulance Service, Southern Wasco County Ambulance Service for their time and any necessary equipment for training.”
Alex Carr / EMS Administrator Southern Wasco County Ambulance Service (SWCAS), Inc., Maupin	Public Services: Ambulance and emergency service providers		
	SWCA provides 100% of the emergency medical services within the Wasco County area. We are an all-volunteer emergency medical transport organization. We would like to explore the possibility of support from your organization to help offset potential added costs to our service. The Yellow Rosebush project may increase our call volume, and as a volunteer agency, additional demand directly impacts our ability to respond effectively.	Applicant has spoken with a representative of Southern Wasco County Ambulance Service (SWCAS) and commits to maintaining an ongoing dialogue with SWCAS and other stakeholders to support volunteer emergency responders. Applicant is amenable to contributing financially to SWCAS to ensure they can adequately support the facility through construction and operation. Applicant provides evaluation of statical probability of severe and minor injuries occurring onsite. Attachment 1 to the applicant responses provides an example safety plan from construction of a	Recommended Land Use Condition 7 and 8 require the submission and implementation of the certificate holder’s Emergency Response Plan during construction and Recommended Land Use Condition 9 and 10 require the submission and implementation of the certificate holder’s Emergency Response Plan during operation of the facility. The Department recommends <u>recommended</u> amending these conditions to cite the parent company’s emergency and safety plans. The Department recommends <u>recommended</u> updating Section IV.M., <i>Public Services</i> , to incorporate the applicant’s updated analysis of the probability of injuries on site. The Department recommends

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	seeking funding to update aging equipment, provide advanced training and education for our volunteers, and strengthen volunteer recruitment and retention efforts are working to Update, fully equip and staff two ambulances to better meet the growing needs of our community.	Savion facility; a similar plan will be implemented during construction and operation of the facility.	recommended amending the Construction and Operational WMP’s to ensure that emergency agencies are compensated/donated to and would include following language be added to both the construction and operational WMP. The Department recommends-recommended adding the applicant’s representation for advanced, facility-specific training for emergency personnel, with compensation available to the Construction and Operational WMPs.
Alvin Alexanderson	Fish and Wildlife Habitat: Impacts within Big Game Winter Range for Mule Deer (BGWR) not accurately calculated or mitigated, suggests moving the site		
	Putting a big game exclusion area in BGWR is such a bad idea one wonders why it is being considered. This intervenor says solar arrays should go outside BGWR. Suppose there are 500,000 acres of designated BGWR and you take away 6 thousand acres leaving 400,994. If you change some plants on 6000 acres of already protected BGWR the total is still 400,994. No replacement has occurred. There is a net loss of quantity. we should be seeing at least an equal number of acres of suitable habitat being newly protected. This could be a conservation easement outside the current mapped range or newly designated replacement Solar arrays eliminate the habitat completely. No game animals can use it. It appears from the map that some parts of the proposed arrays could be placed closer to the Buckley substation in Sherman County outside the BGWR.	The applicant worked closely with ODFW to avoid, minimize, and appropriately mitigate identified impacts to both habitat and wildlife, resulting in a plan that has been thoroughly reviewed by ODFW as well as the Department to ensure that it is in compliance with ODFW’s habitat mitigation policy.	The Fish and Wildlife Habitat standard creates requirements for mitigating impacts to fish and wildlife habitat, based on the functional quantity and quality of the habitat impacted as well as the nature, extent, and duration of the impact. Functional quality is presented using a habitat classification system based on the function and value of the habitat it would provide to a species or group of species likely to use it. ODFW policy identifies six habitat categories, with Category 1 being the most valuable, which must be avoided, and Category 6 the least valuable. ODFW’s Mitigation Goal allow for in-kind and in-proximity mitigation for impacts within Category 2 habitat, such as much of the facility site boundary; mapped Category 2 Big Game Winter Range for Mule Deer habitat. See DPO-Table 17: Estimated Habitat Impacts and ODFW Habitat Mitigation Ratios. Permanent impacts will occur within the perimeter fenceline, even if areas within the fenceline will be revegetated. These areas are considered permanent impacts to fish and wildlife habitat, and are quantified in the mitigation obligation for the facility and addressed in the Habitat Mitigation Plan (Attachment P-3 of the DPO), as required under .Recommended Fish and Wildlife Condition 8. Changes to the Proposed Order are-were not recommended in response to this comment.
	The first obligation of mitigation as written in the ODFW rule ..is avoidance. Avoidance of outright habitat destruction is possible here but was not practiced	See response above.	Avoidance of impacts is the first tier for each category, followed by an allowance of mitigation, if impacts are demonstrated to be unavoidable. The design features proposed by the applicant to avoid potential habitat and species related impacts are detailed in ASC

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			Exhibit H Section 9.1, and imposed within a Wildlife Minimization and Monitoring Plan, required to be implemented under recommended Fish and Wildlife Condition 12. Additional avoidance requirements are imposed in recommended Fish and Wildlife Condition 10 (flag and avoid impacts to streams, wetlands, and other sensitive habitat features and 13 (adhere to raptor nest buffers during sensitive nesting season). Changes to the Proposed Order are<u>were</u> not recommended in response to this comment.
	the mitigation area chosen can not make up for the loss of habitat. Any such payment will not be enough and parties are entitled to have information and the opportunity to contest the issue.	See response above.	The HMA location, size and uplift actions have been reviewed by ODFW and the Department and are consistent with OAR 635-415-0025(1) through (6), and include: • Shrub Planting • Oregon White Oak Planting • Weed Control • Fence Removal • Fire Control • Monitoring implementation measures Under Recommended Fish and Wildlife Condition 7, prior to construction, the certificate holder shall submit the draft legal agreement for review and approval by the Department, in consultation with ODFW. The legal agreement shall ensure that payment provided for long-term management and enhancement of the mitigation area is adequate to cover the permanent habitat loss from the facility. Changes to the Proposed Order are<u>were</u> not recommended in response to this comment.
	The ODFW no-net-loss Rule is not a “goal.” It is a condition that must be satisfied. The draft Habitat Mitigation Plan finds 4992 total acres of Category 2 affected habitat. Unless this includes the total acreage to be fenced out, it is incorrect. For no-net-loss, the replacement acreage must at least equal the acreage inside fences.	See response above.	See Proposed Order Table 17: Estimated Habitat Impacts and ODFW Habitat Mitigation Ratios. As described in Section IV.H.1., ODFW concurs with the mitigation ratios proposed by the applicant to establish the size of the HMA. Based upon the mitigation ratios shown in the table, and the acreage of impacts by habitat category and sub-type, and in consultation with ODFW, the HMA must include a maximum of 6,675 acres. The proposed HMA areas have been selected because they are available, have intact high-value habitat desirable for conservation, and suitable habitat in need of enhancement and other

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			management actions to restore its potential as high-quality Category 2 big game habitat. Changes to the Proposed Order are <u>were</u> not recommended in response to this comment.

Based on the Department's ongoing review of the facts and evidence on the record, the following recommended site certificate conditions, Section, and Plans were materially revised in the Proposed Order:

- Proposed Order Section IV.D., Soil Protection: The Department ~~recommended~~ adding the "amendment clause" to Attachment I to the Proposed Order, the Draft Fugitive Dust Control Plan imposed under Recommended Soil Protection Condition 1. The reasons that necessitate adding the plan amendment clause are provided in Proposed Order Section IV.A.1.1: ORS 469.402: Council Delegation to Department for Future Review and Approval of Site Certificate Conditions and Mitigation Plans.
- Proposed Order Section IV.K., Historic, Cultural, and Archaeological Resources: The Department ~~recommends-recommended~~ amending Table 21 with NRHP eligibility recommendations from the applicant's technical reports and SHPO concurrence.
- Proposed Order Section IV.Q., Noise Control Regulations for Industry and Commerce: The Department ~~recommends-recommended~~ updates to findings in Section and Table 28 summarizing compliance with OAR 340-035-0035 based on applicability of OAR 340-035-0035(1)(b)(B)(iii)(III), "Noise Waivers for Solar Facilities". The Department ~~recommends-recommended~~ amending recommended Noise Control Condition 2 to be based on the previously recommended Noise Control Condition 1.

II.D.2 Proposed Order

On December 5, 2025, ~~following the close of the record and Council review of the DPO, the Department issued its Proposed Order, taking into consideration Council comments, timely public comments received, and agency consultation.~~ Concurrently with the issuance of this Proposed Order, the Department issued Notice of Proposed Order and Contested Case.¹⁵ Attachment 1 of the Notice of Proposed Order and Contested Case ~~includes-included~~ a summary of the material changes made from the DPO to the Proposed Order, ~~presented in this order.~~¹⁶

~~Only those persons who commented in writing, or in person/orally at the public hearing, prior to the close of the record of the DPO public comment period (i.e., during the 32-day comment period established in the Notice) may request to participate as a party or limited party in the contested case proceeding. Additionally, to raise an issue in a contested case, the issue must be within Council jurisdiction, and the person must have raised the issue on the record of the DPO with "sufficient specificity to afford the Council, the Department, and the applicant an adequate opportunity to respond."¹⁷ At the conclusion of the contested case proceeding, the Hearing Officer must issue a Proposed Contested Case Order stating the Hearing Officer's findings of~~

¹⁵ See ORS 469.370(4) and OAR 345-015- 0403.

¹⁶ ORS 469. 370(5)(b) The action recommended in the proposed order, including any recommended conditions of the approval, differs materially from that described in the draft proposed order, in which case only new issues related to such differences may be raised.

¹⁷ ~~ORS 469.370(3).~~

~~fact, conclusions of law and recommended site certificate conditions on the issues in the contested case. The Council may adopt, modify or reject the Hearing Officer's Proposed Contested Case Order. If adopted or modified, the order would then be incorporated into the Proposed Order for Council's review.~~

II.D.3 Contested Case Proceeding

~~On December 5, 2026, the Department issued a Public Notice of Proposed Order and Opportunity to Request a Contested Case. The Notice established January 5, 2026, 5:00 p.m. Pacific Time, as the deadline to submit petitions for party or limited party status in the contested case proceeding. Petitions for party status were received from Alvin Alexanderson¹⁸ and Warnock Ranches.¹⁹ On January 8, 2026, Council-appointed Administrative Law Judge (ALJ) Kate Triana issued an Amended Notice of Petitions for Party Status and Order Scheduling Prehearing Conference notifying the Department and applicant of their opportunity to respond to the petitions received.~~

~~Following the contested case proceeding, the Council will issue a Final Order, either approving or rejecting the application based on the standards adopted under ORS 469.501 and any additional state statutes, rules, or local government regulations or ordinances determined to be applicable to the proposed facility in the Project Order.²⁰ The Council may base its Final Order on the Proposed Order, or it may amend or reject the Proposed Order. If in its Final Order Council approves the application, it will separately issue a site certificate for the facility. On January 23, 2026, ALJ Triana held a Prehearing Conference via Webex videoconference to address the petitions for party status and the Department and applicant's responses to the petitions.~~

~~On February 9, 2026, ALJ Triana issued an Order on Petitions for Party Status and Issues for Contested Case, denying Warnock Ranches' request to participate as a limited party because it failed to submit a timely written comment on the record of the Draft Proposed Order, and granting Mr. Alexanderson's request to participate as a limited party to the contested case. The Order included an appeal statement, notifying petitioners of their opportunity, pursuant to OAR 345-015-0415(9), to appeal the ruling to Council. No appeals were filed. The Council concurs with ALJ Triana's rulings on party status and issues for the contested case and hereby incorporates by reference the February 9, 2026 Order on Petitions for Party Status and Issues for Contested Case.~~

~~ALJ Triana identified the single issue to be addressed in the contested case hearing:~~

- ~~1. Whether, pursuant to OAR 345-022-0060(1) the design, construction, and operation of the facility, taking into account mitigation, are consistent with the~~

¹⁸ YRBAPPDc1 Contested Case Petition Alexanderson 2026-01-05

¹⁹ YRBAPPDc2 Contested Case Petition Warnock Ranches 2026-01-05

²⁰ ~~ORS 469.370(7).~~

general fish and wildlife habitat mitigation goals and standards of OAR 635-415-0025(1) through (6) in effect as of February 24, 2017, for “Habitat Category 2” fish or wildlife species, population, or unique assemblage of species, in that it results in a no net loss of either habitat quantity or quality and provides a net benefit of habitat quantity or quality.²¹

On April 6, 2026, the applicant and the Department each filed a Motion for Summary Determination (MSD) seeking a favorable ruling on the sole issue for the contested case hearing. In a contested case, a Hearing Officer shall grant an MSD if: 1) the pleadings and record in the contested case show there is no genuine dispute regarding a fact that is relevant to resolution of the legal issue as to which a decision is sought (thus there is no reason to engage in the fact finding procedures in a contested case such as examination of witnesses) and 2) the party filing the motion is entitled to a favorable ruling as a matter of law.²²

In their respective MSDs, the applicant and Department argued: 1) Mr. Alexanderson’s proposed scope for assessing if an impact is “unavoidable” goes beyond the scope of what is required under EFSC rules because he contended Council should not look at the facility as proposed by the applicant but rather identify, or require the applicant to identify possible alternative locations for the facility, and 2) conducting mitigation on non-Category 2 habitat, as Mr. Alexanderson suggested should be done, is not required for the mitigation to be consistent with the applicable ODFW rule.

On June 12, 2026, ALJ Triana issued a Consolidated Ruling on Motion for Summary Determination and Proposed Contested Case Order (PCCO).²³ Table XX below presents a summary of the arguments and ruling presented in the PCCO.

²¹ YRBAPPDoc9 OAH Order on Party Status and Issues 2026-02-09

²² OAR 137-003-0580(6).

²³ YRBAPPDoc19 OAH MSD Ruling 2026-06-12

Table A-2: [Summary of PCCO Evaluation](#)

Petitioner Alexanderson Position	Applicant Position	Department Position	ALJ Ruling
Facility impacts to BGWR / Cat 2 habitat are avoidable by locating the facility on non-BGWR lands east of the proposed site and building a transmission line to reach the grid (or in the alternative, that smaller clusters of solar arrays, well separated, could leave critical wildlife corridors at least somewhat functional).	The ODFW Habitat Mitigation Policy does not require an applicant to demonstrate avoidance by considering or choosing alternative projects or project sites. The impacts to habitat within the proposed site boundary are unavoidable because all the land is BGWR and nearly all is Category 2 habitat. To require the Applicant to avoid the Facility site entirely would produce an absurd result. If all BGWR was off limits to development of EFSC energy facilities, more than half of Wasco County and large swaths of Eastern Oregon would be off limits to solar development. The suggestion that the facility could be sited on non-BGWR land to the east does not account for multiple other factors that a developer must take into consideration, e.g., landowner willingness/lease rights, presence of other sensitive features (wetlands, cultural resources), zoning requirements, slope, proximity to transportation, etc.	Council’s analysis of whether a proposed facility is consistent with ODFW habitat mitigation standards, including whether impacts are “avoidable” focuses on impacts within the site boundary proposed by the applicant. EFSC does not require an applicant [for a non-linear facility such as this one] to provide alternative proposals. The impacts to habitat within the proposed site boundary are unavoidable because all the land is BGWR and nearly all is Category 2 habitat.	The proposed facility’s impacts to Category 2 BGWR are unavoidable. ODFW, like EFSC, considers only the impacts to habitat within the site boundary as proposed by an applicant. If ODFW believed its own rules required Applicant to provide alternatives to the proposed site boundary, it could have raised that concern and would not have concurred with the Applicant’s draft Habitat Mitigation Plan. Rather, ODFW, through comments it provided to ODOE, indicated it agreed impacts are unavoidable and that the Applicant must undertake mitigation. An agency’s interpretation of its own rule is entitled to deference. (Consolidated Ruling / PCCO, pp. 39-40).
To demonstrate “no net loss” of habitat quantity or quality, mitigation must protect non-BGWR lands; conserving/enhancing existing BGWR does not qualify under the ODFW rule.	Embedded in ODFW’s Habitat Mitigation Policy is the express understanding that projects can impact wildlife habitat and still comply with the Policy. Applicant will comply with the ODFW Habitat Mitigation Policy via the proposed mitigation measures, developed in coordination with ODFW.	The ODFW rule requires in-kind mitigation for Category 2 - i.e., the mitigation site must recreate similar habitat structure and function to the impacted habitat, which for BGWR means habitat that functions as winter range. The proposed HMAs are in-kind. Further, the HMP’s acreage ratios (with which ODFW concurred) ensure that more Category 2 acreage will be protected and enhanced than will be impacted, satisfying no net loss of quantity and securing a net benefit in quantity and quality over the operational lifetime of the proposed facility, with monitoring and adaptive management.	OAR 635-415-0025(2)(b)(B) does not require a physical replacement of land. Rather, there must be a net benefit in quality or quantity. Evidence shows ODFW reviewed and affirmed the proposed HMAs are acceptable areas for habitat conservation and concurred with the mitigation measure ratios proposed by the Applicant. (Consolidated Ruling / PCCO, p. 41). [Council interprets the OAR 635-415-0025(2)(b)(B) mitigation goal for Category 2 habitat “no net loss of either habitat quantity of quality and to provide a net benefit of habitat quantity or quality” to mean both habitat quantity and quality must be preserved / not suffer a net loss. Therefore, Council does not adopt Section 3.2.2 of the PCCO, which lacked clarity as to the meaning of that rule].
The mitigation plan does not adequately offset a 50-mile long barrier and “shadow effect” of the proposed facility fencing, where big game would also avoid the perimeter outside the fence, resulting in greater wildlife mortality.	The proposed mitigation is based on the acres of permanent and temporary impacts and applicable mitigation ratio, developed in coordination with ODFW.	The fact that the facility will be fenced has been taken into consideration when assessing its impact and mitigation measures.	Mr. Alexanderson did not provide evidence to support these contentions. However, even if presumed to be true, ODFW was made aware of the fence and worked with the applicant on the HMP, therefore, any potential hardships to wildlife were accounted for and will be mitigated through the HMP. (Consolidated Ruling / PCCO, p. 42).
Tygh Ridge Ranch is not appropriate for mitigation because it does not meet ODFW’s requirement that mitigation be “in-proximity” to the impacted habitat.	The Tygh Ridge Ranch HMA is located within one ODFW-designated Priority Wildlife Connectivity Area (PWCA) Region and two PWCA Connectors. PWCA Regions are large, contiguous area and represent the highest-value habitat for facilitating movement from PWCA Region to PWCA Region. Yellow Rosebush will both conserve and enhance the	Under ODFW rule OAR 635-415-0005(13), “in proximity” means within the same home range or watershed, whichever will best benefit the affected populations. Here, ODFW recommended Tygh Ridge Ranch because it is similar (in-kind) habitat,	Tygh Ridge Ranch meets the definition of “in proximity to” in OAR 635-415-0005(13): “within the same home range, or watershed . . .” Like the proposed facility area, Tygh Ridge Ranch is in the Columbia Plateau ecoregion and within ODFW BGWR. It is composed of a similar habitat type as the project

Table A-2: [Summary of PCCO Evaluation](#)

Petitioner Alexanderson Position	Applicant Position	Department Position	ALJ Ruling
	habitat within the Habitat Mitigation Areas. By placing a conservation easement on the Tygh Ridge Ranch and Facility HMAs, Yellow Rosebush will protect wildlife connectivity for the life of the facility. Absent such agreements, these areas could be converted to other uses not conducive to use by big game and other wildlife.	preserves connectivity between key wildlife areas and will provide benefits to species impacted by the facility.	site. ODFW specifically suggested Tygh Ridge Ranch because it is of a similar habitat type as the proposed facility site. (Consolidated Ruling / PCCO, pp. 42-43).
The amount of habitat loss was undercounted; it should be 7,026 acres, rather than 4,992.	The facility’s solar microsites area is 7,026 acres but that is not the same as the “fenced area” or areas of permanent or temporary impact. Facility construction will result in 4,992 acres of permanent impacts. Offsetting habitat mitigation is based on the 4,992 acres that will be permanently impacted.	The facility microsites area (the total area within which the applicant is authorized / is granted the ability to choose where to place facility components) will be 7,026 acres. The area where facility components will be placed (within the microsites area) will take up 4,992 acres.	Mr. Alexanderson appears to have misunderstood the proposal. He is correct that the microsites corridor totals approximately 7,026 acres. However, once built, the proposed facility would not occupy the entire microsites corridor. Rather, it would occupy a total area of approximately 4,992 acres. (Consolidated Ruling / PCCO, p. 43).
Cumulative effects were not considered. The fence around the proposed facility “will add to a big game barrier fence already approved in the adjacent Bakeoven project” which will likely funnel more big game along Bakeoven Road. Further, the proposed Buckley Solar Facility to the north, if fenced, would present another “huge blockade of Priority Wildlife Connectivity Area/BGWR” as could the proposed	EFSC’s Fish and Wildlife Habitat standard does not require site certificate applicants to evaluate habitat impacts from neighboring energy facilities. Petitioner’s argument, taken to its logical conclusion, would require each new renewable energy facility to consider not just every existing energy facility, but each proposed development of any type that affects BGWR without any process or standard for how to prioritize competing needs or determine when cumulative impacts are “too much.” To the extent Petitioner is opposed to the other solar projects in the region, he may participate in those permitting processes.	The issue in the contested case is whether the proposed mitigation achieves no net loss and a net benefit for Category 2 habitat when impacts are unavoidable. Evidence in the record demonstrates those criteria are met. Mr. Alexanderson did not raise a cumulative effects argument in his comments on the DPO (or petition for party status), thus this argument cannot be raised and is beyond the scope of the contested case.	Mr. Alexanderson’s argument fails because he did not previously raise any concerns regarding cumulative impact of multiple facilities, thus the argument exceeds the scope of the issue for the contested case proceeding. Further, Mr. Alexanderson had the opportunity to participate in the permitting processes for previously approved projects and will have the opportunity to participate in future projects. The concerns regarding the cumulative effect of multiple facilities is not a criticism of whether this project meets ODFW’s mitigation goals, but rather a larger concern regarding the state’s energy policies and planning goals. A contested case for a single facility, limited to the issue of whether the facility meets ODFW’s mitigation goals is not the appropriate forum to address that larger issue.

[The PCCO set 5:00 p.m. on July 10, 2026 as the deadline for parties to file exceptions to the PCCO; and 5:00 p.m. on July 24, 2026, as the deadline for any responses to those exceptions. The Council conducted a hearing to review the PCCO and the parties' exceptions and responses on August 20-21, 2026 in The Dalles, Oregon.](#)

[II.D.3.a. Proposed Contested Case Order](#)

[In the PCCO, ALJ Triana granted the Department's and the applicant's Motion\(s\) for Summary Determination and proposed that the Council issue a Final Order granting the requested site certificate consistent with the Department's Proposed Order dated December 5, 2025, including the recommended site certificate conditions.](#)

[II.D.3.b. Council Review and Decision on Exceptions and Responses](#)

[Per OAR 345-015-0475 parties and limited parties may file exceptions to the PCCO with the Council and the other parties and limited parties may file responses to any exceptions. Mr. Alexanderson filed 14 exceptions to the PCCO.²⁴ The applicant and Department filed responses to those exceptions.²⁵ At the August 21, 2026 meeting, the Council conducted a hearing on the exceptions, allowing each party 15 minutes to present their exceptions and responses to exceptions.](#)

[At its September 18, 2026 meeting, the Council conducted a Hearing to Adopt a Final Order under ORS 469.370\(7\), which included a Material Change Hearing, where Council provided an opportunity for the applicant and parties to the contested case to comment on material changes to the proposed order, including material changes to conditions of approval resulting from the council's review.](#)

[A list of the section and condition where material changes were made from the Proposed Order to the draft final order, based on Council review, are provided below.](#)

[Section IV.H Fish and Wildlife Habitat](#)

- [• Fish and Wildlife Habitat Condition 8 and draft HMP \(Attachment P-3 of the Final Order on ASC\)](#)

[Based on the Council's review of the Proposed Order, Hearing Officer's PCCO, Exceptions to the PCCO, and Responses to Exceptions provided at the August 21 and September 18, 2026 EFSC Meetings, the Council adopted changes to the Proposed Order and PCCO into a draft Final Order and Council's CCO.](#)

II.D.4. Final Order

²⁴ [YRBAPPD020 Intervenor Alexanderson's Exceptions to MDSPO 2026-07-10.](#)

²⁵ [YRBAPPD020-1 Applicant Response to Intervenor Exceptions 2026-07-24; YRBAPPD020-2 Department Response to Intervenor Exceptions 2026-07-24.](#)

At the conclusion of the September 18, 2026 Meeting, the Council approved/modified/rejected the Proposed Order and PCCO and granted/rejected issuance of a Site Certificate on a XX to XX vote, consistent with Section V. Final Conclusions and Order, of this order. The CCO is provided as Attachment 1 of this order.

On DATE, the Department posted to its website and provided notice to the contested case service list of the issuance of the final order. The Council's final order is subject to judicial review by the Oregon Supreme Court. Only a party to the contested case proceeding may request judicial review and the issues on appeal are limited to those raised by the parties to the contested case proceeding. A petition for judicial review must be filed with the Supreme Court within 60 days after the date of service of the Council's final order or within 30 days after the date of a petition for rehearing is denied or deemed denied. Notice of appeal rights is presented following Section V. Final Conclusions and Order of the Council of this order.

III. DESCRIPTION OF THE PROPOSED FACILITY

Under the mandatory condition established under OAR 345-025-0006(3) (imposed under General Standard of Review Condition 1), if the applicant is granted a site certificate it must 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. The ~~Department recommends that the~~ Council incorporate the facility description presented below into the site certificate, as presented in Attachment A to this Order.

The facility site boundary includes approximately 8,075 acres (approximately 12.6 sq. miles) in Wasco and Sherman counties, and is approximately 9 miles east of Maupin, Oregon. Within the site boundary there is a 7,026 acre (approximately 11 sq. miles) solar micrositing area located entirely within Wasco County on land zoned for Exclusive Farm Use (EFU). Also within the site boundary is a "Transmission Line Corridor" which applies to the alternate POI, and includes a 4.5 mile, 500 kV transmission line extending 2.6 miles within Wasco County and 1.9 miles in Sherman County. A micrositing corridor is a continuous area of land within which construction of facility components may occur, subject to site certificate conditions (OAR 345-001-0010(21)).

III.A. Proposed Facility Components

The proposed facility would have a generating capacity of 800 MW, with an 800 MW Battery Energy Storage System (BESS). Figure 1 below shows the general facility location. Table 2 below summarizes major facility components of the energy facility and related or supporting facilities. The values and specifications provided in the table represent the highest-impact design scenario for the proposed facility, as proposed by the applicant. The design scenario used for the purposes of the evaluation is depicted in Figure 2 below, which illustrates the proposed

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micrositing area within the larger site boundary.²⁶ Additional details regarding specific components, and discussion of alternative designs or technologies under consideration are provided in the sections that follow.

²⁶ YRBAPPD01-4 ASC Exhibit C. Project Location 2025-09-05, Figure C-1 and C-2

Table 2: Facility Component Summary

Component and Design Standard	No.	Unit
Site Boundary		
Site Boundary	8,075	acres
Solar Micrositing Area	7,026	acres
Maximum Footprint ¹	5,013 7,026	acres
Solar Array Footprint	5,013	acres
Solar Components		
PV Solar Panels		
Approx. total number	2,037,360	panels
Max Height at full-tilt	12	feet
Posts		
Approx. total number (assumes 10% concrete foundation)	346,351	posts
Tracker System		
Tracker Strings	20,622	each
Combiner Boxes	6,800	each
Inverters and Step Up Transformer Stations		
Foundations for Inverter/ISU Stations	10/20/3	L x W x Depth
Approx. total number of Inverters	199	each
Noise level	105	dBA
Approx. total number of Transformers	199	each
Noise level	105	dBA
Transformer oil-containing capacity: • Step Up Transformers	562	Gallons/ea
Related or Supporting Facility Components		
34.5 kV Collection System		
Collector line length, belowground	263	miles
Underground depth	3	feet
Collector line impact acreage; temporary disturbance corridor (limit)	123; 300	Acres; foot corridor
Collector Substations		
Substations w SCADA	1	each
Site size	19.5	acres
substation fence	19.5 /8 ft	area/height
Generator step-up transformers	4	
Transformer oil-containing capacity	20,500	gallons/each
Transformer noise level	114	dBA
Max height of structures	50	feet
500 kV Point of Interconnect (POI) Two Options		

Table 2: Facility Component Summary

Component and Design Standard	No.	Unit
1. BPA Switchyard		
Length of 500 kV gen-tie	1,000	feet
Transmission line, temporary disturbance corridor (limit)	100	Width, feet
Site size	20	acres
Height of structure (steel monopole)	160-180	feet
2. BPA Buckley Substation		
500 kV Transmission Line (Option 2 includes 500 kV T-Line)		
Length	4.5	miles
Transmission line, temporary disturbance corridor (limit)	100	Width, feet
Transmission Line Corridor	250	Width, feet
Structures: Type (Steel monopoles, or other w/ dead-end structures); quantity	25	each
Height of structures	160-180	feet
Battery Energy Storage System (BESS)		
Lithium-ion		
BESS - Non additive, low-side AC coupled	2	units
Approx. total batteries/containers on foundations with HVAC and fire suppression systems; SCADA	1,220	Per unit
Inverters	89	Per unit
Site size	44.2	acres
Approx. container dimensions	10 x 12 x 36	H x W x L; feet
Noise level (broadband)	92	dBA
O&M Building		
Quantity	1	each
Site size	3.9	acres
Building size	5,000	Sq. feet
Structure dimensions	24 x 24 x 60	H x L x W; feet
Appurtenances	On foundation, graveled parking, On-site well, septic system, SCADA System	
Facility Roads		
Length - includes new (31.3 mi) and modified existing roads (2.1 mi)	33.4	miles
Width	20	feet
Temporary disturbance acreage; corridor	25.4; 20	Acres; foot

Table 2: Facility Component Summary

Component and Design Standard		No.	Unit
Emergency Vehicle Turning Radius (new roads)		48	feet
Emergency Vehicle Grade Limit (new roads)		10	Percent
Road Material (new roads)		Gravel, compacted aggregate or surface suitable for 75k lbs	
Perimeter Fence			
Length		49.7	miles
Height		8	feet
Primary access description		From Wilson Road, 24 foot-wide <u>24-foot-wide</u> gate(s)	
Vegetation/defensible space maintenance area (from interior of perimeter fence)	50	feet	
Temporary Construction Areas			
Quantity		2	each
Site size		3.5/20	acres
Description		Adjacent to O&M and in other areas within fenceline	
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. The proposed energy facility would occupy approximately 7,026 acres within fenced micro siting areas. The entire energy facility footprint is considered a permanent disturbance area for the purposes of evaluating Fish and Wildlife Habitat; however, facility components would not occupy the entire area and under Council’s Soil Protection standard, impacts within the micro siting area are not considered permanent.			
Source: YRBAPPDoc1-3 ASC Exhibit B. Project Description 2025-09-05			

Figure 1: Proposed Facility Location

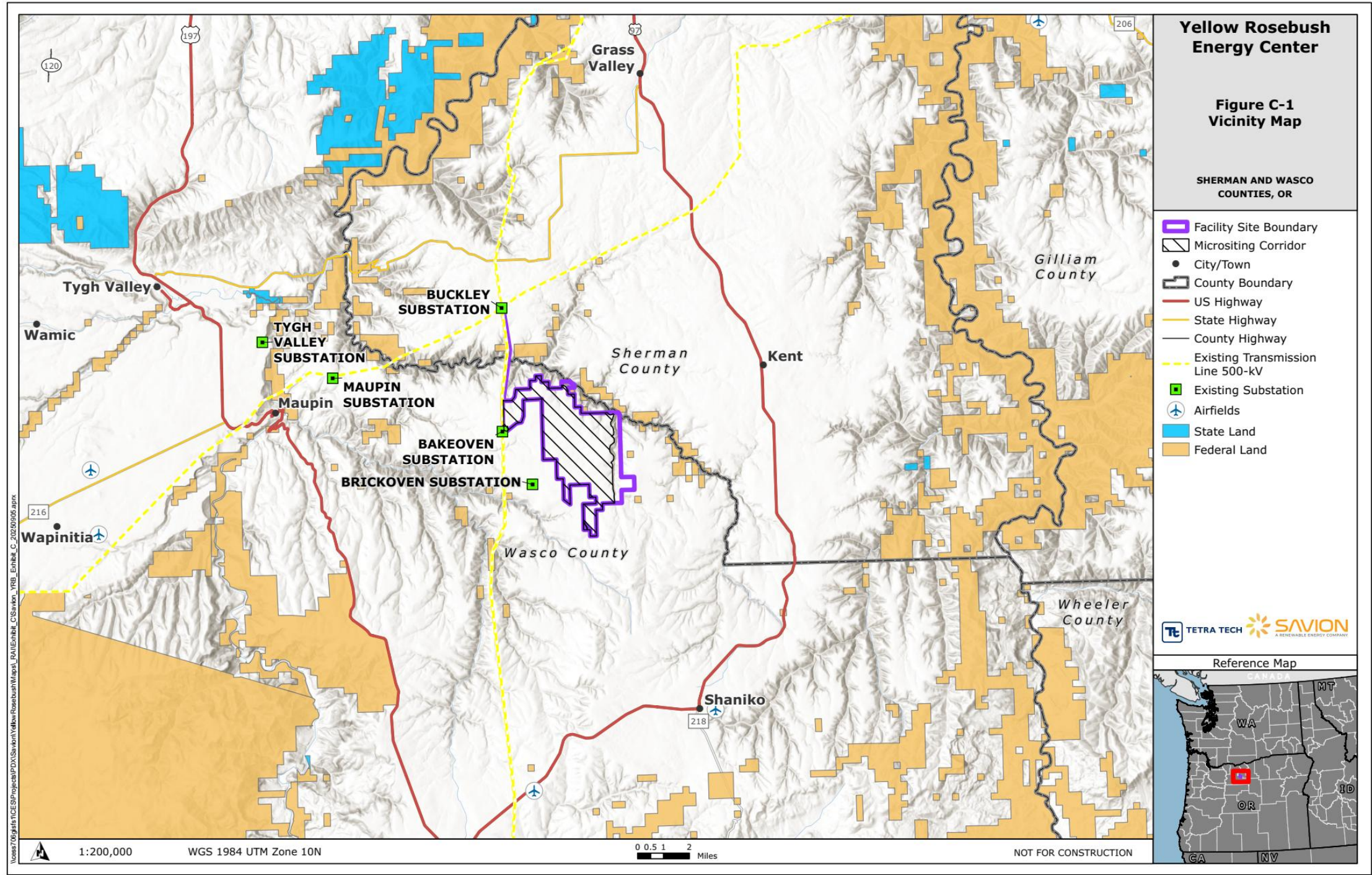
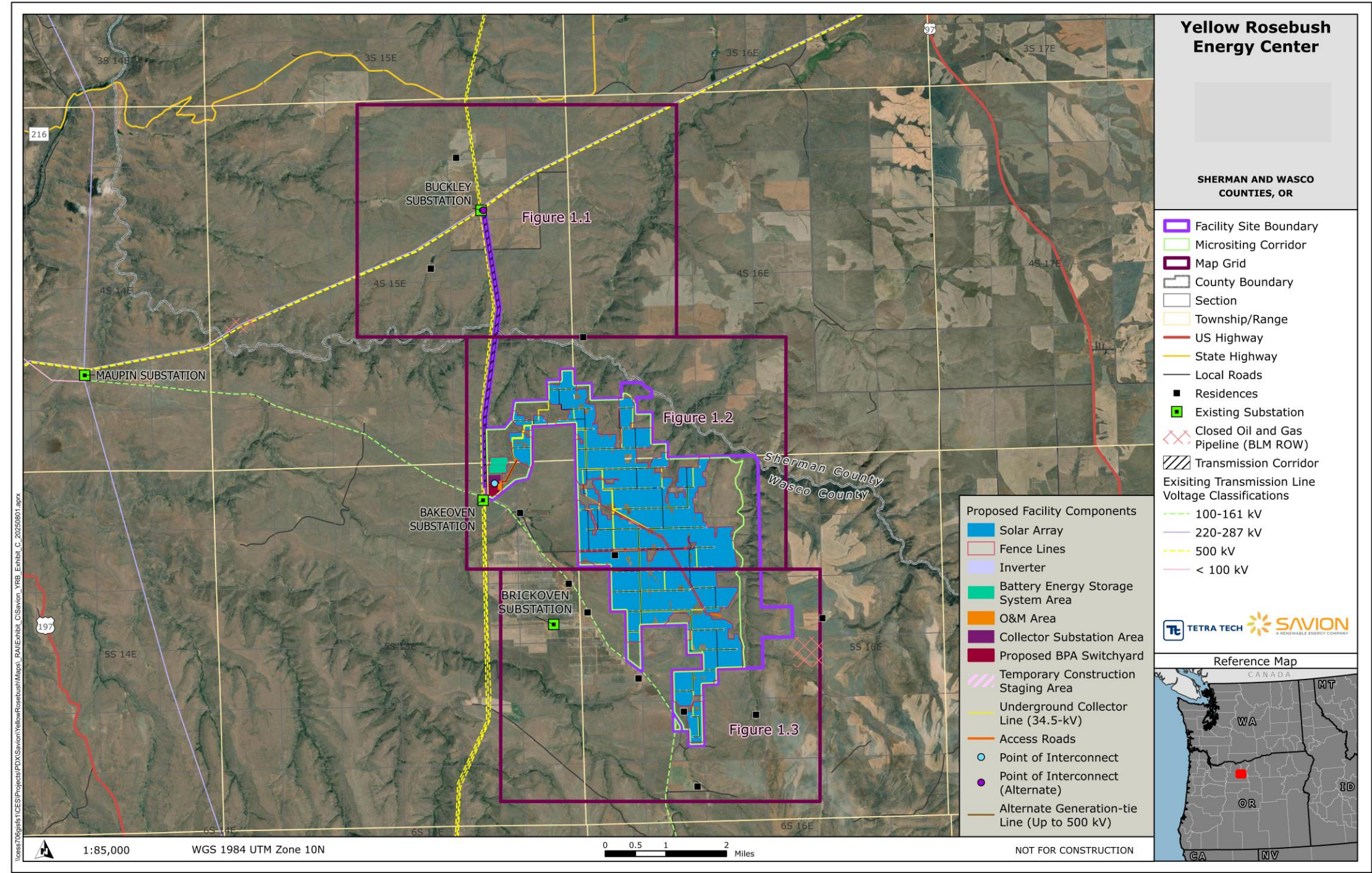


Figure 2: Proposed Facility Site Boundary, Micrositing Area, and Component Layout



III.A.1. Energy Facility

As proposed, the facility would include a solar photovoltaic (PV) power generation facility with up to 800 MW of electric generation capacity. ORS 469.300(14) defines “facility” as an “energy facility together with any related or supporting facilities.” A related or supporting facility is defined as “any structure, proposed by the applicant, to be constructed or substantially modified in connection with the construction of an energy facility.”²⁷ The energy facility and its related or supporting facilities are described further below, with a similar description provided in Attachment A to this order, the ~~draft~~ site certificate. The solar microsite area would occupy up to 7,026 acres (11 sq. miles) including all facility components, except the alternative 4.5-mile 500-kV transmission line corridor. The solar microsite area, O&M building, BESS, and substation would be enclosed within a fence line. The applicant will maintain a wildfire defensible space to at least 50 feet from the interior of the fence line to all facility electrical components. See Section III.A.2.6, *Security Fencing and Gates*, IV.E.1.1 *Land Use*, and IV.N., *Wildfire Prevention and Risk Mitigation*, of this order.

III.A.1.1 Photovoltaic Panels

The PV panels are constructed with heat strengthened glass and anti-reflective coating and electrically connected through medium-voltage 34.5-kilovolt (kV) underground wiring to associated power inverters that convert direct current (DC) electricity generated by PV panels to alternating current (AC) electricity used by the regional electrical grid, described further in this section. Approximately 2,037,360 panels would be configured into strings, and strings would be grouped into blocks, which will be further grouped into the solar arrays.²⁸ The maximum height of the solar array will be 12 feet when the panels are fully tilted on the tracking system. The approximate separation distance of each string is between 20 and 30 feet. This spacing allows for adequate separation of solar blocks to provide first-responder access along interior roads as well as for operations and maintenance.²⁹ The solar array includes shielded electrical cabling, as required by applicable code.

III.A.1.2 Tracker and Racking System with Piles

The PV panels would be mounted on single-axis motorized trackers, a galvanized metal racking system that secures the panels to the installed foundations. PV panel and tracker installations will be constructed on driven steel piles (i.e., H-pile, C-pile, S-pile) using pneumatic techniques on tracked equipment. Pile locations will be determined by the final layout of the tracker system and geotechnical/soil investigations of the solar microsite corridor. The ASC assumes approximately 346,351 piles would be needed and approximately 10 percent of piles would use concrete foundations where each concrete foundation would use approximately 0.3 cubic yards of concrete. After the piles are installed, tracker motors, torque tubes, and other components

²⁷ ORS 469.300(24).

²⁸ YRBAPPD1-3 ASC Exhibit B. Project Description 2025-09-05, Section 2.2.1.

²⁹ YRBAPPD1-3 ASC Exhibit B. Project Description 2025-09-05, Section 2.2.1.

would be assembled. PV panels may be secured directly to the torque tubes using panel clamps, or for other single-axis tracking systems, a galvanized metal racking system that secures the panels to the installed foundations will then be field-assembled and attached.

III.A.1.3 DC Cabling System

Low-voltage cabling connects the solar panels of each tracker string in a series and combine multiple strings to a single combiner box. Cabling from multiple combiner boxes connect to a single inverter, which will convert the DC to AC and connect to the buried 34.5 kV collection system. Cabling can be mounted to the tracker system, placed in cable trays, or buried. The preliminary cabling system uses approximately 6,800 combiner boxes. Cabling can be mounted to the tracker system, placed in cable trays, or buried; but is assumed to be buried approximately 3 feet below grade.³⁰ Cable associated with the solar array will be located within the solar micro-siting corridor and the majority will be within the solar array perimeter fence. No overhead collector lines are proposed.

III.A.1.4 Inverters and Inverter Step Up (ISU) Transformers

Inverter step-up (ISU) transformers increase the output voltage from the inverter to the voltage for the electrical collection system (i.e., 34.5-kV). The inverters and ISU transformers will be located together at stations dispersed throughout the solar array and there are up to 199 inverter/ISU transformer stations proposed. Inverters and ISU transformers will comply with the applicable requirements and standards of the National Electric Safety Code and Institute of Electrical and Electronics Engineers.³¹ Concrete foundations for inverters are approximately 10 feet by 20 feet, between 2 to 3 feet in depth. Gravel base will extend a minimum of four feet beyond the concrete foundations and actual dimensions will be determined at final design.³² Each step-up transformer has an oil capacity of 562 gallons. One substation transformer has an oil capacity of 20,500 gallons.

III.A.1.5 34.5 kV Electrical Collection System

From the inverters, medium-voltage 34.5-kV collector lines will be encased in conduit and buried approximately 3 feet below grade. Approximately 263 miles of underground 34.5 kV collector lines will be routed to the facility collector substation and stepped up to 500-kV.

III.A.2. Related or Supporting Facilities

Proposed related or supporting facilities include an 800-MW battery energy storage system (BESS), collector substation, operations and maintenance (O&M) building, gen-tie line, site

³⁰ YRBAPPD1-3 ASC Exhibit B. Project Description 2025-09-05, Section 2.2.4.

³¹ YRBAPPD1-3 ASC Exhibit B. Project Description 2025-09-05, Section 2.2.3.

³² YRBAPPD1-3 ASC Exhibit B. Project Description 2025-09-05, Section 2.2.3.

access and service roads, perimeter fencing and gates and temporary construction staging areas.

III.A.2.1 Battery Energy Storage System

The battery energy storage system (BESS) will be designed to provide up to 800-MW of storage capacity and will be located on the west side of the facility, directly north of the collector substation, in an approximately 44.2 acre area fenced separately from the solar array, near the substation. The battery storage system would be located on land flatter than a 40 percent slope (WCLUDO Section 10.110(A)), and set back at least 50 feet from any slopes greater than 30 percent (WCLUDO Section 10.110(B)). A 50-foot fire fuel break will be cleared and maintained around the BESS (WCLUDO Section 10.120(A) and (B)). The BESS will be located within a separate fenceline and constructed on concrete slabs with gravel base extending from the structure; the fenced areas around the BESS will be graveled with no vegetation present.

The BESS will use up to 1,220 self-contained enclosures (steel container boxes), each that house the Lithium-ion (Li-ion) battery cells, modules, racks and containers, inverters, transformers, and switchboards. Design of the battery energy storage system will be in accordance with applicable UL Solutions (specifically, 1642, 1741, 1973, 9540A; UL Solutions 2023), National Electric Code, and National Fire Protection Association (specifically 855) standards, which require rigorous industry testing and certification related to fire safety and/or other regulatory requirements applicable to battery storage at the time of construction. A gravel base will extend a minimum of four feet beyond the container concrete pads and actual dimensions will be determined at final design. Additional elements the BESS will include, but not be limited to are:

- Balance of plant equipment and control instrumentation including medium voltage and low-voltage electrical systems, fire suppression, HVAC systems for cooling, building electrical systems, and SCADA systems.
- High-voltage (HV) equipment includes HV circuit breaker, HV current transformers and voltage transformers, a packaged control building for the HV breaker and transformer equipment, HV towers, structures, and HV cabling, a SCADA system, a fire prevention system, and cooling units placed either on top or along the side of the container.

Each enclosure will be approximately 12 x 36 x 10 (W x L x H, feet), and will be located on a concrete pad.

The Li-ion battery cells are expected to have a lifespan of 20 years, requiring a replacement of all the Li-ion cells at least once during facility operations. Used Li-ion batteries are generally considered to be hazardous waste by the EPA and must be transported and disposed of according to the most current guidelines at end of life. Transportation of Li-ion batteries is subject to 49 CFR 173.185 – Department of Transportation Pipeline and Hazardous Material Administration.

1 *III.A.2.2 Collector Substation*

2
3 The collector substation will be located near Bakeoven Road on the eastern part of the facility
4 site boundary within an approximately 19.5-acre area enclosed and locked by a 6 to 8 foot tall
5 chain-link fence; and will be fenced separately from the solar arrays. The substation will be
6 located within a separate fenceline; the fenced areas around substation will be graveled with
7 no vegetation present. Gravel base will extend a minimum of four feet beyond the collector
8 substation and actual dimensions will be determined at final design. The collector substation
9 will use up to four generator step-up transformers to step up power from 34.5-kV to 500-kV at
10 the Point of Interconnect (POI) to the regional electrical grid. The substation also includes gen-
11 tie line termination structures, a bus bar, circuit breakers and fuses, control systems, meters,
12 and a control building. The tallest substation component is approximately 50 feet tall.

13
14 *III.A.2.3 500-kV Transmission Lines*

15
16 Two POI options are proposed and would have alternate 500 kV transmission line routes as
17 described below. Both alternatives are shown in Figures 1 & 2 and are included in the site
18 boundary.

- 19 • The primary POI would be located at the proposed BPA switchyard that is within the site
20 boundary and solar micro siting area, and would be developed by BPA. The facility's
21 collector substation would connect to the adjacent BPA switchyard and then the BPA
22 switchyard would connect to the BPA 500-kV John Day to Grizzly transmission line
23 located directly adjacent to the westernmost edge of the facility.
- 24
25 • The alternate POI includes an up to 500-kV generation-tie (gen-tie) line of 4.5 miles
26 (approximately 2.6 miles within Wasco County and approximately 1.9 miles within
27 Sherman County) which would then connect to BPA's existing Buckley Substation
28 located in Sherman County north of the site boundary. The alternate gen-tie line would
29 start at the collector substation and run east of and parallel to the BPA's 500-kV
30 transmission line corridor and connect to the Buckley Substation. 500-kV gen-tie will be
31 supported by approximately 160 to 180-foot steel monopoles that would be spaced
32 approximately 1,000 feet apart. Pulling and tensioning sites would be spaced
33 approximately 10,000 feet apart and be 100- feet wide by 600-feet long and located
34 within the gen-tie right of way. The applicant has requested this alternative be included
35 in the site boundary and site certificate with the understanding that if selected for
36 construction, additional review and approval per preconstruction conditions would
37 apply.

38
39 Vegetation in the transmission corridor, and particularly around related infrastructure (e.g.,
40 poles), would be maintained pursuant to the Minimum Vegetation Clearance Distances defined
41 under North American Electric Reliability Corporation and National Electric Code standards.

42 *III.A.2.4 Operations and Maintenance Building*

The O&M building will be located within an approximately 3.9-acre area south of the collector substation and within the same fenced area as the BESS and substation. The O&M building would be located on land flatter than a 40 percent slope (WCLUDO Section 10.110(A)), and set back at least 50 feet from any slopes greater than 30 percent (WCLUDO Section 10.110(B)). A 50-foot fire fuel break will be cleared and maintained around the O&M building (WCLUDO Section 10.120(A) and (B)). The proposed BESS, substation and O&M building will be located within a separate fenceline and constructed on concrete slabs with gravel base extending from the structure; the fenced areas around the O&M building will be graveled with no vegetation present.

The O&M building design is estimated to be 24 feet long, 60 feet wide, and approximately 24 feet tall. Gravel base will extend a minimum of four feet beyond the O&M building components and actual dimensions will be determined at final design. The O&M building includes a SCADA control room, a work area to perform minor repairs, and a storage area for spare parts, transformer oil, and other chemicals. The SCADA system collect operating and performance data from the solar array, substation and BESS and allows for remote operation and monitoring of the solar array, BESS, electrical components and collector substation components from a control room in the O&M building and by a remote operations center.³³ Fiber optic cables for the SCADA system will be installed with the collection system in the same trench where the collection system is buried. Off-site, 24-hour monitoring of the battery energy storage system will be implemented through use of the SCADA and will include shutdown capabilities.

III.A.2.5 Access and Service Roads

Approximately 31.3 miles of new service roads will be constructed within the solar micrositng area to provide access to the solar arrays and related or supporting facility components.³⁴ Approximately 2.1 miles of existing roads may need improvements or alterations to accommodate construction and operation of the facility for a total of 33.4 miles of service roads. The service roads within the solar array will be up to 20-feet wide with up to a 48-foot turning radius and less than 10 percent grade to provide access to emergency vehicles. Road surfaces will be gravel, compacted aggregate base, or another commercially available suitable surface and be able to support 75,000 pounds. Vegetation will be cleared and maintained along perimeter service roads to provide vegetation clearance for fire safety.

III.A.2.6 Security Fencing and Gates

The solar facility and related or supporting facilities will be enclosed by approximately 49.7 miles of perimeter fencing. WCLUDO Section 10.120 defensible space standards will be applied

³³ YRBAPPDoc1-3 ASC Exhibit B. Project Description 2025-09-05, Section 3.3.

³⁴ Ibid., Section 3.5.

from at least 50 feet of the interior of the fenceline to all facility electrical components. The standards for maintaining the minimum 50 foot fuel break area include:³⁵

- Ground cover maximum 4 inches tall;
- Trees limbed up approximately 8 feet from the ground,
- Trees kept free from dead, dry, or flammable material;
- Ladder fuels must be removed;
- No shrubs or tall plants under trees;
- Shrubs only in isolated groupings that maximize edges of ornamental beds to avoid continuous blocks of ground fuel;
- Keep shrubs and ornamental beds 15 feet away from edge of buildings and drip line of tree canopy; and
- Use well irrigated or ~~flame-resistant~~ flame-resistant vegetation.

The solar arrays will be enclosed by fixed-knot (or a similar wildlife friendly option) or chain-link perimeter fencing up to 8 feet in height. The BESS, collector substation, O&M building and BPA's switchyard will have an additional separate fencing that will be up to 8 feet in height (6 to 7 feet of fence, crowned with 1 foot of barbed wire [three strands]), mounted on 45-degree extension arms facing outwards. The fence posts will be set in concrete and/or driven into the ground. Fencing may be raised off the ground approximately 6 to 8 inches to accommodate small animal movement under the fence.

All access points would be locked and gated. If first responders needed to access the site for any reason, a key would be available in a lock box or some other approved method as designated in the finalized Wildfire Mitigation Plans. The perimeter fence would have 24-foot-wide security gates installed at various locations for ingress and egress. Access through the main gates would require an electronic swipe card to prevent unaccompanied visitors from accessing the facility. Facility personnel, contractors, agency personnel, and visitors would be logged in and out during normal business hours. Visitors would be allowed entry only with approval from facility staff. Additional security may be provided by closed-circuit video surveillance cameras or other anti-intrusion systems.³⁶ Vegetation build up in the fence line(s), will be removed.

III.A.2.7 Facilities for Chemical Storage

During construction small quantities of chemical materials may be used in the temporary construction yards and stored at the operations and maintenance (O&M) building once constructed. Such materials may include cleaners, insecticides or herbicides, and paint or solvents. None will be present in substantial, reportable quantities and materials will be

³⁵ The applicant will maintain a wildfire defensible space to at least 50 feet from the interior of the fenceline to all facility electrical components. See Section III.A.2.6, *Security Fencing and Gates*, IV.E.1.1 *Land Use*, and IV.N., *Wildfire Prevention and Risk Mitigation*, of this order. And YRBAPPDoc19 ASC Applicant Response to RFPa pASC Comments 2025-09-10.

³⁶ YRBAPPDoc1-3 ASC Exhibit B. Project Description 2025-09-05, Section 3.6.

1 handled in accordance with state and federal standards. On-site fuel storage may be placed in
2 designated areas within the temporary staging areas. If needed, the applicant or the applicant's
3 contractor may use a maximum tank size of 1,000 gallons on-site for fuel storage. This tank will
4 likely be on the back of a trailer. The estimated amount of diesel that may be stored on-site is
5 approximately 3,000 gallons using three tanks. The estimated amount of gasoline that may be
6 stored on-site is approximately 300 gallons using three 100-gallon tanks that will likely be on
7 the back of a trailer.

8
9 During operations, primary chemical storage will occur in the transformers that use oil for
10 cooling. The estimated oil capacity of one step-up transformer is 562 gallons. At 199 estimated
11 total transformers, the total oil (mineral oil) is estimated to be 111,838 gallons. The estimated
12 oil capacity of one substation transformer is 20,500 gallons.

13
14 Secondary containment and refueling procedures for on-site fuel storage, if needed, will follow
15 the contractor's Spill Prevention, Control, and Countermeasures Plan (SPCC) Plan required for
16 both construction and operations.

17
18 Small quantities of lubricants, degreasers, herbicides, or other chemicals may be stored in the
19 O&M building during operations. Storage of these chemicals will follow label instructions. No
20 underground storage tanks will be installed at the O&M building. No extremely hazardous
21 materials identified under 40 Code of Federal Regulations (CFR) 355 are anticipated to be
22 produced, used, stored, transported, or disposed of within the site boundary during facility
23 construction or operation.

24 25 *III.A.2.8 Temporary Construction Areas*

26
27 Temporary construction staging and equipment laydown will occur within the approximately
28 3.5-acre and 20-acre temporary construction staging areas in the solar microsites corridor.
29 Temporary construction staging areas are needed to facilitate construction, they include fenced
30 parking areas, materials disposal facilities, construction trailers, a laydown area, mobile trailers
31 for construction management, and portable toilets and potable water for construction staff.
32 Temporary construction staging areas may move within the facility site boundary to support
33 construction and also occur in the BESS, collector substation, and O&M areas during
34 construction and prior to facility operations.

35 36 **III.B. Proposed Facility Location, Site Boundary, and Micrositing Area**

37
38 The proposed facility site boundary includes approximately 8,075 acres (approximately 12.6 sq.
39 miles) within Wasco and Sherman counties, located approximately 9 miles east of Maupin,

- 1 Oregon.³⁷ Table 3 below provides the Township, Range, and Sections occupied wholly, or in
- 2 part, by the proposed site.

**Table 3: Township, Range, and Section for Areas Occupied by
the Site Boundary**

Township	Range	Section	County	Tax Lot ID Number
5S	16E	0	Wasco	900
5S	16E	0	Wasco	1000
5S	16E	0	Wasco	1300
4S	16E	0	Wasco	300
4S	15E	0	Wasco	100
4S	15E	0	Wasco	1500
5S	15E	0	Wasco	300
4S	15E	0	Sherman	300
4S	15E	0	Sherman	301
4S	15E	0	Sherman	2100
4S	15E	0	Sherman	2200
4S	15E	0	Sherman	3200
4S	15E	0	Sherman	3400

- 3
- 4 Within the site boundary, there is a proposed transmission line corridor and solar micrositng
- 5 area.³⁸ The transmission line corridor applies to the alternate POI, a proposed 4.5 mile, 500 kV
- 6 transmission line extending 2.6 miles within Wasco County and 1.9 miles in Sherman County.
- 7 The alternate POI is presented in Figure 1 below, as “Transmission Line Corridor”. The
- 8 proposed solar micrositng area is 7,026 acres (approximately 11 sq. miles), located entirely
- 9 within Wasco County (See Figures 1 and 2 above). As discussed in Section IV.H., *Fish and*
- 10 *Wildlife Habitat*, the eastern portion of the proposed site boundary, outside of the micrositng
- 11 area for siting of facility components, includes some of the proposed habitat mitigation area
- 12 (HMA).

III.C. Proposed Facility Construction, Operation and Retirement Activities

³⁷ OAR 345-001-0010(31) defines “site boundary” as “the perimeter of the site of a proposed energy facility, its related or supporting facilities, all temporary laydown and staging areas and all corridors and micrositng corridors proposed by the applicant”.

³⁸ OAR 345-001-0010(21) defines “micrositng corridor” as a continuous area of land within which construction of facility components may occur, subject to site certificate conditions. Council permits final siting flexibility within a micrositng corridor when an applicant demonstrates that requirements of all applicable standards have been satisfied by adequately evaluating the entire corridor and location of facility components anywhere within the micrositng area or corridor, subject to site certificate conditions, as discussed in the applicable sections of this order.

1 **III.C.1. Proposed Construction Activities**

2
3 Construction activities will include:

- 4
- 5 • Site preparation and grading of the site, staging areas and onsite service roads; existing
 - 6 vegetation will be maintained to the maximum extent practicable
 - 7 • Installation of array piles, conductors, and O&M building
 - 8 • Assembly of solar panels and electrical connection components
 - 9 • Construction of inverter pads and battery pads, collector substation, BESS, cabling,
 - 10 terminations and transmission line;
 - 11 • Commissioning of the solar area and interconnection, revegetation and waste removal
 - 12 and recycling
- 13

14 As discussed in Section IV.D., *Soil Protection*, the ~~Department recommends~~Council finds that
15 the applicant will be required to submit a grading plan, for review and approval, that
16 demonstrates minimal disturbance at any given time, adequate BMPs and a plan to preserve
17 existing vegetation (e.g., crop stubble, fallow vegetation) and associated root systems to the
18 maximum extent practicable.

19

20 The applicant proposes to commence construction on or after June 2027 and complete in two
21 phases (400 MW each phase) by 2035. Under current planning, construction activities are
22 anticipated to occur in 2 phases, totaling up to 6 years (36 months for each phase for a total of
23 72 months) of onsite activity until commencement of commercial operations. Phase 1
24 construction would begin in 2027 and be completed in 2030 and reach commercial operations
25 in 2030. Phase 2 would begin construction in 2032 and be completed in 2035 and the full
26 facility build-out would be complete and achieve commercial operations in 2035. The applicant
27 has requested flexibility in construction phases and schedule based on final design and market
28 demand but commits to completion by 2035, unless a deadline extension were to be requested.

29

30 It is estimated that 870 trips (435 roundtrips) would be generated daily during the peak of
31 construction. As described above, this estimate is conservative and based on the maximum
32 peak workforce. The number of onsite workers would not exceed 400. Approximately 800 of
33 these trips would be commuting trips by the workforce. The remaining 70 trips would be from
34 truck traffic generated by material and equipment deliveries and water trucks. Main haul routes
35 include Interstate 84 and US 97 from the North with access to the facility from Bakeoven Road
36 (accessed from US-97). The facility can also be accessed from the South via US-97 to Bakeoven
37 Road. The facility can also be accessed from the South via US-97 to Bakeoven Road. Haul trucks
38 are precluded from accessing the site via Highway 197 through Maupin, unless approved by
39 ODOT and/or City of Maupin, as discussed in this order.

40

The primary use of water during construction would be for dust control on access roads.³⁹ Water use estimates for dust control assume 100,000 gal per day, 6 days per week, will be needed during construction. Worst-case water use amounts may result from construction in particularly dry weather conditions with high temperatures, which are estimated to increase water use for dust control by approximately 50 percent over average conditions. Based on this assumption, a worst-case water estimate could increase the total construction water use total to approximately 54.5 million gallons. In addition to dust control, water will be required for road compaction, concrete mixing and sanitation/drinking water.

If needed during construction, the applicant or the applicant's contractor may use a maximum tank size of 1,000 gallons on-site for fuel storage. This tank will likely be on the back of a trailer. The estimated amount of diesel that may be stored on-site is approximately 3,000 gallons using three tanks. The estimated amount of gasoline that may be stored on-site is approximately 300 gallons using three 100-gallon tanks that will likely be on the back of a trailer.

III.C.2. Proposed Operational Activities

Operation and maintenance activities include:

- Use of O&M Building

Total water consumption at the O&M building for up to 15 full-time equivalent staff is anticipated to be approximately 50 gal per day, for a total of up to 12,500 gal per year.

- Routine inspections and monitoring of equipment associated with solar array and BESS.
- Routine replacement/repairs of solar array equipment and BESS components.

Each type of electrical facility component would have routine inspections as designated in Section IV.N., Wildfire Prevention and Risk Mitigation and the operational Wildfire Mitigation Plan. Individual batteries associated with the BESS will be inspected according to the manufacturer's recommendations and will need to be replaced approximately every 20 years, and every battery will be replaced during the life of the facility.

- Periodic panel washing of solar panels.

The solar panels may require periodic washing during operations, and other incidental water use for sanitation and equipment washing. The applicant estimates that the facility will use

³⁹ Note that other dust suppressants besides water may be used as necessary during extreme drought conditions (synthetic polymer emulsions, chemical suppressants, organic glues, and wood fiber materials) depending on site conditions (to be applied by trained and certified vendors familiar with applicable environmental regulations including the federal Endangered Species Act, the Clean Water Act, the Salmon Recovery Act, and state and local regulations).

approximately 512,000 gallons of water per year in total. For the purpose of this analysis, it is conservatively assumed that the solar array panels will be washed once a year. At an estimated 0.26 gal (1 liter) per panel for a total of 2,037,360 panels will use approximately 521,000 gal per year. The use of 521,000 gal per year for this purpose will result in an average daily consumption during operations of approximately 1,427 gal.

- Vegetation and weed management per the Revegetation and Reclamation Plan, and Noxious Weed Control Plan.

Vegetation will be cleared and maintained along access roads to provide a vegetation clearance area for fire safety. This will include mowing to a height of no more than 12 inches. Use of the roads may continue after construction, or new roads may be removed, and the land reclaimed to pre-construction conditions.

- Routine monitoring and maintenance of BMPs, erosion control measures, and internal facility access roads.

To ensure that the facility will not result in increased erosion, the applicant will monitor and maintain BMPs within and along the fenceline and internal facility access roads.

- Above ground fuel/oil tank if applicable

During facility operations primary chemical storage would occur in the transformers that use oil for cooling. The estimated oil capacity of one step-up transformer is 562 gallons and the estimated oil capacity of one substation transformer is 20,500 gallons.

Up to 15 permanent employees would operate and maintain the facility, with occasional delivery or contractor truck accessing the site during operations depending on the type of maintenance activity.

III.C.3. Proposed Retirement Activities

As discussed in Section IV.G., Retirement and Financial Assurance, the estimated useful life of the proposed facility is 40 years. Operational jobs would be eliminated after the facility ceased operating; however, some short-term contract jobs to monitor restored areas may be added to facilitate retirement activities. Decommissioning would require similar workforce numbers as required for the construction of the facility and is estimated to require a similar duration of up to 72 months of onsite work.

Final retirement activities would be designated in a retirement plan but would begin with disconnecting all electrical equipment disassembling equipment and components such as the battery storage units, solar panels and transformers. Larger containers and equipment would

be removed, trucked off-site, and recycled and disposed of. Solar panels would be disconnected, and piles would be removed including the excavation of any concrete foundations. Gravel and foundations from the inverters and transformers, O&M building, substations, and battery units would be removed by trenching and excavation. Consistent with WCLUDO 19.030, all buried cables and transmission line buried less than three feet deep would be removed. The facility site would then be restored through grading, filling, and revegetation with plants or seed mix consistent with applicable plans and conditions discussed in this order or landowner(s) interests.

IV. EVALUATION OF COUNCIL STANDARDS

To issue a site certificate for a proposed facility, the Council must determine that “the facility complies with the applicable standards adopted by the Council under OAR chapter 345 or the overall public benefits of the facility outweigh any adverse effects on a resource or interest protected by the applicable standards that the facility does not meet.”⁴⁰ The Council must also determine that the proposed facility complies with all other Oregon statutes and administrative rules applicable to the siting of the proposed facility, as identified in the Project Order.

This ~~Proposed-Final~~ Order includes the ~~Department’s Council’s~~ analysis of whether the applicant has demonstrated an ability to satisfy each applicable Council Standard based on the information included in the ASC.

IV.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 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

⁴⁰ ORS 469.503(1).

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.

***⁴¹

(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.⁴²

IV.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 a proposed facility would comply with the requirements of EFSC statutes, and the siting standards adopted by the Council and that a proposed facility would comply with all other Oregon statutes and administrative rules applicable to the issuance of a site certificate for the facility.

The requirements of OAR 345-022-0000 are discussed in the sections that follow. The Department consulted with other state agencies, the Wasco County Board of Commissioners and Sherman County Court, as the appointed Special Advisory Groups (SAG) for the proposed facility, during review of the preliminary Application for Site Certificate (pASC) and ASC to aid in the evaluation of whether the proposed facility would satisfy the requirements of applicable statutes, rules and ordinances otherwise administered by other agencies. Additionally, in many circumstances the ~~Council Department~~ relies upon these reviewing agencies' special expertise in evaluating compliance with the requirements of Council standards.

IV.A.1.1 ORS 469.402: Council Delegation to Department for Future Review and Approval of Site Certificate Conditions and Mitigation Plans

Under ORS 469.402, if the Council elects to impose conditions on a site certificate or an amended site certificate that require subsequent review and approval of a future action, the

⁴¹ OAR 345-022-0000(2) and (3) apply to ASCs where an applicant has shown that the proposed facility cannot meet Council standards or has shown that there is no reasonable way to meet the Council standards through mitigation or avoidance of the damage to protected resources; and, for those instances, establish criteria for the Council to evaluate in making a balancing determination. The applicant does not assert that the proposed facility would not meet an applicable Council standard. Therefore, OAR 345-022-0000(2) and (3) do not apply to this review.

⁴² Administrative Order EFSC 1-2017, effective March 8, 2017.

Council may delegate the future review and approval to the Department if, in the Council's discretion, the delegation is warranted under the circumstances of the case.

As a matter of practicality, all site certificate conditions imposed in the site certificate include some form of Department review and/or approval. Therefore, all conditions have a nexus with ORS 469.402. Some conditions require that an applicant demonstrate that it has received proper permits or documentation, or require a demonstration that facility design adheres to established specifications. In these circumstances, the Department's role in finding compliance (approval) with the condition is to verify that the future action described in the condition was completed.

The primary circumstance necessitating the application of ORS 469.402 is associated with the uncertainty of financing and development of the facility; and engineering and design of large energy facilities prior to having secured engineering and design contractors. An energy facility proposed in an ASC represents a facility design that is approximately 30 percent complete. This stage in the facility design includes design features, dimensions, setbacks and resource avoidance areas that are informed by field surveys and desktop analysis conducted in preparation of an ASC. Final facility design, final engineering studies, and the selection of manufacturer and component specifications have yet to be completed or selected when an ASC is submitted.⁴³

The timeline for permitting and construction of large energy facilities also necessitates the application of ORS 469.402. EFSC-approved energy facilities typically have three years to begin construction after Council approval, and then three years to complete construction. In this timespan, circumstances or conditions at the site change, which is why some conditions or mitigation plans include "truing up" information based on the final facility design which must be reviewed and approved prior to construction. For example, surveys for a state-listed Threatened and Endangered Species, Washington Ground Squirrel (WGS), are considered valid for three years because WGS colonies may relocate. Therefore, if construction occurs more than three years from the prior WGS surveys, additional surveys are needed to determine WGS locations. Additionally, in the timeframe between EFSC approval and construction, permits, approvals or filings with other agencies or local governments may expire, which would necessitate resubmission.

Similarly, ORS 469.402 is necessary because many Council standards, conditions of approval and mitigation plans depend on site-specific environmental conditions that change over time. For example, Wildfire Mitigation Plans require a future update of the wildfire risk at the site prior to construction and operation because wildfire risk changes over time. Reference resources used to assess wildfire risk also change.

⁴³ It is important to highlight that final facility design also changes during construction based on resources encountered, soil conditions, or additional setbacks or avoidance needed, therefore the final operational facility "as-builts" may differ from the pre-construction facility design, necessitating review of conditions prior to operation of the facility.

Under OAR 345-025-0016(5), an ASC is complete when the Department finds that the applicant has submitted information adequate for the Council to make findings or impose conditions on all applicable Council standards, and Council must include conditions that address monitoring and mitigation to ensure compliance with the standards contained in OAR Chapter 345, Division 22 and Division 24.⁴⁴ Therefore, when the Department determines an ASC to be complete, the information in the mitigation and monitoring plans is sufficient for the Department to recommend Council impose conditions requiring the future review and approval of the mitigation plans.

The following conditions require Department review and approval of a mitigation plan that must be finalized prior to construction or operation of the facility:

- PRE-FW-01 Revegetation and Reclamation Plan
- PRE-FW-02 Noxious Weed Control Plan
- PRE-FW-04 Habitat Mitigation Plan
- PRE-SP-01 Fugitive Dust Control Plan
- PRE-WF-01 Construction Wildfire Mitigation Plan
- PRO-WF-01 Operational Wildfire Mitigation Plan

Under OAR 345-025-0016, in preparation and during the review of the ASC, the applicant developed these monitoring and mitigation plans in consultation with the Department, state agencies and local governments. Importantly, the Department provided additional edits to the mitigation plans that were presented in redline format to the plans that were attached to the DPO for this facility, and these plans (and other plans attached to this order), were available for the public to comment on during the hearing on the DPO. As discussed in the applicable sections of this order, these mitigation plans are in draft form because they include preliminary assessments, impact totals, criteria for avoidance and minimization of impacts to resources, as well as success criteria to determine short and long term success of the mitigation measures defined in the plans. These plans are in preliminary or draft form because, as discussed above, they are based on the design of the facility as presented in the ASC and will be updated prior to construction and operation of the final designed facility, which could be several years in the future when it is important to capture circumstances at the site at that time.

Lastly, the mitigation plans include specific monitoring and success criteria to determine short and long term success of the mitigation measures defined in the plans. The mitigation plans listed above have an “amendment clause,” which under ORS 469.402, allows Council and the Department, in conjunction with the applicant, to amend mitigation plans without a site certificate amendment under OAR 345-027-0350 through OAR 345-027-0375. The circumstances that necessitate the subsequent review and approval of a future action (amendment of a finalized mitigation plan) under ORS 469.402 are associated with ongoing compliance with the monitoring and success criteria. Ongoing compliance with monitoring and success criteria may need to be adapted based on site specific changes, environmental

⁴⁴ OAR 345-025-0016.

conditions, failing criteria, or new or emerging technologies or practices that could be more effective at mitigating an impact or restoring the site. As described in the amendment clause, the Department is required to notify Council of all Plan amendments, and Council retains the authority to approve, reject, or modify any amendment of the Plans agreed to by the Department because the delegation is not absolute.

IV.A.1.2 Council Standards for Siting Facilities: OAR Chapter 345, Div 22

OAR chapter 345, division 22 establishes the standards which apply to all energy facilities. As described in Section IV.B to IV.O, the ~~Department recommends~~Council finds that, subject to compliance with ~~recommended~~ conditions of approval, ~~the Council find~~ that the preponderance of the evidence on the record supports the conclusion that the proposed facility complies with these standards.

IV.A.1.3 Specific Standards for Siting Facilities: OAR Chapter 345, Div 24

OAR Chapter 345, Division 24 established additional standards for specific types of facilities including, as relevant to this facility, standards for transmission lines under OAR 345-024-0090. As described in Section IV.P., *Siting Standards for Transmission Lines*, ~~the Department recommends~~ the Council find~~s~~ that subject to compliance with ~~recommended~~ conditions of approval, the preponderance of the evidence on the record supports the conclusion that the proposed facility complies with these standards.

IV.A.1.4 Site Certificate Conditions: OAR Chapter 345, Div 25

Mandatory Conditions OAR 345-025-0006

OAR 345-025-0006 establishes mandatory conditions that must be included in all site certificates. The ~~Department recommends the~~ Council adopt~~s~~ conditions implementing sections (3) to (7) of the rule as General Standard Conditions, as shown below.

OAR 345-025-0006(3) requires the applicant to design, construct, and operate the facility substantially as described in the site certificate and in compliance with all applicable laws, rules, and ordinances. In accordance with these requirements, ~~the Department recommends the~~ Council impose~~s~~ General Standard Condition 1, as presented below. As noted in Section III., *Description of the Proposed Facility*, the project description in this order is the basis for the project description in the ~~draft~~ site certificate (see Attachment A).

General Standard Condition 1 (GEN): The certificate holder must 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 was issued; and

c. In compliance with all applicable permit requirements of other state agencies.
[Mandatory Condition OAR 345-025-0006(3); GEN-GS-01; Final Order on ASC]

OAR 345-025-0006(4) requires the Council to impose a condition requiring the applicant to begin and complete construction of the facility by the dates specified in the site certificate. The applicant has identified that the facility may be constructed in phases. Therefore, the ~~Department recommends~~Council finds that a 6-year construction commencement deadline be established from the date of Council decision, consistent with HB 3681.⁴⁵ The construction commencement deadline applies to all phases. The ~~Department recommends~~Council finds that a construction completion deadline of 3 years from the actual commencement date should be established, allowing for differing deadlines if the facility is constructed in phases, all of which would not allow more than 9 years total to complete construction.

As required under OAR 345-025-0006(4) and consistent with HB 3681, the ~~Department recommends the~~ Council impose s General Standard Condition 2 and 3, as shown below.

~~Recommended~~**General Standard Condition 2 (GEN):** The certificate holder must begin construction on or before [ENTER DATE 6 YEARS FROM ISSUE DATE]. Within 7 days of construction commencement, the certificate holder must provide the Department with written verification that it has met the deadline by satisfying applicable preconstruction conditions and completing at least \$250,000 work at the site.

[Mandatory Condition OAR 345-025-0006(4), GEN-GS-02; Final Order on ASC]

~~Recommended~~**General Standard Condition 3 (GEN):** The certificate holder must complete construction within 3 years of the actual construction commencement date for the facility or applicable phase. Within 7 days after completing construction, the certificate holder shall provide the Department written verification that it has met the deadline.

[Mandatory Condition OAR 345-025-0006(4), GEN-GS-03; Final Order on ASC]

OAR 345-025-0006(6) and (7) require the Council to impose conditions requiring the applicant to report any significant environmental change or impact attributable to the facility and to 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 it can. Accordingly, the ~~Department recommends the~~ Council impose s General Standard Conditions 4 ~~and 5~~, as presented below.

General Standard Condition 4 (GEN): If the certificate holder becomes aware of a significant environmental change or impact attributable to the facility, the certificate

⁴⁵ During the 2025 Legislative Session, the legislature passed House Bill (HB) 3681 requiring that the Council establish a minimum of 6-years from the date the Council issues the site certificate, as the construction commencement deadline. While the bill has not yet taken effect, it will be in effect at the time of Council's final decision.

holder must, as soon as possible, submit a written report to the Department describing the impact on the facility and any affected site certificate conditions.
[Mandatory Condition OAR 345-025-0006(6); GEN-GS-04; Final Order on ASC]

OAR 345-026-0006(5) provides that the Council must impose a condition requiring that the applicant have construction rights on the part of the site for which the facility or facility component is being constructed.⁴⁶ The ~~Department recommends the~~ Council impose s General Standard Condition 65:

General Standard Condition 5 (PRE): The certificate holder may 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 the certificate would construct and operate part of the 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. "Construction rights" means the legal right to engage in construction activities.
[Mandatory Condition OAR 345-025-0006(5); PRE-GS-01; Final Order on ASC]

OAR 345-025-0006(11) provides that the Council include a condition requiring the certificate holder to restore vegetation to the extent practicable. To satisfy this requirement, ~~the Department recommends the~~ Council impose s General Standard Condition 76, as presented below:

General Standard Condition 6 (GEN): Upon completion of construction, the certificate holder must restore vegetation to the extent practicable and must landscape all areas disturbed by construction in a manner compatible with the surroundings and proposed use. Upon completion of construction, the certificate holder must 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.
[Mandatory Condition OAR 345-025-0006(11); GEN-GS-05; Final Order on ASC]

The ~~Department further recommends the~~ Council further adopts conditions implementing sections (8), (9), and (16) of the rule as ~~recommended~~ Retirement and Financial Conditions 1 to 3, as described in Section IV.G., *Retirement and Financial Assurance*; adopt conditions implementing section (12) to (14) of the rule as ~~recommended~~ Structural Standard Conditions 1 to 3, as described in Section IV.C., *Structural Standard*, and adopt conditions implementing section (15) of the rule as ~~recommended~~ Organizational Expertise Condition 1, as described in Section IV.B., *Organizational Expertise*.

Commented [KS1]: Check cross references in site cert and order

⁴⁶ Mandatory condition language has been modified by the Department based on proposed rule language currently under review through the modernization rulemaking, expected to conclude by December 2025 or January 2026.

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1 Site Specific Conditions: OAR 345-025-0010

2
3 OAR 345-025-0010 establishes “site specific” conditions Council may impose to address issues
4 specific to certain types of facilities or facility components. Conditions under OAR 345-025-
5 0010(4) and (5) apply to transmission lines. Because the proposed facility would include a 500-
6 kV transmission line as a related or supporting facility, these conditions apply and should be
7 imposed in the site certificate. The condition under OAR 345-025-0010(4) requires design
8 compliance and grounding. The condition under OAR 345-025-0010(5) requires that Council
9 specify the corridor for which the transmission line is approved to be located.

10
11 The proposed alternate POI (4.5-mile 500-kV transmission line) has been evaluated through a
12 literature review, but was not included in pedestrian surveys for specific resources (wildlife,
13 habitat, Threatened and Endangered Species, cultural resources, wetlands). Therefore, as
14 presented in Section IV.H., *Fish and Wildlife Habitat*, Section IV.I., *Threatened and Endangered*
15 *Species*, Section IV.K., *Historic, Cultural and Archaeological Resources*, and Section IV.R.,
16 *Removal-Fill*, the ~~Department recommends that the~~ Council imposes several conditions
17 requiring that the applicant conduct preconstruction surveys to evaluate the presence of
18 resources protected by applicable Council standards. The ~~Department recommends the~~ Council
19 imposes General Standard Condition **87**, as presented below, to implement section (5) of the
20 rule, subject to compliance with the preconstruction survey conditions:

21
22 ~~Recommended~~ **General Standard Condition 7 (GEN)**: The certificate holder is
23 authorized to construct a 4.5-mile 500 kV transmission line within a 250-foot wide
24 corridor extending from the facility substation to the BPA Buckley Substation, as
25 presented in Attachment 1 of the site certificate, subject to compliance with Conditions
26 PRE-FW-01, PRE-TE-01, PRE-HC-01, PRE-RF-01. The transmission line must be sited the
27 minimum distance (60 – 260 feet) necessary for safety from the BPA transmission line
28 corridor.
29 [Site Specific Condition OAR 345-025-0010(5); GEN-GS-06; Final Order on ASC]
30

31 To implement section (4) of the rule, the ~~Department recommends the~~ Council imposes Siting
32 Standards for Transmission Line Condition 1, as described in Section IV.P, *Siting Standards for*
33 *Transmission Lines*.

34
35 *IV.A.1.5 Construction and Operation Rules for Facilities: OAR chapter 345,*
36 *division 26*
37

38 OAR chapter 345, division 26 includes the ongoing compliance obligations, including
39 requirements for compliance plans, inspections, reporting and notification of incidents that will
40 apply to the facility if the Council issues a site certificate for the proposed facility. Note that, if a
41 site certificate is issued, the applicant must also comply with additional construction- and
42 operation-related regulations that may apply to the proposed facility but that may not be
43 covered by the site certificate, as provided in ORS 469.401(4).
44

Under OAR 345-026-0048, the applicant must develop and implement a plan that verifies compliance with all site certificate terms and conditions and applicable statutes and rules. To ensure compliance with this requirement, the ~~Department recommends the~~ Council requires that the plan be submitted at least 90-days prior to construction unless otherwise agreed to by the Department and authorize the Department to request additional information if needed to evaluate compliance, as presented below:

~~Recommended~~ **General Standard Condition 8 (PRE):** At least 90 days prior to construction of the facility or phase, as applicable (unless otherwise agreed to by the Department), the certificate holder shall submit to the Department a compliance plan documenting and demonstrating actions completed or to be completed to satisfy the requirements of all site certificate terms and conditions and applicable statutes and rules. The plan shall be provided to the Department for review and compliance determination for each requirement. The Department may request additional information or evaluation deemed necessary to demonstrate compliance.
[OAR 345-026-0048, PRE-GS-02; Final Order on ASC]

Under OAR 345-025-0006(2) the Council must impose a condition requiring the applicant to submit a legal description of the site to the Department after the facility becomes operational. The ~~Department recommends the~~ Council adopts this condition as General Standard Condition ~~109~~, as presented below:

General Standard Condition 9 (OPR): The certificate holder must submit a legal description of the site to the Department within 90 days after beginning operation of the facility. The legal description must include 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.
[Mandatory Condition OAR 345-025-0006(2); OPR-GS-01; Final Order on ASC]

Under OAR 345-026-0080(1)(b), each applicant must submit an annual report to the Department each year the facility is operational. To ensure compliance with this rule, the ~~Department recommends the~~ Council adopts General Standard Condition ~~101~~, as presented below:

General Standard Condition 10 (OPR): After January 1 but no later than April 30 of each year after beginning operation of the facility, the certificate holder shall submit an annual report to the Department. The Council Secretary and the certificate holder may, by mutual agreement, change the reporting date.

1. The annual report must include the following information for the calendar year preceding the date of the report:

- a. Facility Status: An overview of site conditions, the status of facilities under construction and a summary of the operating experience of facilities that are in operation. The certificate holder shall describe any unusual events, such as earthquakes, extraordinary windstorms, major accidents or the like that

occurred during the year and that had a significant adverse impact on the facility.

- b. Reliability and Efficiency of Power Production: For electric power plants, the plant availability and capacity factors for the reporting year. The certificate holder shall describe any equipment failures or plant breakdowns that had a significant impact on those factors and shall describe any actions taken to prevent the recurrence of such problems.
- c. Status of Surety Information: Documentation demonstrating that bonds or letters of credit as described in the site certificate are in full force and effect and will remain in full force and effect for the term of the next reporting period.
- d. Monitoring Report: A list and description of all significant monitoring and mitigation activities performed during the previous year in accordance with site certificate terms and conditions, a summary of the results of those activities and a discussion of any significant changes to any monitoring or mitigation program, including the reason for any such changes.
- e. Compliance Report: A report describing the certificate holder's compliance with all site certificate conditions that are applicable during the reporting period. For ease of review, the certificate holder shall, in this section of the report, use numbered subparagraphs corresponding to the applicable sections of the site certificate.
- f. Facility Modification Report: A summary of changes to the facility that the certificate holder has made during the reporting period without an amendment of the site certificate in accordance with OAR 345-027-0350.

- 2. To the extent that information required by this rule is contained in reports the certificate holder submits to other state, federal or local agencies, the certificate holder may submit excerpts from such other reports to satisfy this rule. The Council reserves the right to request full copies of such excerpted reports.
[OAR 345-026-0080(1); OPR-GS-02; Final Order on ASC]

IV.A.2. Conclusions of Law

Based on the facts and evidence provided on the record of the ASC, ~~recommended~~ findings of fact and conclusions of law presented in this Order, subject to ~~recommended, the~~ mandatory and site-specific conditions, the ~~Department recommends~~ Council finds that the proposed facility would satisfy the requirements of ORS 469.300 to 469.570 and 469.590 to 469.619, the Council's standards in OAR chapter 345, and all other Oregon statutes and administrative rules applicable to the issuance of a site certificate.

IV.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

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

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

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

25
26 *(4) If the applicant relies on a permit or approval issued to a third party and*
27 *the third party does not have the necessary permit or approval at the time the*
28 *Council issues the site certificate, the Council may issue the site certificate*
29 *subject to the condition that the certificate holder shall not commence*
30 *construction or operation as appropriate until the third party has obtained the*
31 *necessary permit or approval and the applicant has a contract or other*
32 *arrangement for access to the resource or service secured by that permit or*
33 *approval.*⁴⁷

34 35 **IV.B.1. Findings of Fact**

36 37 **IV.B.1.1 Applicant Information**

38
39 Yellow Rosebush Energy Center, LLC is the applicant. Yellow Rosebush Energy Center, LLC was
40 registered in Delaware on July 13, 2022 and was acknowledged and registered to do business in
41 Oregon by the Secretary of State on July 25, 2022. The applicant's LLC Agreement and
42 organizing documents are included in ASC Attachment A-1 of Exhibit A: Applicant Information.

⁴⁷ Administrative Order EFSC 1-2002, effective April 3, 2002

The applicant is a wholly-owned subsidiary of Savion, LLC (Savion), which is a part of Shell Group.

On April 4, 2025, the applicant submitted a letter affirming that Yellow Rosebush Energy Center LLC will have access to the expertise and personnel required to construct, operate and maintain the facility of Savion LLC or its affiliate.⁴⁸

Under OAR 345-025-0006(15), the Council must impose a condition in every site certificate requiring the applicant to inform the Department of any transfer of ownership of the facility or applicant prior to the transfer. The ~~Department recommends the~~ Council impose this mandatory condition as Organizational Expertise Condition 1, as presented below.

Organizational Expertise Condition 1 (GEN): Before any transfer of ownership of the facility or ownership of the site certificate holder, the certificate holder must 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. [Mandatory Condition OAR 345-025-0006(15); GEN-OE-01; Final Order on ASC]

IV.B.1.2 Expertise to Construct, Operate and Retire the Proposed Facility.

Under OAR 345-022-0010(1), to conclude that the applicant has adequate organizational expertise to construct, operate and retire the proposed facility, the Council must find 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.

Experience Designing, Constructing, And Operating Solar Facilities

Yellow Rosebush Energy Center, LLC, is a wholly-owned subsidiary of Savion, LLC (Savion), which is a subsidiary of Shell Energy, and the Shell Group portfolio that is focusing on renewable energy development. As noted above, Yellow Rosebush Energy Center LLC will have access to the expertise and resources of Savion for design, construction and operations of the facility. Savion was founded in 2019 and has over 175 employees working on projects across 28 states. Their headquarters is based in Kansas City, MO.⁴⁹ Yellow Rosebush Energy Center LLC and Savion LLC share technical staff in multiple areas including permitting and environmental and project development as primary contacts for the proposed facility.

Key project and corporate staff include experience energy developers with many years of applied professional experience with Shell, Savion and renewable energy development.

⁴⁸ YRBAPPDoc1-5 ASC Exhibit D. Organizational Expertise 2025-09-05, Attachment D-1. 2025-04-04.

⁴⁹ Savion Energy webpage. Available at: <https://savionenergy.com/about-us/>. Accessed by the Department 2025-07-30.

The applicant represents that Savion has a combined portfolio of 43.3 GW with 1,866 MW of developed “operating, in-construction, and contracted” solar energy, and a current solar and storage development pipeline of 22,105 MW and 19,251 MW, respectively, as summarized below.⁵⁰ Savion’s website reports 3 GW of Solar and Energy Storage projects combined across 23 projects in 11 states as in operation, under construction and contracted. The same website shows 18 GW of solar energy development across 73 projects in 26 states and 14.8 GW of battery storage combined across 60 projects in 24 states.⁵¹

In Operation:

- Madison Fields Solar Project, PJM⁵², Ohio, 180 MW, 12/31/2023 COD
- Kiowa Solar Project, 100 MW, SPP⁵³, Oklahoma, COD 12/31/2024
- Martin Solar Project, 111 MW, PJM, Kentucky, COD 12/31/2024

Under Construction:

- Marion Solar Project, 100 MW, PJM, Ohio, COD 12/15/2025
- Elkhart Solar Project, 100 MW, PJM, Indiana, COD 12/31/2025
- Choctaw County Solar Project, 50 MW, SPP, Oklahoma, COD 9/1/2026

Developed/Sold/Operational:

- Cass County Solar, 150 MW, MISO⁵⁴, Illinois, COD 12/31/2024
- Calhoun County, 125 MW, MISO, Michigan, COD 9/30/2024

Developed/Sold/Under Construction:

- Blacks Creek Energy Center, 400 MW, WECC⁵⁵, Idaho, COD 9/30/2025
- Maricopa Energy Center, 550 MW Solar + 550 MW 4hr Storage, WECC, Arizona, COD 12/31/2026
- Milligan Energy Center, 315 MW, WECC, Arizona, COD 12/31/2026

Savion reports that it has not incurred any regulatory citations during construction or operation of a similar facility.

Access to Technical Expertise

⁵⁰ YRBAPP ASC, Exhibit D, Section 5.0

⁵¹ Savion LLC. Company Webpage. Available at: <https://savionenergy.com/project-map/> Accessed by the Department on July 30, 2025.

⁵² YRBAPPDoc1-5 ASC Exhibit D. Organizational Expertise 2025-09-08. PJM Interconnection LLC (PJM) serves all or parts of 13 mid-Atlantic states. Originally Pennsylvania-New Jersey-Maryland, it now serves states along the eastern seaboard from New Jersey south to North Carolina and extending as far west as Illinois, Ohio, Tennessee, West Virginia, and Kentucky.

⁵³ Ibid. SPP is the Southwest Power Pool, which covers Oklahoma, Kansas, and parts of Arkansas, Missouri, Texas, and New Mexico.

⁵⁴ Ibid. MISO is the Midcontinent Independent System Operator which serves 15 states in the Midwest, extending north to Manitoba, Canada, and south to include much of Arkansas, Mississippi, and Louisiana.

⁵⁵ Ibid. WECC is the Western Electricity Coordinating Council, which oversees the entire Western interconnection system and includes all or part of the 14 westernmost U.S. states as well as Alberta and British Columbia in Canada.

As a subsidiary of Shell, Savion LLC and Yellow Rosebush Energy Facility, LLC have access to technical skills and resources from the parent company. As previously noted, the applicant has submitted Exhibit D, Attachment D-1 to affirm that the facility will have access to the technical expertise of the parent company. Once the facility is operational, Shell Renewable Asset Management International (SRAMI) will provide asset management for the facility. SRAMI will have over 20 years of experience in commercial, technical, and operational oversight of renewable assets in joint venture and wholly owned contexts. SRAMI will maintain operational hubs in Houston and The Hague, with staff in multiple locations within the Americas and the Europe, Middle East and Africa regions. In addition to its dedicated organization, SRAMI can draw upon the expertise and resources of the global Shell Group.

During construction of the facility, the applicant would rely on third-party contractors for technical expertise in engineering, procurement, and construction. In addition to retaining qualified staff within the company and parent company, Savion maintains a close relationship with large Engineering Procurement Construction (EPC) providers to inform budget pricing and conducts a competitive Request for Proposals (RFP) process among several pre-qualified contractors to select the optimal contractor for the Facility. This EPC and procurement RFP includes a list of pre-qualified manufacturers for major components such as the tracker, main power transformer, inverters, and power cable to ensure that the contractor meets Savion quality standards.

The ~~Department recommends that the~~ Council finds that Savion LLC's past experience in constructing and operating energy facilities demonstrates its ability to secure contracts with third-party contractors with the technical expertise needed to design, construct and operate the proposed facility in compliance with site certificate conditions and in a manner that protects public health and safety.

The ~~Department recommends the~~ Council imposes Organizational Expertise Condition 2, as presented below, to ensure that the Department is notified of the identity and qualifications of the selected contractors prior to the beginning of construction.

~~Recommended~~ Organizational Expertise Condition 2 (PRE): Prior to construction of the facility 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). 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.
[PRE-OE-01; Final Order on ASC]

To ensure all work is performed in compliance with site certificate conditions and in a manner that protects public health and safety, the ~~Department recommends the~~ Council imposes Organizational Expertise conditions as presented below.

Recommended-Organizational Expertise Condition 3 (PRE): Prior to construction of the facility or phase, as applicable, the certificate holder shall select a construction contractor with a low rate of historic environmental and safety compliance citations. Certificate holder shall provide the following documentation to the Department:

- a. Qualifications and contact information of the major design, engineering and construction contractor(s) and subcontractors, as applicable.
- b. Construction contractor compliance history.
- c. Contract excerpt(s) identifying the parties to the contract and affirming that contractors are required to comply with the terms and conditions of the site certificate, including selecting design layout and construction materials that minimize impacts to resources protected under Council standards.

[PRE-OE-02; Final Order on ASC]

Recommended-Organizational Expertise Condition 4 (PRE): Prior to construction of the facility or phase, as applicable, the certificate holder shall provide the Department the qualifications and contact information of the certificate holder's construction manager.

[PRE-OE-03; Final Order on ASC]

Recommended-Organizational Expertise Condition 5 (CON): During construction, the certificate holder shall:

- a. Maintain an onsite construction manager.
- b. Require that the construction manager implement and monitor all applicable construction related site certificate conditions.
- c. Within six months after beginning construction, and every six months thereafter during construction of the energy facility and related or supporting facilities, the certificate holder shall submit a semiannual construction progress report to the Department. In each construction progress report, the certificate holder shall describe any significant changes to major milestones for construction. The certificate holder shall report on the progress of construction and shall address the following:
 - i. Facility Status: An overview of site conditions, the status of facilities under construction and a summary of the operating experience of facilities that are in operation. The certificate holder shall describe any unusual events, such as earthquakes, extraordinary windstorms, major accidents or the like that occurred during the year and that had a significant adverse impact on the facility.
 - ii. Status of Surety Information: Documentation demonstrating that bonds or letters of credit as described in the site certificate are in full force and effect and will remain in full force and effect for the term of the next reporting period.
 - iii. Compliance Report: A report describing the certificate holder's compliance with all site certificate conditions that are applicable during the reporting period. For ease of review, the certificate holder shall, in this section of the report, use numbered subparagraphs corresponding to the applicable sections of the site certificate.

- iv. Facility Modification Report: A summary of changes to the facility that the certificate holder has made during the reporting period without an amendment of the site certificate in accordance with OAR 345-027-0050.

[OAR 345-026-0080(1)(a), CON-OE-01; Final Order on ASC]

Recommended-Organizational Expertise Condition 6 (CON): The certificate holder shall contractually require all contractors and subcontractors to comply with all applicable laws and regulations and with the terms and conditions of the site certificate. The contractual obligation shall be required of each contractor and subcontractor prior to that firm working on the facility. Such contractual provisions shall not operate to relieve the certificate holder of responsibility under the site certificate.

[CON-OE-02; Final Order on ASC]

Recommended-Organizational Expertise Condition 7 (PRO): Prior to operation, the certificate holder shall provide to the Department the qualifications and contact information of the individuals responsible for monitoring facility operations, including individuals or third-party entity responsible for onsite maintenance.

[PRO-OE-01; Final Order on ASC]

Recommended-Organizational Expertise Condition 8 (OPR): During every year of operation, the certificate holder shall provide to the Department the qualifications and contact information of the individuals responsible for monitoring facility operations, including individuals or third-party entity responsible for onsite maintenance.

[OPR-OE-01; Final Order on ASC]

Relevant Experience in Mitigation

Savion also has extensive experience with developing and implementing mitigation plans, in coordination with various agencies, to offset impacts from project development. Some of the most recent examples include forested and emergent wetland conservation for its Calhoun County (Michigan) solar project, sand prairie and pollinator habitat restoration for its Cass County (Illinois) solar project, and Texas tortoise management at its Dove Run and Sun Cactus (Texas) solar projects. Savion has engaged directly with key stakeholder groups for this project (ODFW, Tribes, Wasco County, and more) to solicit feedback on its initial design plans. The applicant has retained TetraTech to assist in the completion of studies and surveys, preparation of reports, and to conduct required monitoring and the implementation of required mitigation plans for the facility.

Public Health and Safety

Facility components including the solar array, substation transformers, transmission line, and battery energy storage system could result in health and safety impacts from unanticipated fire and electrical hazards. Section IV.N., Wildfire Prevention and Risk Mitigation provides an evaluation of potential fire related risks from proposed facility design, construction and operation. Wildlife Prevention and Risk Mitigation Conditions 1 through 4 require the applicant to finalize Wildfire Mitigation Plans, to then be implemented during construction and for the operational life of the facility.

Further to minimize impacts to public health and safety, and as discussed in Section IV.E., Land Use, the ~~Department recommends~~ Council imposes Land Use Conditions 7 through 10 which require development and implementation of Emergency Response Plans, to be implemented during construction and operation. The ~~Department recommends~~ Council imposes the following conditions to ensure that the facility is designed, constructed, operated and retired in a manner that protects public health and safety.

~~Recommended~~ **Organizational Expertise Condition 9 (GEN):** 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.

[GEN-OE-02; Final Order on ASC]

~~Recommended~~ **Organizational Expertise Condition 10 (GEN):** The certificate holder must notify the Department within 72 hours of any occurrence of the following:

- There is an attempt by anyone to interfere with the facility's safe operation.
- There is a significant nature event such as a fire, earthquake, flood, tsunami or tornado, or human-caused events such as a fire or explosion.
- There is any fatal injury at the facility.

[OAR 345-026-0170, GEN-OE-03; Final Order on ASC]

~~Recommended~~ **Organizational Expertise Condition 11 (GEN):** The certificate holder shall, as soon as reasonably possible:

- Report incidents or circumstances that may violate the terms or conditions of the site certificate, terms or conditions of any order of the Council, 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;
- Initiate and complete appropriate action to correct the conditions or circumstances and to minimize the possibility of recurrence;
- Submit a written report within 30 days of discovery to the Department. The report must refer to the language in (d) of the condition and contain:
 - 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.
- d. 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 incidents 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 ASC Table 13 and shall request and receive an updated bond or letter of credit from certificate holder in the adjusted amount.

[OAR 345-029-0010, GEN-OE-04; Final Order on ASC]

Ability to Restore the Site to a Useful, Non-Hazardous Condition

The applicant's ability to restore the facility site to a useful, non-hazardous condition is evaluated in Section IV.G., Retirement and Financial Assurance of this order.

As described above, the ~~Department recommends the~~ Council find~~s~~ that the applicant, through its parent company, has demonstrated that it has the experience needed to construct 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 secure contracts with third-party contractors that have the necessary technical expertise to meet that standard. Specific requirements and ~~recommended~~ conditions of approval related to retirement and financial assurance are discussed in more detail in Section IV.G.

IV.B.1.3 Third-Party Permits

The applicant or its contractors would obtain permits required during construction and operation of the facility, including but not limited to, coverage under the Oregon Department of Environmental Quality's (DEQ) National Pollutant Discharge Elimination System (NPDES) 1200-C and 1200-A Construction Stormwater permits, and the Onsite Sewage Disposal Construction-Installation Permit required for the O&M Buildings, and other permits. The construction contractor would also be required to obtain any required permits from the Oregon Department of Transportation (ODOT), and any required state and local and County building and electrical permits or road access permits.

As discussed in Sections IV.E., Land Use, and IV.M., Public Services, the applicant may need to vacate Wilson Road and submit a Wasco County Petition to Vacate Public Lands template in the ASC. Additionally, the applicant's contractor will need to coordinate with ODOT for access and hauling permits and may need to coordinate with ODOT and the City of Maupin to understand any limitations for access within Maupin. These permits need to be provided to the Department under the below ~~recommended~~ condition. The construction contractor would also be responsible for obtaining any required permits for the use of stationary or portable concrete batch plant at the facility, if such a plant is constructed or operated at the site.⁵⁶

Under OAR 345-022-0010(4), if an applicant relies on a permit or approval issued to a third-party contractor, and the third party does not have the permit or, as in this case, has not yet been identified, the Council may issue a site certificate subject to the condition that the applicant shall not commence construction or operation as appropriate until the third party has obtained the necessary permits or approvals and the applicant has a contract or other arrangement for access to the resource or service secured by that permit or approval. The ~~Department recommends the~~ Council impose~~s~~ Organizational Expertise Condition 12, as presented below, to ensure that the applicant and its contractors obtain all necessary permits and approvals prior to the beginning of construction.

~~Recommended~~ Organizational Expertise Condition 12 (PRE): Prior to construction of the facility or phase, as applicable, the certificate holder shall:

- a. Provide the Department a list of federal, state and local permits, including any third-party permits; and a schedule for obtaining identified permits.
- b. Once obtained, provide copies of all permits, including third-party permits to the Department.

[PRE-OE-04; Final Order on ASC]

IV.B.2. Conclusions of Law

Based on the foregoing analysis, and subject to compliance with the ~~recommended~~ conditions of approval as described above, the ~~Department recommends~~ Council find~~s~~ 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.

IV.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

⁵⁶ YRBAPPD01-6 ASC Exhibit E. Permits 2025-09-05

(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.⁵⁷

IV.C.1. Findings of Fact

The analysis area for geologic conditions and soil stability, as established in the Project Order, is the area within the proposed 8,075 acre site boundary. ASC Exhibit H also includes an evaluation of historic seismicity and potentially active faults within 50-miles of the proposed site boundary.

The site is located in the Columbia Plateau, which is dominated by geologically young lava flows known as the Columbia River basalts. Most of the site boundary is mapped as the Wanapum Basalt, and a small amount of Grande Ronde basalt is mapped in the northeastern corner and eastern border along the Buck Hollow Creek valley and a tributary drainage. Slopes within the vicinity of the site boundary range from approximately zero to 95 percent, with an average slope of 7.6 percent.⁵⁸

In July 2023, the applicant's geologist completed a preliminary geological site reconnaissance of the site boundary which included visual evaluation of existing exposures of soil and rock,

⁵⁷ Administrative Order EFSC 2-2017, effective October 18, 2017.

⁵⁸ YRBAPPDoc1-9 ASC Exhibit H. Geological Soil Stability 2025-09-05, Section 8.1.

1 observation of typical slopes, and to identify evidence of past or potential geologic hazards.
2 Methods of desktop and literature review of seismic and nonseismic hazards are discussed in
3 the following subsections. On January 11, 2024, the applicant team met with DOGAMI staff to
4 discuss preliminary methods, sources and findings. Based on that meeting, additional sources
5 were identified and incorporated into the Exhibit. DOGAMI staff noted in their comments on
6 the exhibit that the existing analysis used the correct data and interpreted the data correctly
7 and made additional recommendations for sources, which were also incorporated into the
8 Exhibit for the ASC.⁵⁹

10 *IV.C.1.1 Potential Seismic Hazards*

12 Potential seismic hazards within the analysis area include damaging shaking, rupture of the
13 ground along the surface trace of a fault, liquefaction of areas with particular sediment and
14 groundwater characteristics, and earthquake-triggered landslides. Potential seismic hazards
15 within the analysis area were evaluated through literature review, mapping and modeling.
16 Literature and data sources evaluated include 2021-2023 USGS's National Geophysical Data
17 Center, DOGAMI's HazVu Layers: Statewide Geohazards Viewer Cascadia Earthquake Expecting
18 Shaking Layer; Floodplains, Earthquake Hazards and Landslide Hazards.⁶⁰ Regionally, seismicity
19 has been attributed to crustal deformation from the Cascadia Subduction Zone and volcanism.
20 Based on the DOGAMI HazVu mapping tool and USGS 2023 Unified Hazard Tool the Cascadia
21 earthquake hazard is low to moderate, and the expected earthquake shaking is moderate.

23 At DOGAMI's recommendation, the applicant reviewed a 2011 study and data⁶¹ related to
24 active faulting in the Tygh Valley. The information reviewed refers to active faulting in an area
25 of the Tygh Valley located approximately 10 miles southwest of the facility. Although a map and
26 short abstract are available online, the entire corresponding publication is not publicly
27 available. The latest DOGAMI Quaternary fault information was reviewed by the applicant and
28 no faults were mapped in this area. DOGAMI reviewed the pASC Exhibit H, provided comments
29 that were incorporated into the Exhibit H for the complete ASC and approved the methods
30 proposed but noted that the most current national seismic hazard models should be used in the
31 site-specific geotechnical analysis.⁶²

⁵⁹ YRBAPPDoc27-1-pASC Exhibit H. Geological Soil Stability DOGAMI Review Email 2025-05-08.

⁶⁰ YRBAPPDoc1-9 ASC Exhibit H. Geological Soil Stability 2025-09-05, Section 13 and Attachment H-1. Council rules at OAR 345-021-0010(1)(h)(B) require applicant consultation with DOGAMI on the appropriate methodology and scope for evaluating seismic hazards. Based on a January 11, 2024 meeting, DOGAMI reviewed the Exhibit materials and provided feedback on additional references to incorporate into Exhibit H specific to the Maupin area; and otherwise concurred with the methods utilized by the applicant to evaluate potential seismic hazards within the analysis area.

⁶¹ Johnson, Ajeet K. 2011. Publicly available map from Master of Science Thesis – Oregon State University. Available online: https://ir.library.oregonstate.edu/concern/graduate_thesis_or_dissertations/3b591d89m Accessed May 2025.

⁶² YRBAPPDoc27-1 pASC Exhibit H. Geological Soil Stability DOGAMI Review Email 2025-05-08

United States Geological Survey (USGS) data reviewed shows no potentially active faults are mapped within the site boundary (See Exhibit H, Figure H-2). A number of middle- and late-Quaternary-age faults are mapped within 50 miles of the site boundary. The nearest potentially active fault is a Class B fault located approximately 7 miles northwest of the site boundary. A Class B fault indicates geologic evidence demonstrating the existence of a fault or suggesting Quaternary deformation; however, the fault might not extend deeply enough to be a potential source of significant earthquakes. From 1974 to 2023, 54 earthquakes were recorded from within and extending 49 miles from the site boundary with magnitude from 3.0 to 4.6; which are illustrated on Figure 3, below.⁶³

2021 International Building Code (IBC) information indicates that most areas within the proposed site boundary are mapped as “shallow basalt bedrock” and generally have characteristics that meet Site Class B. However, based on geotechnical and geological information reviewed for the ASC, the soil/bedrock in the site boundary is most conservatively categorized as Site Class C (very dense soil and soft rock)⁶⁴.

As part of review for the ASC, the applicant has characterized and evaluated the seismic and risks and hazards in the analysis area. The ~~Department Council~~ has reviewed this information and evaluated the general risk posed from seismic shaking and ground motion, fault rupture, liquefaction, landslides, and subsidence as summarized below:

Seismic Shaking or Ground Motion

As part of the analysis, the certificate holder ran the USGS unified hazard tool analysis for the site boundary, and the design event has a 2 percent probability of exceedance in 50 years (or a 2,475-year return period). This event has a peak ground acceleration (PGA) of 0.2178 acceleration from gravity for the site boundary. The values of PGA on rock are an average representation of the acceleration most likely to occur at the site for all seismic events (crustal, intraplate, or subduction).

Fault Rupture

There are no known active faults within the proposed site boundary. There are several Class B faults approximately 7 and 20 miles away (northwest and northeast respectively), and the nearest known or potentially active faults are approximately 30 miles away.⁶⁵ Therefore, fault rupture risk within the proposed site boundary is low/unlikely. Faults and seismic activity will be further evaluated during pre-construction geotechnical investigation as required under ~~Recommended~~ Structural Standard Condition 1, below.

Liquefaction⁶⁶

⁶³ YRBAPPD1-9 ASC Exhibit H. Geological Soil Stability 2025-09-05, Table H-2.

⁶⁴ YRBAPPD1-9 ASC Exhibit H. Geological Soil Stability 2025-09-05 Section 7.2.4.

⁶⁵ YRBAPPD1-9 ASC Exhibit H. Geological Soil Stability 2025-09-05, Section 7.2.5.

⁶⁶ Liquefaction is a phenomenon in which saturated, cohesionless soils temporarily lose their strength and liquefy when subjected to dynamic forces such as intense and prolonged ground shaking and seismic activity.

1 Soils in the site boundary are not saturated and are generally clastic (loess) in nature. Based on
2 well logs in the vicinity of the site boundary, static groundwater levels range from 171 to 460
3 feet below ground surface with depths to bedrock range from 2 to 5 feet below ground surface,
4 and the basalt bedrock is shallow with average depths from 0.5 to 2.5 feet below ground
5 surface. Along with the relatively low significant seismic event potential, liquefaction of soils
6 within the site boundary is considered low/unlikely.

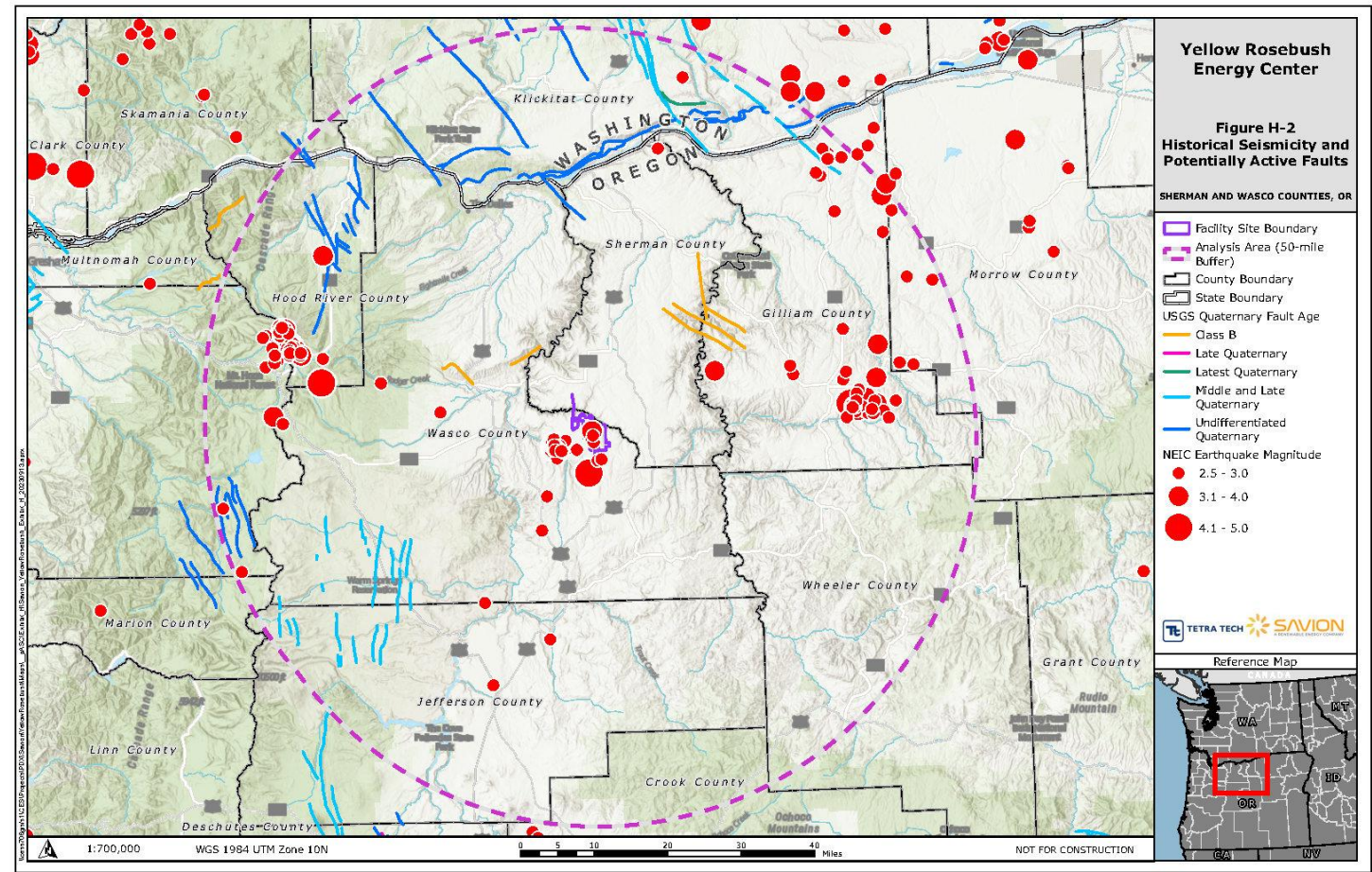
7
8 Seismically Induced Landslides

9 The general earthquake hazard within the proposed site boundary is rated low to moderate.
10 Landslide risk increases to high along drainages with steep sides such as Karlen Draw or Hauser
11 Canyon across the northern and eastern site boundary, therefore, seismically induced landslide
12 risk is low within most of the site boundary and higher within the steeper areas. Facility
13 construction and permanent infrastructure will avoid these steep drainages and steep slopes.

14
15 Subsidence

16 Bedrock within the proposed site boundary is relatively shallow and the overlying soils are
17 unsaturated. Therefore, the risk of subsidence within the proposed site boundary is low.

Figure 3: Historic Seismicity and Potentially Active Faults within 50-mile of the Proposed Facility Site



IV.C.1.2 Non-Seismic Geologic Hazards

Non-seismic geologic hazards in the Columbia Plateau region include landslides, volcanic eruptions, erosion, shrinking and swelling soils, and collapsing soils.⁶⁷ Erosion risk, and ~~recommended~~ measures to reduce and mitigate impacts, are discussed in Section IV.D, *Soil Protection*, in this order; other non-seismic geologic hazards are discussed below.

Landslides

The 2023 Oregon Statewide Landslide Data Layer (SLIDO Release 4.4) was used to overlay landslide areas or landslide-related features within the vicinity of the site boundary and indicate that the closest landslides were near the City of Maupin. DOGAMI HazVu mapping shows that landslide susceptibility within the proposed site boundary is generally relatively low while moderate and high landslide susceptibility hazard areas are indicated only along the steep drainages along the northern and eastern site boundary. No existing landslides were observed during the site reconnaissance.⁶⁸ The alternative 4.5-mile transmission line would cross an area of moderate to high landslide susceptibility at the Buck Hollow Creek valley crossing; which would be spanned if constructed and informed by the geotechnical evaluation conducted prior to construction under ~~Recommended~~ Structural Standard Condition 1, below.

Volcanic Activity

Volcanic activity in the Cascade Range is driven by the subduction of the Juan de Fuca Plate beneath the North American Plate. The closest volcano to the site boundary is Mount Hood approximately 40 miles away. Depending on the prevailing wind direction at the time of the eruption and the source of the eruption, ash fallout in the region surrounding the proposed facility may occur, however, because of the distance to the nearest volcano, risk of direct impacts from volcanic activity within the proposed site boundary is low. There is a potential of indirect effects if a nearby volcanic eruption led to basalt flows (lahars) that could impact area rivers and streams. While possible, the likelihood is considered low.

Flooding

Using 2023 Federal Emergency Management Agency (FEMA) 100-year floodplain data, the areas within the proposed site boundary in a floodplain include Buck Hollow Creek and the tributary located in the eastern portion of the site boundary and the alternative transmission line corridor crosses Buck Hollow Creek.⁶⁹ No temporary or permanent disturbance areas associated with the facility are located in areas of mapped floodplains. Seasonal thunderstorms can also result in concentrated stormwater runoff and localized flooding. As discussed in Section IV.E., *Land Use*, the facility will be designed and engineered to comply with zoning ordinances and building codes that establish flood protection standards for

⁶⁷ YRBAPPD1-9 ASC Exhibit H. Geological Soil Stability 2025-09-05, Section 8.0.

⁶⁸ YRBAPPD1-9 ASC Exhibit H. Geological Soil Stability 2025-09-05, Section 8.1.

⁶⁹ YRBAPPD1-9 ASC Exhibit H. Geological Soil Stability 2025-09-05, Section 8.4; Figure H-3.

all construction to avoid dangers to the infrastructure, as well as human safety and the environment.

Shrinking, Swelling, and Collapsing Soils

Potential risks from shrinking, swelling and collapsing soils within the proposed site boundary will be further evaluated during the preconstruction site-specific geotechnical investigation.

IV.C.1.3 Design Measures for Seismic and Non-Seismic Hazards

The applicant is required to design, engineer, and construct the facility following the latest International Building Code, Oregon Structural Specialty Code, and building codes adopted by the State of Oregon at the time of construction. The site-specific geotechnical investigation that will be conducted prior to construction will include, as required, a description of any potentially active faults, their potential risk to the proposed facility, and any additional mitigation measures the applicant would employ to design, construct, and operate the proposed facility safely.

Under OAR 345-025-0006(12) to (14), the Council must impose conditions requiring the applicant to design, engineer and construct the facility to avoid dangers to human safety and the environment presented by seismic hazards affecting the site; and to notify the Department and other appropriate authorities if site specific geotechnical investigations reveal significantly different geologic conditions from those described in the application, or if certain geologic formations are identified in the vicinity of the site. Accordingly, ~~the Department recommends~~ the Council adopts these conditions as Structural Standard Conditions 1 to 3, as presented below:

Structural Standard Condition 1 (GEN): The certificate holder must design, engineer and construct the facility to avoid dangers to human safety and the environment presented by seismic hazards affecting the site that are expected to result from all maximum probable seismic events. "Seismic hazards" include 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.

[Mandatory Condition OAR 345-025-0006(12); GEN-SS-01; Final Order on ASC]

Structural Standard Condition 2 (GEN): The certificate holder must 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 to propose and implement corrective or mitigation actions.

[Mandatory Condition OAR 345-025-0006(13); GEN-SS-02; Final Order on ASC]

Structural Standard Condition 3 (GEN): The certificate holder must 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.

[Mandatory Condition OAR 345-025-0006(14); GEN-SS-03; Final Order on ASC]

Under OAR 345-022-0020(1)(a) and (c), the Council must find that the applicant has, through appropriate site-specific study, adequately characterized the seismic and non-seismic geologic and soils hazards of the site. As discussed above, the information in this section is based on the applicant's site reconnaissance visit and desktop analysis of potential seismic, geologic, and soils hazards.

The applicant represents that it will conduct additional geotechnical investigation at the site to fully characterize site conditions and to allow the applicant to design, engineer, and construct the facility to the most current standards at the time of construction. The site-specific geological and geotechnical investigation will address subsurface exploration plans, and testing plans. The site-specific geotechnical investigation will be conducted by a qualified engineer using current code requirements and state-of-practice methods and will be used to determine the final location of facility components and the final design of the pile foundations, substation pads, inverter pads, battery energy storage system pads, operations and maintenance (O&M) building pads, and roads, the geotechnical investigation will:⁷⁰

- Be based on and influence the final design of the facility;
- Include an updated desktop/literature review, using current sources as designated in this order and ASC Exhibit H;
- Conduct a geotechnical field exploration, which includes but is not limited to soil borings, test pits, possibly geophysical testing; collecting additional soil samples for classification and laboratory testing;⁷¹

The results of the investigation will be reported to DOGAMI and ODOE following the current Oregon State Board of Engineering Geology Reports guidelines in place at the time of the pre-construction investigation.

The proposed facility will be designed, engineered, and constructed to meet or exceed the standards established in the latest International Building Code, Oregon Structural Specialty Code, and building codes adopted by the State of Oregon at the time of construction and that

⁷⁰ YRBAPPD1-9 ASC Exhibit H. Geological Soil Stability 2025-09-05, Section 5.0. Geotechnical analyses will be used to calculate bearing capacity of the soils, conduct stability analyses, and provide engineering recommendations for construction of the structures.

⁷¹ YRBAPPD9-11 DPO Public Comment Lee 2025-11-02.

final seismic design criteria will be determined by the structural engineer based on the final geotechnical report.⁷² The facility will be designed based on Site Class C.

The ~~Department recommends the~~ Council impose~~s~~ the following conditions to ensure that the preconstruction, site specific geotechnical investigation is completed and submitted to the Department and DOGAMI, and that the evaluation demonstrates that final facility design is based on applicable building and structural requirements at the time of construction, as presented below:

~~Recommended~~ Structural Standard Condition 4 (PRE): Prior to construction of the facility or phase, as applicable, the certificate holder shall submit a site-specific geotechnical investigation report, consistent with the Oregon State Board of Geologist Examiners Guideline for Preparing Engineering Geologic Reports, or newer guidelines if available to the Department, for review in consultation with its third-party consultant. [PRE-SS-01; Final Order on ASC]

~~Recommended~~ Structural Standard Condition 5 (GEN): The certificate holder shall design, engineer, and construct the facility in accordance with the versions of the International Building Code, Oregon Structural Specialty Code, and local building codes in effect at the time of construction. [GEN-SS-04; Final Order on ASC]

IV.C.2. Conclusions of Law

Based on the foregoing analysis, and subject to compliance with the ~~recommended~~ conditions of approval as described above, the ~~Department recommends~~ Council find~~s~~ that the applicant adequately characterized potential seismic and geologic hazards at the site and can design, engineer and construct the proposed facility to avoid dangers to human safety and the environment presented by those hazards.

⁷² YRBAPPD1-9 ASC Exhibit H. Geological Soil Stability 2025-09-05, Section 5.0

IV.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.⁷³

IV.D.1. Findings of Fact

The analysis area for the Soil Protection standard is the area within the proposed 8,075 acre site boundary.⁷⁴ The proposed energy facility would use or occupy up to approximately 4,987 acres.⁷⁵

IV.D.1.1 Existing Land Use and Soil Conditions

The proposed facility would be located on Exclusive Farm Use zoned land in both Wasco and Sherman counties. Agricultural uses include rangeland, fallow fields, and planted dryland grassland (See ASC Exhibit K, Figures K-2 and K-4). Based on the ASC, the facility will permanently impact approximately 4,670 acres of Category 2 wildlife habitat and 322 acres of Category 6, developed or agricultural lands (30.3 acres to other developed lands and 292 acres to agricultural), with an estimated 198 acres of temporary impacts to Category 2 wildlife habitat and 28.3 acres of temporary impacts to developed or agricultural lands (13.1 acres developed and 15.2 acres agricultural).

Approximately 52 percent of the site boundary includes silt loam soils with a depth to bedrock of 2.5 feet, approximately 34 percent of the site boundary soils have a depth to bedrock of 0.6 feet, and approximately 10 percent of the site boundary has a depth to bedrock of 1 foot. There are 14 major soil types found within the analysis area, as summarized in Table 4 and shown in Figures 4 and 5 below.⁷⁶ Of these, there are four dominant soil types:

- **Condon silt loam, 2 to 12 percent slopes (CnC):** These are moderately deep, well drained soils formed in a loess mantle with an appreciable component of volcanic ash overlying basalt. The soil is a silt loam and makes up approximately 52 percent of the analysis area. Condon silt loam is typically in uplands and has 2 to 12 percent slopes. The hazard for erosion is moderate. The soil has moderate permeability and moderately high runoff potential.

⁷³ Administrative Order EFSC 1-2007, effective May 15, 2007.

⁷⁴ YRBNOIDoc42 SIGNED Project Order w Attachments 2024-01-26

⁷⁵ YRBAPPDoc1-4 Exhibit C. Project Location 2025-09-05~~ASC Exhibit C~~, Table C-2 Temporary and Permanent Disturbance Areas.

⁷⁶ U.S. Department of Agriculture, Natural Resources Conservation Service. 2024. Available at: [USDA-NRCS Official Soil Series Description View By List](#) Accessed by the Department 2024-11-12; Web Soil Survey Available at: [Web Soil Survey](#) Accessed by the Department 2024-11-12.

- **Bakeoven-Condon complex, 2 to 20 percent slopes (BcC):** These are very shallow, well drained soils formed in mixed colluvium, loess, and residuum derived from basalt. The soil is a gravelly to cobbly loam and makes up approximately 23 percent of the analysis area. Bakeoven-Condon complex is typically in plateaus and has 2 to 20 percent slopes. The hazard for erosion is moderate. The soil has low permeability and high runoff potential.
- **Condon-Bakeoven complex, 2 to 20 percent slopes (CoC):** These are moderately deep, well drained soils formed in loess over basalt. The soil is a silt loam and makes up approximately 11 percent of the analysis area. Condon-Bakeoven complex is typically in hillslopes and has 2 to 20 percent slopes. The hazard for erosion is severe. The soil has moderate permeability and moderately high runoff potential.
- **Lickskillet extremely stony loam, 40 to 70 percent slopes (LeF):** These are shallow, well drained soils formed in stony colluvium consisting of loess, rock fragments and residuum weathered from basalt and rhyolite. The soil is a stony loam and makes up approximately 10 percent of the analysis area. Lickskillet extremely stony loam is typically in uplands and has 40 to 70 percent slopes. The hazard for erosion is severe. The soil has low permeability and high runoff potential.

In general, the soil within the analysis are primarily formed from loess and alluvium which make them susceptible to erosion from wind and water. These soils are rated to have a slight to moderate hazard of erosion by water in off-road and off-trail areas. While most of the soils within the analysis area are rated to have slight to moderate hazard of erosion by water from unsurfaced roads and trails. (See Table 4 and Figure 4 below). These soils are also susceptible to dust propagation upon disturbance.

Table 4: Soil Types and Characteristics within Analysis Area⁷⁷

NRCS Soil Unit/Soil Type ID	Est. Acres within site boundary ⁷⁸	Soil Erodibility (K-factor)	Wind Erosion Rating	Permeability
Areas within Wasco County				
Endersby fine sandy loam – 0 to 3 percent slopes/ 1	23	0.24	3	Very High
Endersby fine sandy loam – 0 to 3 percent slopes/ 11A	0.1	0.24	3	Very High
Bakeoven-Condon complex – 2 to 20 percent slopes/ BcC	1,841	0.1	8	Low
Condon silt loam – 2 to 12 percent slopes/ CnC	4,226	0.37	6	Moderate
Condon-Bakeoven complex –	886	0.37	6	Moderate

⁷⁷ YRBAPPDoc1-10 ASC Exhibit I. Soil Conditions 2025-09-05, Table I-1 and I-2.

⁷⁸ U.S. Department of Agriculture, Natural Resources Conservation Service. 2024. Web Soil Survey. Available at: <https://websoilsurvey.sc.egov.usda.gov/App/WebSoilSurvey.aspx> Accessed by the Department 2024-11-12.

Table 4: Soil Types and Characteristics within Analysis Area⁷⁹

NRCS Soil Unit/Soil Type ID	Est. Acres within site boundary ⁷⁸	Soil Erodibility (K-factor)	Wind Erosion Rating	Permeability
Areas within Wasco County				
2 to 20 percent slopes/ CoC				
Lickskillet extremely stony loam - 40 to 70 percent slopes/ LeF	800	0.15	8	Low
Playas/ Pa	78	Not Rated	4	Not Rated
Wrentham-Rock outcrop complex - 35 to 70 percent slopes/ WrF	164	0.28	6	Moderate
Areas within Sherman County				
Condon-Bakeoven complex, 2 to 20 percent slopes	21.0	0.43	6	Moderate
Endersby fine sandy loam, 0 to 3 percent slopes	0.67	0.24	3	Very High
Lickskillet very stony loam, 7 to 40 percent south slopes	11.7	0.20	7	Low
Rock outcrop- Rubble land-Lickskillet complex, 50 to 80 percent south slopes	7.03	Not Rated	Not Rated	Not Rated
Bakeoven very stony loam, 2 to 20 percent slopes	1.61	0.1	8	Low
Cantala silt loam, 1 to 7 percent slopes	2.84	0.43	6	High
Condon silt loam, 1 to 7 percent slopes	14.5	0.43	6	Moderate

1
2 The ~~Department Council~~ has reviewed the ~~information from the~~ NRCS databases⁷⁹ and the
3 information included in the ASC Exhibit I and Exhibit K for soils and ~~recommends that~~ Council
4 find~~s~~ that the applicant has adequately identified and characterized the soils within the analysis
5 area

⁷⁹ Ibid.

Figure 4: Soils within Site Boundary

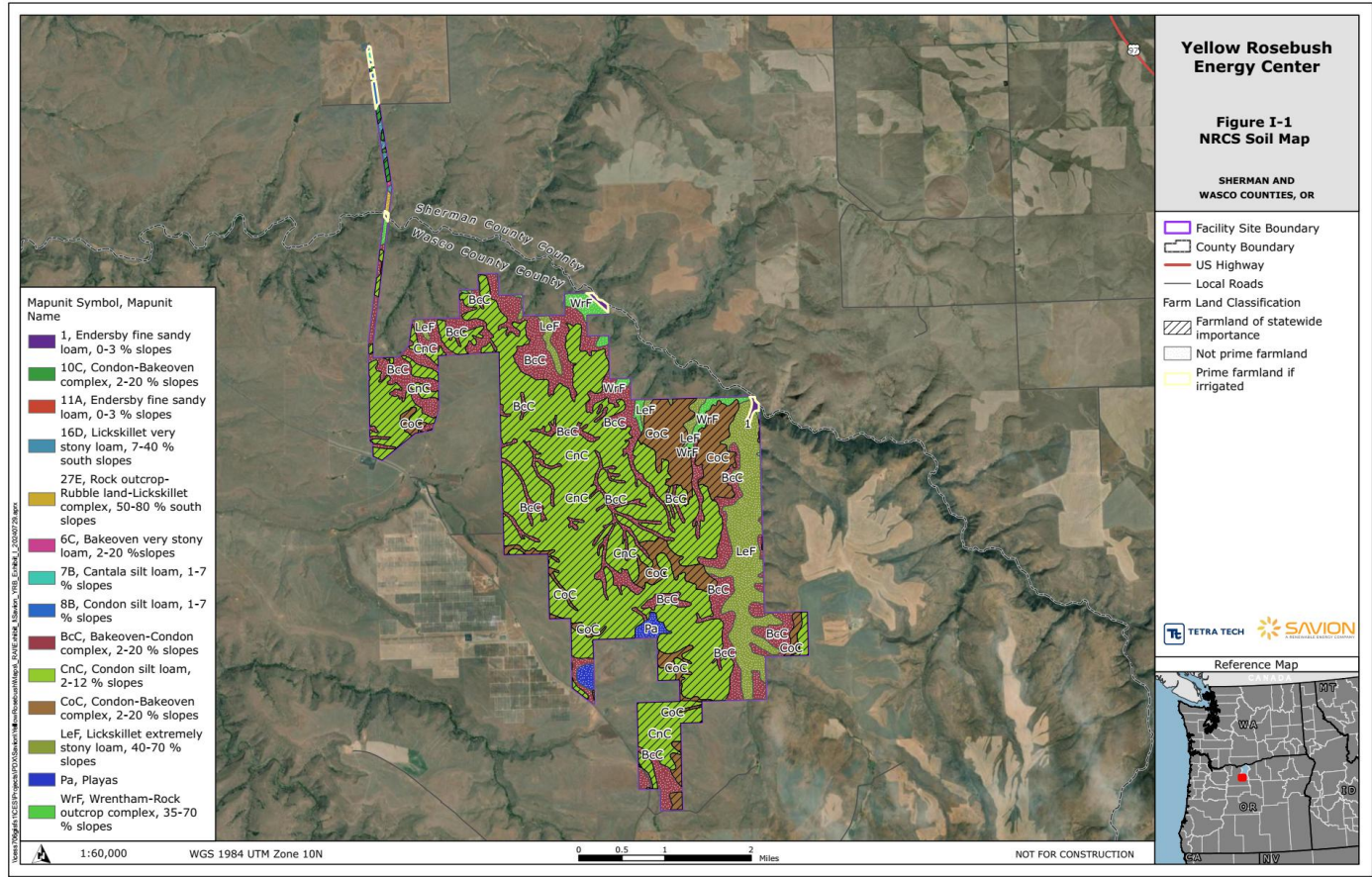
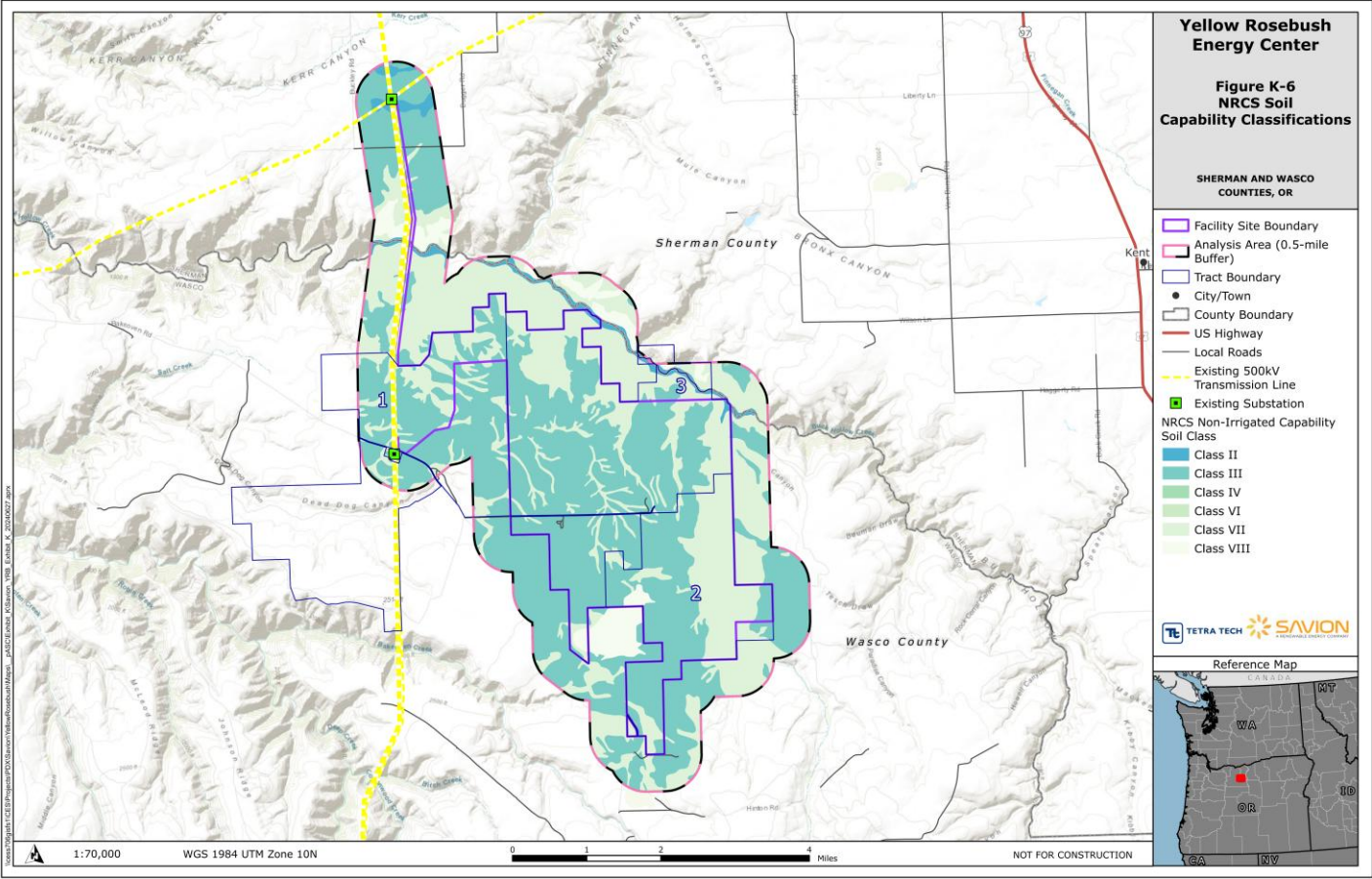


Figure 5: NRCS Soil Capability Classifications



IV.D.1.1 Potential Adverse Impacts to Soil

Potential impacts to soils from construction-related activities include the disturbance of soils (grubbing, vegetation removal and grading), creation and maintenance of access roads and staging areas, and tracking from vehicles coming to and from the site with deliveries and personnel. All of these impacts have the potential to disturb soil, expose soil and lead to erosion or loss of soil as a result of wind (dust) and water (runoff).⁸⁰ For these reasons, specific mitigation and minimization measures are required to reduce, prevent and minimize the impact to soils during and as a result of construction of the facility. Similarly, operational activities will have minimal but recurring impacts with the maintenance and repair of access roads, equipment and the need for on-going monitoring and best management practices.

For the purposes of estimating impacts and determining mitigation, all areas within the perimeter fence line are considered to be permanently impacted, and areas of temporary impact will be along areas outside and along the fence line, and also within the fence line in areas temporarily impacted by construction such as access roads to be decommissioned and restore upon completion of construction. Based upon current facility design, the estimated permanent and temporary impacts of facility components within the site boundary are described in Table 5 below.

Table 5: Estimated Temporary and Permanent Impacts of Facility Components⁸¹

Facility Component	Temporary Impact (Acres)	Permanent Impact (Acres)
Solar Array Area ¹		4,987
Collector Lines (overhead and underground) ²	123	
Battery Energy Storage System ³		44.2
Generation-tie Line (500 kV) ⁴	54.1	0.9
Existing Road Improvements ⁵	14.8	
New Site Access and Service Roads ⁶	25.4	80.3
Collector Substation ⁷		19.5
Temporary Construction Staging Areas ⁸	-	-
Operations & Maintenance (O&M) Building ⁹		3.9
Perimeter Fence Line ¹⁰	36.2	Included in the solar array area.
Total¹¹	226	4,992

⁸⁰ The activities that would disturb soils would occur within the fenceline and not the entire site boundary. The larger site boundary includes areas that are part of the Habitat Mitigation Area, discussed in Section IV.H.; the solar micrositing area is located approximately 0.25 miles away from the ridgelines within the vicinity of the facility. YRBAPPDoc9-14 DPO Public Comment VanEynde 2025-11-03; YRBAPPDoc9-11 DPO Public Comment Lee 2025-11-02.

⁸¹ YRBAPPDoc1-4 ASC Exhibit C. Project Location 2025-09-05, Table C-2.

Table 5: Estimated Temporary and Permanent Impacts of Facility Components⁸¹

Facility Component	Temporary Impact (Acres)	Permanent Impact (Acres)
Notes: 1. The area within the fence line includes all solar components (i.e., solar panels, tracking systems, piles, inverters, collector lines, and other associated equipment), as well as the following supporting facilities: collector substation, O&M building, site access and service roads, and battery energy storage system. The total eliminates overlap of features within the fence line. 2. Temporary impact assumes a 300-foot-wide temporary disturbance corridor in areas outside the fence line. Assumes a total of 263 miles of underground line both within and outside the fence line; however, temporary disturbance is only calculated for the portion outside the fence line. 3. Within the fence line, no temporary disturbance is applicable. 4. Overhead gen-tie line disturbance amounts include the support structures. Assumes a 100-foot temporary disturbance corridor plus pulling/tension areas, and 1,600 square foot (40'x40') permanent disturbance from each support structure. Approximately 4.5 miles long with support structures spaced approximately 1,000 feet apart. Located outside the fence line. 5. The existing county road within the site boundary will have a right of way of 60 feet based on the centerline and temporary impacts do not include the existing road width. Existing private roads will be widened to a maximum of 20 feet. Assumes a total of approximately 2.1 miles of existing roads to improve, located outside the fence line. 6. New service roads are assumed to be up to 20 feet in width. Assumes 31.3 miles of new permanent service roads, the majority of which are inside the fence line. 7. The collector substation is within the fence line and includes the surrounding gravel area and other associated components. 8. No temporary construction staging areas are proposed outside of the fence line. Staging disturbance inside the fence line is part of the permanent solar array area. 9. Assumes one O&M building (approximately 5,000 square feet) and the parking area, any adjacent storage, and surrounding graveled area (including an underground septic system) and is within the fence line. 10. This is the solar array perimeter fence and assumes a 6-foot temporary disturbance corridor on the outer side of the fence multiplied by the linear footage of fence for temporary workspace to install the fence. The narrow footprint of the fence is considered part of the permanently disturbed solar array area. Assumes an approximate total of 49.7 miles of fence. 11. Totals eliminate any overlap of features (e.g., overlapping temporary workspace, disturbance types within the fence line).		

Construction

Proposed facility construction has the potential to result in adverse impacts to soils from activities such as grading and site preparation, vegetation removal, improving existing facility access roads, hauling and staging heavy equipment and facility components, and onsite fuel storage/fueling or maintaining construction equipment or vehicles. Additional impacts include mass grading to result in a balanced cut-fill quantity of earthwork for the establishment of new facility service roads, and construction of solar arrays, the BESS, the O&M building, the temporary staging areas, and the collection system and transmission lines. Along the alternate gen-tie line that extends into Sherman County, additional grading may be needed at pole locations or portions of access routes. This gen-tie route, if constructed, would cross Buck Hollow, paralleling the existing 500-kV transmission line. When crossing canyon-type features support structures are typically placed at the top of the slope on either side of the canyon such

that no permanent disturbance would occur within the canyon and temporary disturbance, if any, would be minimal along the canyon slopes. Applicable provisions of the National Pollutant Discharge Elimination System (NPDES) 1200-C construction permit and an Erosion and Sediment Control Plan (ESCP), discussed below, would apply to this area.⁸²

Due to these activities, soil erosion, soil compaction, and fugitive dust impacts are likely to occur. Areas that will be graded are included in the microsites area and are expected to result in a balanced cut-and-fill quantity of earthwork to maintain the existing conditions to the extent practicable for the protection of the equipment and facilities.⁸³

In the ASC, the applicant commits to implementing measures to minimize impacts to soils from clearing and grubbing vegetation through limiting the extent of grading to the maximum extent practicable. By limiting the extent of grading to specific areas needed for construction and performing work during the dry season, construction can be implemented in a manner that would limit and minimize soil compaction. The applicant commits that whenever possible, construction activities will be scheduled in the dry season when soils are less susceptible to compaction. Similarly, soil disturbance is proposed be postponed when soils are excessively wet (e.g., following a precipitation event). Driving routes for construction vehicles will be limited to access roads and approved routes, and off-road travel outside the fence line will be prohibited. During construction, the applicant commits to measures to minimize soil loss or compaction through appropriate practices and the implementation of Best Management Practices (BMPs) including:

- Control any dust generated by construction activities, such as applying water to roads and disturbed soil areas. A Draft Fugitive Dust Control Plan (See Attachment I of this order) details measures to reduce fugitive dust emissions associated with construction-related activities;
- Conduct all construction work in compliance with an Erosion and Sediment Control Plan (See ASC Exhibit I, Attachment I-1) satisfactory to the Oregon Department of Environmental Quality (ODEQ) and as required under the NPDES Stormwater Discharge General Permit #1200-C. The ESCP shall include any procedures necessary to meet local erosion and sediment control requirements or stormwater management requirements;
- Implement appropriate site restoration practices following construction, including decompaction and revegetation, as described in the draft ESCP and the Draft Revegetation and Reclamation and Noxious Weed Control plans (See Attachments P-1 and P-2 of this order);
- Create and maintain a Spill Prevention, Control and Countermeasures (SPCC) Plan (this will be prepared based on final design and prior to construction, in addition to one required for operations); and

⁸² YRBAPPD12 Applicant Response to DPO Comments_w Atchhs 2025-11-07.

⁸³ YRBAPPD1-10 ASC Exhibit I. Soil Conditions 2025-09-05, Section 5.1

- Avoid soil areas identified by NRCS as those prone to wind and water erosion whenever practical. Otherwise, minimize impacts to the extent possible through the implementation and monitoring/maintenance of BMPs.

The draft Fugitive Dust Control Plan includes monitoring for fugitive dust, training and other best management practices (BMPs), and mitigation/minimization measures including: applying dust suppressants (watering or approved tackifiers), restricting access to and traffic speeds on-site to prevent the disturbance and tracking or loss of soils.

To ensure the applicant complies with the above-listed representations, and in order to prevent dust and potential loss of soil due to wind erosion, the ~~Department recommends that~~ Council impose the following conditions to require the finalization of the Fugitive Dust Control Plan similar to the one in Attachment I of this order. As presented in the condition, finalization of the plan includes updates based on final facility design, final contractor selection, soil conditions, and construction phasing.

Recommended-Soil Protection Condition 1 (PRE): Prior to construction of the facility or phase, as applicable, the certificate holder shall finalize the Draft Fugitive Dust Control Plan, similar to the draft plan in Attachment I of ~~this order~~ **the Final Order on ASC**. Finalization includes verification of names and contact information of individuals responsible for implementation, measures to be implemented and forms to be used for monitoring and reporting.
[PRE-SP-01; Final Order on ASC]

Commented [KT2]: Change in site cert

Because the applicant proposed grading as part of site preparation and construction, the ~~Department recommended~~ **Council imposes** Fish & Wildlife Habitat Conditions 2, 3 and 4, requiring that, prior to and during construction, the applicant must develop and implement a final Revegetation and Reclamation Plan that ensures grading activities are limited to areas where the slope and gradient are outside of panel and racking tolerances (typically 10% maximum on north slopes and 15% maximum in other directions). These are limitations the applicant represents can be met.

Revegetation and decompaction of soils will begin as soon as feasible following completion of construction. The draft Revegetation and Reclamation Plan proposes to restore temporarily disturbed areas by preparing the soil, followed by seeding using common application methods. Reestablishing vegetation is expected to be challenging given the local climate and site conditions. This will require that the final Revegetation and Reclamation Plan shall include the following measures that will also ensure protection of soils:

- Applicant shall quantify anticipated construction disturbance levels based on final layout and finalize the draft Revegetation and Reclamation Plan (Attachment P-1 of this order) based on impacts associated with the final design/layout by disturbance level.
- Applicant shall prepare a crosswalk outlining the construction measures of the draft Revegetation and Reclamation Plan, and a separate crosswalk outlining the revegetation measures of the plan to facilitate implementation by their contractors.

- Applicant shall hold a kick-off call with their contractors and ODOE prior to start of construction and again prior to start of revegetation to ensure all parties are prepared to implement the Revegetation and Reclamation Plan as written and finalized.
- Applicant shall develop revegetation methods for each disturbance level in consultation with ODOE, Oregon Department of Agriculture (ODAg), Oregon Department of Fish & Wildlife (ODFW), Soil & Water Conservation District (SWCD), Natural Resources Conservation Service (NRCS), and the Wasco and Sherman Counties Weed Departments.
- Applicant shall provide the restoration and seeding contractor's qualifications and scope of work as a submittal to ODOE prior to construction.
- Applicant shall perform soil compaction testing prior to and after construction. If soil measurements demonstrate that the soils within the work areas are more than 10 percent compacted than the baseline condition, then remediation activities must be completed prior to initiation of revegetation activities.
- Applicant shall prepare a long-term monitoring plan for both temporary and permanent impact areas after five years of revegetation monitoring are complete, in consultation with ODOE, ODAg, ODFW, SWCD, NRCS, and the Wasco and Sherman County Weed Departments.
- Applicant shall maintain the area within the fence line in a stabilized condition for the life of the facility. This will be demonstrated through submittal of regular monitoring reports and maintained through adaptive management actions if monitoring finds success criteria are not met.
- After the site has been prepared for installation of facility components (i.e., grading is complete), but prior to installation, the applicant will seed all areas with less than 70 percent vegetative cover with a non-invasive, non-persistent cover crop (e.g., triticale). Establishment of a cover crop at this stage of construction will serve to stabilize soil and suppress noxious weed infestations to reduce erosion and dust pollution, and facilitate final revegetation with desired plant species.

Because revegetation is also a requirement for restoration of temporarily impacted habitat, the supporting conditions that require preconstruction finalization and implementation of the plan during construction and operation are presented in Section IV.H., *Fish and Wildlife Habitat* (see ~~recommended~~ Fish and Wildlife Habitat Conditions 2, 3 and 4) and the Draft Revegetation and Reclamation Plan is included as Attachment P-1.

A National Pollutant Discharge Elimination System (NPDES) 1200-C construction permit and an Erosion and Sediment Control Plan (ESCP) are required for construction. This federally delegated permit is not within Council's jurisdiction; however, the applicant relies on the ESCP and Best Management Practices (BMPs) required by the permit in part to minimize erosion impacts. A draft ESCP is provided in ASC, Exhibit I, Attachment I-1 and would be updated based on final facility design, prior to and during construction. A list of BMPs is included in Exhibit I, Section 6.1 Minimization and Best Practices. A DEQ-issued 1200-C permit includes stormwater controls, natural buffer zones and/or equivalent erosion and sediment controls to control and

1 minimize potential offsite discharge impacts from construction activity to a surface water of the
2 state.⁸⁴ All of these are requirements for the final NPDES-1200-C permit.

3
4 The applicant will also be required to comply with the requirements of a final Fugitive Dust
5 Control Plan to minimize wind-borne erosion impacts.

6
7 The ~~Department recommends~~ Council imposes the following condition requiring that, prior to
8 construction, the applicant obtain its NPDES 1200-C from DEQ, inclusive of a final ESCP, and
9 that the applicant be required to finalize the draft Fugitive Dust Control Plan, as provided in
10 Attachment I of this order, including verification of names and contact information of
11 individuals responsible for implementation, measures to be implemented and forms to be used
12 for monitoring and reporting.

13
14 **~~Recommended~~ Soil Protection Condition 2 (PRE):** Prior to construction of the facility or
15 phase, as applicable, the certificate holder shall obtain a NPDES 1200-C Permit from
16 DEQ. A copy of the approved permit and attached Erosion and Sediment Control Plan
17 (ESCP) must be submitted to the Department.
18 [PRE-SP-02; Final Order on ASC]

19
20 Under the 1200-C permit, an ESCP can be revised throughout construction to address
21 numerous changes.⁸⁵ Because the 1200-C permit is a permit regulated by DEQ, but the
22 applicant relies in part on the BMPs under the 1200-C ESCP to minimize erosion impacts under
23 the Council's standards, the ~~Department recommends~~ Council includes language in the
24 condition that provides the Department the authority to require that changes be implemented
25 in an ESCP, as presented below:

26
27 **~~Recommended~~ Soil Protection Condition 3 (GEN):** During construction of the facility or
28 phase, as applicable, the certificate holder shall:
29 a. Conduct all work in compliance with the NPDES 1200-C Permit and Erosion and
30 Sediment Control Plan (ESCP) or revised ESCP if applicable. The ESCP shall be revised
31 if determined necessary by the certificate holder, certificate holder's contractor(s) or
32 the Department. Any Department-required ESCP revisions shall be implemented

⁸⁴ See YRBAPPDoc9-11 DPO Public Comment Lee 2025-11-02; YRBAPPDoc12 Applicant Response to DPO Comments_w Atchts 2025-11-07. Additionally, ~~Recommended~~ Land Use Condition 1 requires that foundations of permanent structures (solar array posts, substation, O&M building, and battery energy storage system components) must be setback a minimum of 50 feet from non-fish bearing streams (ephemeral, intermittent and ponds).

⁸⁵ DEQ Construction Stormwater Application and Forms Manual. 2022. Accessed November 12, 2024: [wqp1200cInfo.pdf \(oregon.gov\)](#), pg. 18-19. ESCP revisions under the 1200-C permit can be made for: emergency situations; registrant change of address; change in size of project; change in size or location of disturbed areas; changes to best management practices; changes in erosion and sediment control inspector; and changes in DEQ or agent requests.

within 14-days, unless otherwise agreed to by the Department based on a good faith effort to address erosion issues.

- b. Conduct all work in compliance with the Fugitive Dust Control Plan. The Fugitive Dust Control Plan may be amended, as needed, to ensure that control measures are effective at the site.

[GEN-SP-01; Final Order on ASC]

Under DEQ's 1200-C permit, the applicant is required to stabilize the site in order to obtain authorization from DEQ to terminate the permit. If not terminated, the monitoring and control measures of the ESCP remain applicable to site actions. The ~~Department recommends~~ Council finds that reliance on the 1200-C for site stabilization is reasonable, however, it is a point in time following construction and does not address long-term site stabilization or revegetation that may be needed as result of ongoing operations and maintenance activities at the site. For these reasons, the ~~Department recommends that~~ Council requires the final Revegetation and Reclamation Plan under Fish and Wildlife Habitat conditions include measures to ensure long-term stabilization and revegetation of the site.

Proposed facility construction would include onsite storage of fuels, if needed. The applicant or the applicant's contractor may use a maximum tank size of 1,000 gallons on-site for fuel storage. This tank would likely be on the back of a trailer. The estimated amount of diesel that may be stored on-site is approximately 3,000 gallons using three tanks. The estimated amount of gasoline that may be stored on-site is approximately 300 gallons using three 100-gallon tanks.

Secondary containment and refueling procedures for on-site fuel storage will follow a Spill Prevention Countermeasure and Control (SPCC) Plan. Other materials may include cleaners, insecticides or herbicides, and paint or solvents. In the ASC, the applicant states that any materials to be present in substantial, reportable quantities and materials will be handled in accordance with state and federal standards. On-site fuel storage may be placed in designated areas within the temporary staging areas. Secondary containment will be compliant with requirements in 40 CFR §112.7(c), which requires secondary containment for all above ground, buried, and partially buried containers.

The ~~Department recommends~~ Council adopts the following conditions, requiring the applicant to submit and implement the SPCC Plan prior to and during facility construction.

~~Recommended~~ Soil Protection Condition 4 (PRE): Prior to construction of the facility or phase, as applicable, the certificate holder must submit to the Department a Construction Spill Prevention Countermeasures and Control (SPCC) Plan.
[PRE-SP-03; Final Order on ASC]

~~Recommended~~ Soil Protection Condition 5 (CON): During construction, the certificate holder and all onsite contractors and personnel shall adhere to the requirements of the SPCC Plan. Any SPCC revisions and updates shall be reported to the Department.

[CON-SP-01; Final Order on ASC]

Operation

During operation, potential impacts to soils could include impacts and disturbance from ongoing operations and maintenance of facility components, access roads, and areas around, inside and outside the perimeter fence. During operations, the primary chemical storage be oil required for the transformers (199 step up transformers and one substation transformer) that use oil for cooling. The estimated oil capacity of one step-up transformer is 562 gallons, and the estimated oil capacity of one substation transformer is 20,500 gallons. Other operational activities that could result in negative impacts to soil include erosion, compaction and contamination from solar panel washing, routine service maintenance of the facility components, and inadvertent spills from facility components. For these reasons, the ~~Department recommends~~ Council impose~~s~~ the following operational conditions to limit and minimize erosion of soils and any potential impacts from solar panel washing:

~~Recommended~~ Soil Protection 6 (OPR): During operation, the certificate holder shall monitor and implement necessary controls for any onsite wind or water-related erosion issues. Certificate holder shall document such measures and include summaries in annual facility operations reports.
[OPR-SP-01]

~~Recommended~~ Soil Protection Condition 7 (OPR): During operation, if solar panel washing is planned to occur, the use of chemicals, soaps, detergents and heated water is prohibited, unless Chemical Safety Data Sheets for low volatile organic compound/biodegradable cleaning chemicals and solvents are submitted to the Department for review and approval. Pressure washing is allowed, so long as it does not remove paint or other finishes.
[OPR-SP-02]

Transformers at the inverter stations and for the BESS and collector substation will be ground-mounted units constructed on concrete pads with secondary spill containment traps designed to minimize the possibility of accidental leakage. Transformers typically use mineral oil or seed oil that are biodegradable and considered nontoxic. Given the oil-containment capacity of the transformers, secondary containment and an SPCC are required for operations. For these reasons, the ~~Department recommends~~ Council impose~~s~~ conditions to ensure that an operational SPCC is developed and implemented to address potential spill-related incidents during operations.

~~Recommended~~ Soil Protection Condition 8 (PRO): Prior to operation, the certificate holder shall submit to the Department an Operational Spill Prevention Control and Countermeasures (SPCC) Plan.
[PRO-SP-01; Final Order on ASC]

Recommended-Soil Protection Condition 9 (OPR): During operation, the certificate holder shall adhere to the requirements of the Operational SPCC Plan. Any SPCC updates shall be described and included in the Annual Report to the Department. Certificate holder shall report spill and cleanup activities to the Department within 72 hours and shall make inspection records available to the Department upon request. [OPR-SP-03; Final Order on ASC]

IV.D.2. Conclusions of Law

Based on the foregoing analysis, and subject to compliance with the ~~recommended~~ conditions of approval as described above, the ~~Department recommends~~ Council finds that the proposed facility is not likely to result in a significant adverse impact to soils.

IV.E. Land Use

ORS 469.503(4)

To issue a site certificate, the Council shall determine that the preponderance of the evidence on the record supports a conclusion that the facility complies with the statewide planning goals adopted by the Land Conservation and Development Commission.

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);

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

5
6 *(C) For a proposed facility that the Council decides, under sections (3) or (6), to*
7 *evaluate against the statewide planning goals, the proposed facility complies*
8 *with the applicable statewide planning goals or that an exception to any*
9 *applicable statewide planning goal is justified under section (4).*

10
11 *(3) As used in this rule, the "applicable substantive criteria" are criteria from*
12 *the affected local government's acknowledged comprehensive plan and land*
13 *use ordinances that are required by the statewide planning goals and that are*
14 *in effect on the date the applicant submits the application. If the special*
15 *advisory group recommends applicable substantive criteria, as described*
16 *under OAR 345-021-0050, the Council shall apply them. If the special advisory*
17 *group does not recommend applicable substantive criteria, the Council shall*
18 *decide either to make its own determination of the applicable substantive*
19 *criteria and apply them or to evaluate the proposed facility against the*
20 *statewide planning goals.*

21
22 *(4) The Council may find goal compliance for a proposed facility that does not*
23 *otherwise comply with one or more statewide planning goals by taking an*
24 *exception to the applicable goal. Notwithstanding the requirements of ORS*
25 *197.732, the statewide planning goal pertaining to the exception process or*
26 *any rules of the Land Conservation and Development Commission pertaining*
27 *to the exception process, the Council may take an exception to a goal if the*
28 *Council finds:*

29
30 *(a) The land subject to the exception is physically developed to the extent that*
31 *the land is no longer available for uses allowed by the applicable goal;*

32
33 *(b) The land subject to the exception is irrevocably committed as described by*
34 *the rules of the Land Conservation and Development Commission to uses not*
35 *allowed by the applicable goal because existing adjacent uses and other*
36 *relevant factors make uses allowed by the applicable goal impracticable; or*

37
38 *(c) The following standards are met:*

39
40 *(A) Reasons justify why the state policy embodied in the applicable goal*
41 *should not apply;*

42
43 *(B) The significant environmental, economic, social and energy consequences*
44 *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.

(5) If the Council finds that applicable substantive local criteria and applicable statutes and state administrative rules would impose conflicting requirements, the Council shall resolve the conflict consistent with the public interest. In resolving the conflict, the Council cannot waive any applicable state statute.

(6) If the special advisory group recommends applicable substantive criteria for an energy facility described in ORS 469.300(11)(a)(C) to (E) or for a related or supporting facility that does not pass through more than one local government jurisdiction or more than three zones in any one jurisdiction, the Council shall apply the criteria recommended by the special advisory group. If the special advisory group recommends applicable substantive criteria for an energy facility described in ORS 469.300(11)(a)(C) to (E) or a related or supporting facility that passes through more than one jurisdiction or more than three zones in any one jurisdiction, the Council shall review the recommended criteria and decide whether to evaluate the proposed facility against the applicable substantive criteria recommended by the special advisory group, against the statewide planning goals or against a combination of the applicable substantive criteria and statewide planning goals. In making the decision, the Council shall consult with the special advisory group, and shall consider:

(a) The number of jurisdictions and zones in question;

(b) The degree to which the applicable substantive criteria reflect local government consideration of energy facilities in the planning process; and

(c) The level of consistence of the applicable substantive criteria from the various zones and jurisdictions.⁸⁶

IV.E.1. Findings of Fact

The applicant elected a Council determination on whether the proposed facility complies with the statewide land use planning goals under ORS 469.504(1)(b).

The Council's Land Use standard defines "applicable substantive criteria" as criteria from the affected local government's acknowledged comprehensive plan and land use ordinances that

⁸⁶ Administrative Order EFSC 1-2003, effective September 3, 2003.

are required by the statewide planning goals and that are in effect on the date the applicant submits the application. The preliminary application was submitted to the Department on August 30, 2024; therefore, the applicable substantive criteria are based on those in effect on August 30, 2024.

Compliance with applicable substantive criteria must be demonstrated for proposed facility components based on the appropriate land use category and zone. The proposed facility includes the following land uses and zones:

Wasco County

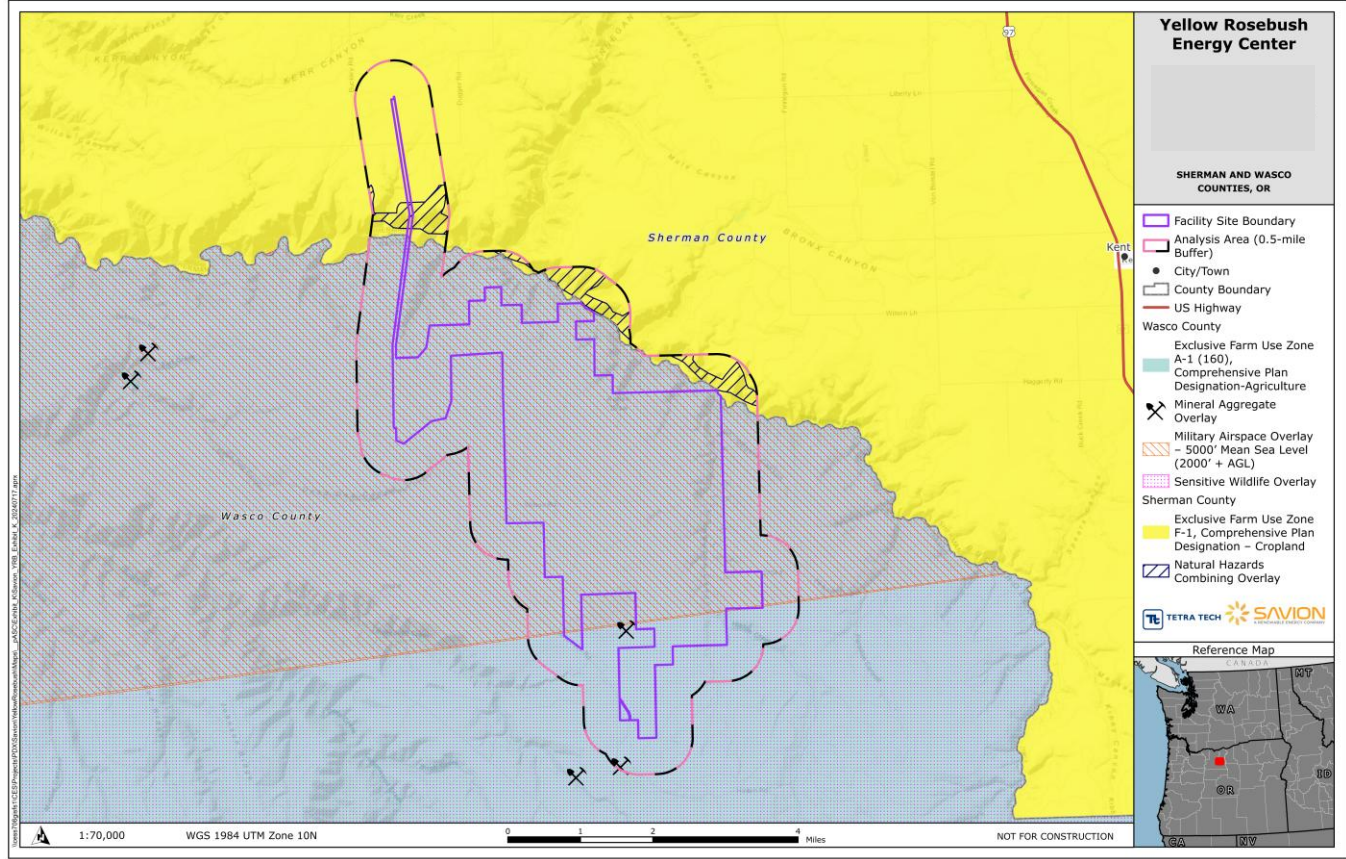
- Zone: Exclusive Farm Use (EFU) A-1 zone
- Use: Commercial Power Generating Facility (Utility Facility for the Purpose of Generating Power)
 - Up to 7,026 acres of solar PV power generation components
 - Point of Interconnect (POI) – 500 kV transmission line, less than one mile (estimated 1,000 feet)
- Use: Associated Transmission Line
- Overlay zones: Geological Hazards, Sensitive Wildlife Habitat, Sensitive Bird Site, Military Airspace

Sherman County

- Zone: EFU F-1 zone
- Use: Associated Transmission Line
 - 4.5 miles of 500 kV line (approximately 2.6 miles in Wasco County and 1.9 miles in Sherman County) – transmission line alternative and POI with Buckley Substation.
- Overlay zone: Natural Hazards Combining

The land use zone and zone overlays are presented in Figure 6 below.

Figure 6: Land Use Zones in Analysis Area



IV.E.1.1 Wasco County Local Applicable Substantive Criteria

The applicable substantive criteria for portions of the proposed facility within Wasco County are presented in Table 6 below.

Table 6: Wasco County Applicable Substantive Criteria

Wasco County Development Ordinance (WCLUDO)⁸⁷	
<i>Chapter 1: Introductory Provisions</i>	
Section 1.030	Severability (Legal Parcel Status)
<i>Chapter 3: Basic Provisions</i>	
Section 3.210	Exclusive Farm Use (A-1) Zone
3.214(N)	Uses Permitted Subject to Standards/Type I Review (A-1 Zone)
3.215(M)	Uses Permitted Subject to Conditional Use Review/Type III (A-1 Zone)
3.216	Property Development Standards (A-1 Zone)
3.218	Agricultural Protection (A-1 Zone)
<i>Chapter 3: Overlay Zones</i>	
Section 3.720	Geologic Hazards Overlay Zone (OZ-2)
Section 3.800	Sensitive Wildlife Habitat Overlay Zone (OZ-8)
Section 3.840	Sensitive Bird Site Overlay Zone (OZ-12)
Section 3.870	Military Airspace Overlay Zone (OZ-15)
<i>Chapter 5: Conditional Use Review</i>	
Section 5.020	Authorization to Grant or Deny Conditional Uses, and Standards and Criteria Used
<i>Chapter 10: Fire Safety Standards</i>	
Section 10.020	Fire Safety Standards
Section 10.110	Siting Standards – Locating Structure for Good Defensibility
Section 10.120	Defensible Space – Clearing and Maintaining a Fire Fuel Break
Section 10.130	Construction Standards for Dwellings and Structures – Decreasing The Ignition Risks by Planning for A More Fire-Safe Structure
Section 10.140	Access Standards – Providing safe access to and escape from your home
Section 10.150	Fire Protection and On-site Water Required
<i>Chapter 19: Standards for Non-Commercial Energy Facility, Commercial Energy Facilities & Related Uses</i>	
Section 19.030	Commercial Power Generating Facilities Review Process & Approval Standards
C	General Standards
D-1	Specific Standards, Solar Energy Facilities
<i>Chapter 20: Site Plan Review</i>	

⁸⁷ Wasco County Land Use and Development Ordinance. 2023. Available online: https://cms5.revize.com/revize/wascocounty/docs/Planning%20Ordinances/FULL_LUDO_12.05.22_UPDATED_05.15.23.pdf Accessed by the Department 2024-11-07.

Table 6: Wasco County Applicable Substantive Criteria

Section 20.040	Site Plan Approval Standards
Section 20.050	Off Street Parking
Section 20.055	Bicycle Parking Requirements
Section 20.070	Off Street Loading
Section 20.080	General Provisions – Off Street Parking and Loading
Wasco County Comprehensive Plan (WCCP)	
Goal 5: Open Spaces, Scenic and Historic Areas and Natural Resources – Policy 5	
Goal 13: Energy Conservation – Policy 13	

Wasco County Land Use and Development Ordinance (WCLUDO)

WCLUDO Chapter 1: Introductory Provisions

WCLUDO Section 1.030 Severability

“...The Director, the Director's designee or other Approving Authority shall not approve a development or use of land that has been previously divided or otherwise developed in violation of this Ordinance, regardless of whether the applicant created the violation, unless the violation can be rectified as part of the development proposal.”

WCLUDO Section 1.030 specifies that development shall not be approved if located on land that has been previously divided or otherwise developed in violation of the WCLUDO.

The site boundary contains 9 parcels, as identified in Table 7 below by township, range, section and tax lot. Wasco County Planning Department confirmed that these parcels have not been previously divided or otherwise developed in violation of WCLUDO Section 1.030.⁸⁸ Legal parcel status within the site boundary is summarized in Table 7 below:

Table 7: Legal Status of Parcels within Facility Site Boundary

Township, Range, Section, Tax Lot	Account #	Landowner	Approximate Acres within Site Boundary	Legal Parcel	Deed History
5S 16E 0 0900, 5S 16E 0 1000 & 5S 16E 0 1100	12534, 12533 & 12532	Phillips Don W Et Al	2,723, 932 & 1.5	Yes	Pre-1974 Deed #: Book 145, Pages 348-349, dated 2/26/1962; Current Deed #: “Parcel I” 2024-001624, filed 7/1/2024

⁸⁸ YRBAPPD09-5 ASC SAG Comment 2025-08-25; YRBAPPD09-2 Reviewing Agency Consultation Wasco Planning 2025-10-07.

Table 7: Legal Status of Parcels within Facility Site Boundary

Township, Range, Section, Tax Lot	Account #	Landowner	Approximate Acres within Site Boundary	Legal Parcel	Deed History
4S 16E 0 0300	12341	Phillips Don W Et al	928	Yes	Pre-1974 Deed #: 1973-911, dated 4/27/1973; Current Deed #: 2006-001445, filed 3/9/2006 (portion of Tract I)
5S 16E 0 1300 & 2600*	12536	Chrisman Levi Family LLC	2,468	Yes	Pre-1974 Deed #: 1950-067232, 1950-067233 & 1950-067234, dated 5/15/1950; Current Deed #: 2011-004385, filed 12/21/2011
4S 15E 0 1500	12335	Steven L Ashley Et al (aka A&K Ranch)	1,434	Yes	Pre-1974 Deed #: 67-1797, dated 6/28/1963; Current Deed #: 2023-001042, filed 5/8/2023
4S 15E 0 0100	12333	Betty Jean Et al	3,575	Yes	Pre-1974 Deed #: Book 138, Pages 190-192, dated 10/23/1958 (with portion removed by Book 113, Page 50); Current Deeds #: 2006-001633, filed 03/20/2006 and 2024-002954, filed 12/06/2024 (multiple current deeds due to split ownership)
5S 15E 0 0100	12511	Richards Corporation	1,262	Yes	Pre-1974 Deed #: 83-2012, dated 10/25/1966; Current Deed #: 2020-5363, Parcel 1 of Plat 2020-0025, filed 12/17/2020
*The land identified as TL 2600 was added to this parcel in 2011 as a correction from an omission in the 1950 deeds. This is described in the 2011 deed.					

1

2 WCLUDO Chapter 3: Basic Provisions

Section 3.210 Exclusive Farm Use (A-1) Zone

Section 3.214 Uses Permitted Subject to Standards/Type II Review (A-1 Zone)

The following uses may be permitted on a legal parcel on lands designated Exclusive Farm Use (A-1) Zone subject to the Section 3.216 - Property Development Standards, Section 3.218 - Agricultural Protection, Chapter 10 - Fire Safety Standards, Chapter 20 - Site Plan Review only if the request includes off-street parking, off-street loading or bicycle parking, as well as any other listed, referenced or applicable standards:

UTILITY/ENERGY FACILITIES

N. Utility facilities "necessary" for public service, including wetland waste treatment systems and Electrical Transmission Facilities under 200 feet in height, but not including commercial utility facilities for the purpose of generating electrical power for public use by sale, or Electrical Transmission Facilities over 200 feet in height, subject to Section 3.219 G below.

As defined above, both of the proposed facility's 500 kV transmission line alternatives are considered a "utility facility necessary for a public service" and as proposed, will be at maximum, no more than 180 feet tall and under the 200-foot height threshold. As provided in Section IV.E.1.3 below, Directly Applicable State Statutes and Administrative Rules, the proposed transmission line(s) would be an associated transmission line.

Notwithstanding the language in the county's code, the conditional use requirements beyond those that are consistent with ORS 215.274 are not applicable to the proposed 500 kV transmission lines because, as a utility facility necessary for public service under ORS 215.283(1)(c), the use is permitted subject only to the requirements of ORS 215.274 and the county cannot impose additional approval criteria.⁸⁹ Therefore, the conditional use requirements in WCLUDO Section 3.216 - Property Development Standards, Section 3.218 - Agricultural Protection, Chapter 10 - Fire Safety Standards, Chapter 20 - Site Plan Review would not apply to either of the proposed transmission line alternatives.

Section 3.215 Uses Permitted Subject to Conditional Use Review/Type III (A-1 Zone)

The following uses may be permitted on a legal parcel designated Exclusive Farm Use (A-1) Zone subject to Section 3.216 - Property Development Standards, Section 3.218 - Agricultural Protection, ORS 215.296, Chapter 5 - Conditional Use Review, Chapter 10 - Fire Safety Standards, Chapter 20 - Site Plan Review only if the request includes off-street parking, off-street loading or bicycle parking or is a commercial event (home occupation or agritourism), as well as any other listed, referenced, or applicable standards:

⁸⁹ Brentmar v. Jackson County, 321 Or 481, 496 (1995).

ENERGY/UTILITY/SOLID WASTE DISPOSAL FACILITIES

M. Commercial Power Generating Facility (Utility Facility for the Purpose of Generating Power) subject to Section 19.030.

...
Except for wind facilities, transmission lines or pipelines, unless otherwise allowed by state regulations, the energy facility shall not preclude more than 12 acres from use as a commercial agricultural enterprise unless an exception is taken pursuant to OAR Chapter 660-004, or 20 acres from use as a commercial agricultural enterprise unless an exception is taken pursuant to OAR Chapter 660-004 and ORS 197.732.

The proposed facility falls under this conditional use. WCLUDO Section 3.215(M) identifies “commercial power generating facility” (commercial utility facilities) as a permitted conditional use in an EFU A-1 zone. The section limits commercial utility facilities from precluding more than 12 acres of high-value farmland or more than 20 acres of arable land from use as a commercial agricultural enterprise, unless an exception to the statewide policy embodied in Goal 3 is taken.

The proposed facility, excluding the transmission line alternatives, is evaluated under the “commercial power generating facility” land use category. Because the proposed facility would preclude more than 20 acres of arable land from use as a commercial agricultural enterprise, it would not comply with this requirement and a Goal 3 exception to statewide planning goals per OAR Chapter 660-004 and ORS 197.732 would be required and is evaluated in Section IV.E.1.4 of this order.

WCLUDO Section 3.215(M) requires conditionally permitted uses to comply with WCLUDO Section 3.216 - Property Development Standards, Section 3.218 - Agricultural Protection, Chapter 10 - Fire Safety Standards, Chapter 20 - Site Plan Review. The ~~Department's~~ Council's evaluation is provided below.

Section 3.216 Property Development Standards (A-1 Zone)

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

A. Setbacks

1. Property Line

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

New dwellings or accessory structures to dwellings are not proposed. These setbacks are not applicable.

- b. All dwellings in conjunction with farm use shall comply with the following property line setback requirements:
- i. If adjacent land is being used for perennial or annual crops, grazing, zoned Exclusive Farm Use and has never been cultivated, or is zoned F-1 or F-2, the setback shall be a minimum of 100 feet from the property line.
 - ii. If the adjacent land is not in agricultural production and is not zoned for exclusive farm use or forest use, the setback shall be a minimum 25 Feet from the property line.
 - iii. If any of the setbacks listed above conflict with the Sensitive Wildlife Habitat Overlay the following shall apply and no variance shall be required:
 - (a) The structure shall be set back a minimum of 25 feet from the road right of way or easement;
 - (b) The structure shall be located within 300 feet of the road right of way or easement pursuant Section 3.920(F)(2), Siting Standards; and

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

New dwellings in conjunction with farm use are not proposed. These setbacks are not applicable.

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

New farm structures are not proposed. These setbacks are not applicable.

d. *Utility facilities necessary for public service shall be set back a minimum of 25 feet from the property line.*

The primary and alternate gen-tie line are the only components of the facility that are considered 'utility facilities necessary for public service'. However, as stated above the conditional use requirements beyond those that are consistent with ORS 215.274 are not applicable to the proposed 500 kV transmission lines because, as a utility facility necessary for public service under ORS 215.283(1)(c), the use is permitted subject only to the requirements of ORS 215.274 and the county cannot impose additional approval criteria.⁹⁰ Therefore, the conditional use requirements in WCLUDO Section 3.216 - Property Development Standards do not apply.

e. *Additions, modifications or relocation of existing structures shall comply with all EFU setback standards.*

Additions, modifications or relocations of existing structures are not proposed. These setbacks are not applicable.

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

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

This provision excludes fences, signs, roads or retaining walls less than four feet in height from property line setbacks. Property line setbacks apply to the portions of the alternate POI extending outside of the facility perimeter fenceline. The transmission line would not be fenced. Therefore, the exclusions allowed in this provision are not applicable.

⁹⁰ Brentmar v. Jackson County, 321 Or 481, 496 (1995).

2. **Waterways**

- a. *Resource Buffers: All bottoms of foundations of permanent structures, or similar permanent fixtures shall be setback from the high water line or mark, along all streams, lakes, rivers, or wetlands.*
 - i. *A minimum distance of one hundred (100) feet when measured horizontally at a right angle for all water bodies designated as fish bearing by any federal, state or local inventory.*
 - ii. *A minimum distance of fifty (50) feet when measured horizontally at a right angle for all water bodies designated as non-fish bearing by any federal, state or local inventory.*
 - iii. *A minimum distance of twenty-five (25) feet when measured horizontally at a right angle for all water bodies (seasonal or permanent) not identified on any federal, state or local inventory.*
 - iv. *If the proposal does not meet these standards it shall be subject to Section 3.216 A1c - Additions or Modifications to Existing Structures, above.*
 - v. *The following uses are not required to meet the waterway setbacks, however they must be sited, designed and constructed to minimize intrusion into the riparian area to the greatest extent possible:*
 - (a) *Fences;*
 - (b) *Streets, roads, and paths;*
 - (c) *Drainage facilities, utilities, and irrigation pumps;*
 - (d) *Water-related and water-dependent uses such as docks and bridges;*
 - (e) *Forest practices regulated by the Oregon Forest Practices Act;*
 - (f) *Agricultural activities and farming practices, not including the construction of buildings, structures or impervious surfaces; and*
 - (g) *Replacement of existing structures with structures in the same location that do not disturb additional riparian surface area.*

ASC Exhibit J and Section IV.R., *Removal Fill Law*, identifies 49 ephemeral waterways, 2 intermittent waterways and 2 ponds within the site boundary. These water bodies are considered non-fish bearing streams. The proposed facility is designed to avoid impacts to these waterways, however the setbacks referenced above still apply. The **Department recommends that the** Council impose s Land Use Condition 1(a) requiring that foundation of permanent structures be setback a minimum of 50 feet from non-fish bearing streams identified in ASC Exhibit J.

~~Recommended~~ Land Use Condition 1 (PRE): Prior to construction, certificate holder shall demonstrate that final facility site plan complies with the following setbacks:

- 1 a. Foundations of permanent structures (solar array posts, substation, O&M building,
2 and battery energy storage system components) shall be setback a minimum of 50
3 feet from non-fish bearing streams (ephemeral, intermittent and ponds).
4 [PRE-LU-01, Final Order on ASC]

5
6 Based upon compliance with the above ~~recommended~~ condition, the ~~Department recommends~~
7 Council find~~s~~ that the proposed facility would comply with WCLUDO 3.216(A)(2)(a).
8

9 **5. All development will be setback 25 feet from roads or access easements.**

10
11 The proposed facility layout and site are not within 25 feet of roads or access easement.
12 Nonetheless, to ensure that final design complies with the setback requirement, the
13 ~~Department recommends the~~ Council impose~~s~~ the following condition:
14

15 ~~Recommended~~ **Land Use Condition 1 (PRE):** Prior to construction, certificate holder
16 shall demonstrate that final facility site plan complies with the following setbacks:

- 17 a. ...
18 b. All facility components, including fences but excluding the 500 kV transmission line,
19 shall be setback a minimum of 25 feet from any road or access easement.
20 [PRE-LU-01, Final Order on ASC]
21

22 Based upon compliance with the above ~~recommended~~ condition, the ~~Department recommends~~
23 Council find~~s~~ that the proposed facility would comply with WCLUDO 3.216(A)(5).
24

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

29 WCLUDO 3.216(B) is not applicable because the project includes two uses that are covered in
30 Section 4.070 as exceptions to the building height requirements.
31

- 32 **C. Vision Clearance:** *Vision clearance on corner properties shall be a minimum of*
33 *thirty (30) feet.*
34

35 There are no corner lots intersecting with a public road. Wilson Road provides access to the
36 site; the only intersections present would be internal. Therefore, this provision is not
37 applicable.
38

- 39 **D. Signs:**
40 1. *Permanent signs shall not project beyond the property line.*
41 2. *Signs shall not be illuminated or capable of movement.*
42 3. *Permanent signs shall describe only uses permitted and conducted on the*
43 *property on which the sign is located.*
44 4. *Size and Height of Permanent Signs:*

- a. *Freestanding signs shall be limited to twelve square feet in area and 8 feet in height measured from natural grade.*
- b. *Signs on buildings are permitted in a ratio of one square foot of sign area to each linear foot of building frontage but in no event shall exceed 32 square feet and shall not project above the building.*

5. *Number of permanent signs:*

- a. *Freestanding signs shall be limited to one at the entrance of the property. Up to one additional sign may be placed in each direction of vehicular traffic running parallel to the property if they are more than 750 feet from the entrance of the property.*
- b. *Signs on buildings shall be limited to one per building and only allowed on buildings conducting the use being advertised.*

The facility will include one permanent sign posted on the perimeter fence at the facility entrance. That sign will include facility name and emergency contact information. Additional permanent signage will be attached per (5) to mark facility building or structures, and along the perimeter fence around the substation that include safety and warnings. The ~~Department recommends~~ Council imposes a preconstruction condition to ensure that signage selected at final facility design complies with the above requirements.

~~Recommended~~ **Land Use Condition 2 (PRO):** Prior to installation of permanent facility signage, the certificate holder shall demonstrate that facility signage complies with WCLUDO Section 3.216(D).
[PRO-LU-01, Final Order on ASC]

Based upon compliance with the above ~~recommended~~ condition, the ~~Department recommends~~ Council finds that the proposed facility would comply with WCLUDO 3.216(D).

6. *Temporary signs such as signs advertising the sale or rental of the premise are permitted provided the sign is erected no closer than ten feet from the public road right-of-way. Election signs are permitted but shall not be set in place more than 45 days prior to an election and shall be removed within 45 days after an election.*

The applicant proposes to use up to three temporary signs during facility construction to identify the facility. The signs will be placed a minimum of 10-feet from a public road right-of-way. The ~~Department recommends~~ Council imposes a preconstruction condition to ensure that temporary signage selected at final facility design complies with the above requirements.

~~Recommended~~ **Land Use Condition 3 (PRE):** Prior to installation of temporary facility signage, the certificate holder shall demonstrate that facility signage complies with WCLUDO Section 3.216(D)(6).
[PRE-LU-02, Final Order on ASC]

1 Based upon compliance with the above ~~recommended~~ condition, the ~~Department recommends~~
2 Council find~~s~~ that the proposed facility would comply with WCLUDO 3.216(D)(6).

3
4 **E. Lighting:** *Outdoor lighting shall be sited, limited in intensity, shielded and hooded*
5 *in a manner that prevents the lighting from projecting onto adjacent properties,*
6 *roadways and waterways. Shielding and hooding materials shall be composed of*
7 *non-reflective, opaque materials.*

8
9 Permanent outdoor lighting is proposed at the BESS, collector substation, and O&M building.
10 Permanent outdoor lighting will use LED, backlight-shielded, motion-activated lights with one
11 installed at each entrance and one on each side with no entrance.

12
13 To ensure compliance with WCLUDO Section 3.216(E), the ~~Department recommends the~~
14 Council impose~~s~~ the following condition:

15
16 ~~Recommended-Land Use Condition 4 (PRE):~~ Prior to installation of infrastructure with
17 outdoor lighting, the certificate holder shall demonstrate that final outdoor lighting is
18 designed to be limited in intensity, is shielded and hooded using non-reflective, opaque
19 materials.
20 [PRE-LU-03; Final Order on ASC]

21
22 Based upon compliance with the above ~~recommended~~ condition, the ~~Department recommends~~
23 Council find~~s~~ that the proposed facility would comply with WCLUDO 3.216(E).

24
25 **F. Parking:** *Off street parking shall be provided in accordance with Chapter*
26 *20.*

27
28 Parking standards for commercial and industrial uses are included in WCLUDO 20.05.
29 Commercial energy facilities, utility facilities, and transportation facilities are not listed uses in
30 this section. For this reason, the ~~Department recommends that~~ Council find~~s~~ this criterion is not
31 applicable. Further evaluation of WCLUDO Chapter 20 is provided below.

32
33 **G. New Driveways:** *All new driveways and increases or changes of use for*
34 *existing driveways which access a public road shall obtain a Road*
35 *Approach Permit from the appropriate jurisdiction, either the Wasco*
36 *County Public Works Department or the Oregon Dept. of Transportation.*

37
38 The proposed facility would not create any new driveways, however, changes to existing
39 driveways from Bakeoven Road to Wilson Road may be needed. Alterations to existing
40 driveways require a County Road Approach Permit. This permit would be required prior to
41 construction under ~~recommended~~ Organizational Expertise Condition 12, see Section IV.B,
42 *Organizational Expertise*, of this order.
43

1 Based upon compliance with ~~recommended~~ Organizational Expertise Condition 12, the
2 ~~Department recommends~~ Council finds that the proposed facility would comply with WCLUDO
3 3.216(G).

4
5 *Section 3.218 Agricultural Protection (A-1 Zone)*

6
7 *The uses listed in Section 3.214 - Uses Allowed Subject to Standards and Section 3.215 -*
8 *Conditional Uses must meet the following standards:*

- 9
10 A. *Farm-Forest Management Easement: The landowner is required to sign and record in*
11 *the deed records for the county a document binding the landowner, and the*
12 *landowner's successors in interest, prohibiting them from pursuing a claim for relief*
13 *or case of action alleging injury from farming or forest practices for which no action*
14 *or claim is allowed under ORS 30.936 or 30.937.*
15 B. *Protection for Generally Accepted Farming and Forestry Practices - Complaint and*
16 *Mediation Process: The landowner will receive a copy of this document.*
17

18 The proposed solar photovoltaic power generation facility is a conditional use permitted under
19 WCLUDO 3.214 and 3.215. WCLUDO Section 3.218 requires an applicant to sign and record a
20 farm-forest management easement and establish a complaint and mediation process. To
21 ensure compliance with the requirements of (A) and (B) of this provision, ~~the Department~~
22 ~~recommends~~ the Council imposes the following condition:

23
24 **~~Recommended~~ Land Use Condition 5 (PRE):** Prior to construction, the certificate holder
25 shall provide copies or other documentation that demonstrates to the Department and
26 Wasco County that the following actions have been completed:

- 27 a. Sign and record with the Wasco County Clerk a completed Forest-Farm Management
28 Easement (Attachment K-1 of ~~this order~~ **the Final Order on ASC**) for each
29 participating landowner for which facility components will be located.
30 b. Provide a copy of the "Protection for Generally Accepted Farming and Forestry
31 Practices – Complaint and Mediation Process" document (Attachment K-2 of ~~this~~
32 ~~order~~ **the Final Order on ASC**) to participating landowners for which facility
33 components will be located.
34 [PRE-LU-04; Final Order on ASC]
35

Commented [KT3]: Change in site cert

36 Based upon demonstrated compliance with the above ~~recommended-listed~~ condition, the
37 ~~Department recommends that~~ Council finds that the proposed facility will satisfy the
38 requirements of WCLUDO Section 3.218.

39
40 WCLUDO Chapter 3: Overlay Zones

41 Wasco County has designated an Environmental Protection District that is evaluated in a series
42 of designated overlay zones (OZ).
43

The purpose of the Environmental Protection District is to permit the regulation of environmental hazards, the qualification of lands for floodplain insurance programs and preferential taxation assessment, the preservation of sensitive wildlife habitats and unique areas of scientific or aesthetic value, and the protection of the health, safety and welfare of residents of Wasco County.

There are 4 applicable overlay zones within the Environmental Protection District: Geologic Hazards, Sensitive Wildlife Habitat, Sensitive Bird Site, and Military Airspace. These overlay zones apply to the proposed solar PV power generation components. They are evaluated below:

Section 3.720: Geologic Hazards Overlay Zone (OZ-2)

The purpose of the Geologic Hazards Overlay District is to protect the public health, safety and welfare by assuring that development in hazardous or potential hazardous areas is appropriately planned to mitigate the threat to man's life and property.

B. Approval Standards

Prior to development, the following measures shall be utilized:

- 1. Any proposed developments on slopes greater than 25% shall be reviewed to ensure site suitability. Such review shall be conducted in the process for building permit approval and, unless the site has been identified as a geologic hazard area, shall rely on provisions of the Uniform Building Code for the protection of the public health, safety and welfare.*

The proposed solar micrositing area is not located on lands with slopes greater than 25%. Therefore, the ~~Department recommends the~~ Council find~~s~~ that site suitability review is not required.

Site suitability review is not required for portions of the proposed alternate 500 kV transmission line within Wasco County because a transmission line in EFU zoned land is subject only to the requirements of ORS 215.274 and the county cannot impose additional approval criteria.

Therefore, the ~~Department recommends the~~ Council find~~s~~ that site suitability review is not applicable.

- 2. Any proposed development in an identified geologic hazard area shall be preceded by a written report by an engineering geologist or an engineer who certifies he is qualified to evaluate soils for suitability. For purposes of this section, development shall include any excavation or change in topography, such as home construction, associated roads, driveways, septic tank disposal fields, wells and water tanks. The written report of the engineering geologist or engineer shall certify that the development proposed may be completed*

without threat to public safety or welfare and shall be used in ministerially reviewing the development proposal.

The proposed solar microsite area is not within an identified geologic hazard area. Nonetheless, a written report by an engineering geologist or engineer is required under the Council's Structural Standard and through ~~recommended~~ Structural Standard Condition 4 (PRE-SS-01).

Because the requirements of WCLUDO 3.720(2) are addressed by Council's Structural Standard and the ~~Department's recommended~~ Council's condition, the ~~Department recommends that~~ Council find~~s~~ that the proposed facility will comply with this requirement.

3. In approval of a development permit, whether ministerial or through the Administrative Action procedures of Chapter 2 of this Ordinance, the following conditions may be imposed at the time of approval to ensure site and area stability:

- a. Maintain vegetation and eliminate widespread destruction of vegetation.*
- b. Carefully design new roads and buildings with respect to:*
 - i. Placement of roads and structures on the surface topography.*
 - ii. Surface drainage on and around the site.*
 - iii. Drainage from buildings and road surfaces.*
 - iv. Placement of septic tank disposal fields.*
- c. Careful construction of roads and buildings.*
 - i. Avoid cutting toeslopes of slump blocks.*
 - ii. Careful grading around the site, especially avoiding over steepened cut banks.*
 - iii. Re-vegetating disturbed areas as soon as possible.*
- d. Other conditions may be imposed to reasonably assure that the development is protected from damage by mass movement.*

The proposed solar microsite area is not within an identified geologic hazard area. The ~~Department does not recommend~~ Council ~~does not~~ impose the listed conditions to address geologic hazards. However, many of the above conditions are already ~~recommended~~ conditions in this order to address other environmental resources, particularly vegetation maintenance and revegetation requirements (see ~~recommended~~ Fish and Wildlife Conditions 1, 2 and 3).

Section 3.800: Sensitive Wildlife Habitat Overlay Zone (OZ-8)

Section 3.805 – Siting Standards

1 A. Within [OZ-8], subject to standards uses permitted in the underlying zone are
2 subject to notice to and comment from the Oregon Department of Fish and
3 Wildlife.

4 B. Within [OZ-8], conditional uses permitted in the underlying zone are subject to
5 notice and comment from the Oregon Department of Fish and Wildlife. This
6 includes conditional use requirements per Section 5.020 F.

7
8 The Council's ASC process aligns with the OZ-8 criteria to notice and request comments from
9 ODFW. ODFW has reviewed and commented on the Notice of Intent,⁹¹ the preliminary ASC⁹²
10 and ASC and has concurred with habitat assessment, impact assessment, and proposed
11 mitigation through the establishment of an off-site Habitat Mitigation Area (HMA) for
12 permanent impacts.

13
14 The Department has coordinated and consulted with ODFW on the identification and
15 assessment of wildlife habitat, potential facility impacts to wildlife habitat, and mitigation
16 measures necessary to offset permanent loss of habitat from the facility. For these reasons, the
17 ~~Department recommends that~~ Council finds that the facility will comply with this requirement.

18
19 Section 3.840: Sensitive Bird Site Overlay Zone (OZ-12)

20
21 Section 3.842 – Applicability

22
23 Sensitive bird site protection measures are applicable to all uses in the underlying
24 zone(s).

25
26 A. Any use permitted or permitted conditionally in the zone is subject to the
27 sensitive resource review procedure if located within the sensitive habitat
28 protection area identified for the inventoried significant site.

29
30 B. The sensitive resource review requirement and resulting protection measures
31 are applicable in addition to and shall be applied concurrently with all other
32 applicable standards and criteria in the county WCLUDO.

33
34 If setbacks or buffers specified in this ordinance overlap or conflict, they should be varied
35 in a manner to achieve, to the greatest extent possible, the overall protection of affected
36 resources and public interest.

37
38 The proposed facility site is not located within the sensitive habitat protection area identified
39 for an inventoried significant site.

40

⁹¹ YRBNOIDoc32 Reviewing Agency Comment ODFW 2023-11-30

⁹² YRBAPPDoc22 pASC Reviewing Agency Comment ODFW 2024-10-15 ; YRBAPPDoc29 pASC Reviewing Agency
Comment ODFW 2025-07-18

The Council's Fish and Wildlife Habitat standard evaluates potential impacts to wildlife species and habitat. Under this standard, 2023 avian surveys identified one Swainson's hawk (*Buteo swainsoni*) nest within the proposed microsite corridor, and occurrences of Brewer's sparrow (*Spizella breweri*), ferruginous hawk (*Buteo regalis*), grasshopper sparrow (*Ammodramus* *savannarum*), and loggerhead shrike (*Lanius ludovicianus*) were observed within the 0.5-mile analysis area. ~~Recommended~~ Fish and Wildlife Condition 13 requires that all active nest sites be avoided during sensitive nesting periods by implementing a no-disturbance buffer at a quarter mile distance.

Section 3.870: Military Airspace Overlay Zone (OZ-15)

Section 3.873 – Notification

A. Any applicable development or use shall be required to submit a pre-application conference request at least one month ahead of submitting a complete application. The pre-application conference shall include:

- 1. Early notification to the Department of Defense about the proposed development or use;*
- 2. Allow for a 15-day review by the NW Regional Coordination Team or local military representative of the proposed development or use;*
- 3. Potential mitigation measures for a complete application recommended by the applicant, Department of Defense, or Planning Director.*

Section 3.874 – Mitigation Measures

A. Proposed development or uses that have identified impacts shall be permitted conditionally with the mitigation measures agreed upon by the Department of Defense, Planning Department, and applicant or developer.

The Military Airspace Overlay Zone applies to structures over 400 feet in height. The tallest structures associated with the proposed facility are transmission poles, at 200 feet.

Nevertheless, Department of Defense reviewed the proposed facility site and component location and height details and confirmed that the proposed facility would not pose a risk of glare for pilots because they are not authorized to fly below 11,000 feet.⁹³ For these reasons, the ~~Department recommends that~~ Council find_s that the proposed facility will comply with these requirements and no mitigation would be required.

WCLUDO Chapter 5: Conditional Use Review

⁹³ YRBAPDoc1-11 pASC Exhibit K. Land Use 2024-08-30, p. 15-16. Citing: Kimberly Preacher, US Navy, pers. comm., e-mail message to Applicant, November 21, 2023.

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

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

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

WCLUDO Section 5.020(A) requires a conditionally permitted use to demonstrate consistency with goals and objectives of the Wasco County Comprehensive Plan and Wasco County zoning ordinance. Based on the evaluation presented in this section, the ~~Department recommends the~~ Council find_s that the proposed facility would satisfy WCLUDO Section 5.020(A).

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

WCLUDO Section 5.020(B) requires proposed uses to demonstrate compatibility with the surrounding area and development of abutting properties.

As described in Section IV.E.1.3, under the evaluation of OAR 660-033-0130(5), like the site itself, the majority of lands surrounding the proposed site are not cultivated nor used for cattle grazing, and are primary drainage areas, creeks, tributaries and canyons where slopes are too steep for crop production or cattle grazing. There are approximately 605 acres of surrounding land used for dryland winter wheat production. Proposed facility construction and operation could potentially result in adverse impacts from erosion, dust, weeds, and traffic. The ~~Department recommends~~ Council impose_s conditions to minimize and mitigate these potential affects.

For these reasons, the ~~Department recommends that~~ Council find_s that the facility will satisfy the requirements of WCLUDO 5.020(B).

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

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

WCLUDO Section 5.020(C) and (D) require a demonstration that impacts of a proposed use would not significantly burden public facilities and services. Potential facility impacts to public services are evaluated in detail in Section IV.M., *Public Services*, of this order. The ~~recommended~~ findings of fact and analysis are incorporated herein by reference.

Based on the ~~recommended~~ findings of fact and analysis presented in Section IV.M., *Public Services* of this order, and compliance with the ~~recommended~~ conditions, the ~~Department recommends that~~ Council find~~s~~ that the proposed facility would minimize noise, dust and odor to protect adjoining properties from such impacts and therefore would satisfy WCLUDO Section 5.020(C) and (D).

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

WCLUDO Section 5.020(E) requires a demonstration that, during construction and operation, a proposed use would minimize noise, dust and odor to protect adjoining properties from such impacts. Wasco County assesses adjoining properties as those lands which share a common boundary line with the properties involved with the proposed use. Wasco County provides guidance for commercial power generating facilities within Chapter 19 of the WCLUDO,

Potential noise impacts from proposed facility construction and operation are evaluated in detail in Section IV.Q Noise Control Regulation of this order. The ~~recommended~~ findings of fact and analysis are incorporated herein by reference. Potential dust impacts from proposed facility construction and operation are evaluated in detail in Section IV.D., *Soil Protection*, of this order. The ~~recommended~~ findings of fact and analysis are incorporated herein by reference.

Proposed facility construction would not generate air emissions (other than fugitive dust) and no unusual odors are expected.

Based on the ~~recommended~~ findings of fact and analysis presented in Section IV.D., *Soil Protection* and IV.Q., *Noise Control Regulation*, of this order, and compliance with the ~~recommended~~ conditions, the ~~Department recommends that~~ Council find~~s~~ that the proposed facility would minimize noise, dust and odor to protect adjoining properties from such impacts and therefore would satisfy WCLUDO Section 5.020(E).

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

WCLUDO Section 5.020(F) requires a demonstration that the proposed use would not significantly reduce or impair sensitive wildlife habitat or riparian vegetation and would not

1 create excessive soil erosion. Potential facility impacts to wildlife habitat and riparian
2 vegetation are evaluated in detail in Section IV.H., *Fish and Wildlife Habitat* and Section V.B.,
3 *Removal Fill* of this order. Potential erosion impacts from proposed facility construction and
4 operation are evaluated in detail in Section IV.D Soil Protection of this order. The ~~recommended~~
5 findings of fact and analysis presented in these sections are incorporated herein by reference.
6

7 Based on the ~~recommended~~ findings of fact and analysis presented in Section IV.D Soil
8 Protection, Section IV.H., *Fish and Wildlife Habitat* and Section V.B., *Removal Fill* of this order,
9 and compliance with the ~~recommended~~ conditions, the ~~Department recommends that~~ Council
10 find~~s~~ that the proposed facility would satisfy WCLUDO Section 5.020(F).
11

12 *G. The proposed use will not adversely affect the air, water, or land resource*
13 *quality of the area.*
14

15 WCLUDO Section 5.020(G) requires a demonstration that the proposed use would not adversely
16 affect the air, water or land resource quality of the area.
17

18 *Air Quality and Fugitive Dust:*

19 Construction-related activities would generate emissions, including dust, that would result in air
20 quality impacts. During proposed facility operations, emissions would not be generated but on-
21 going road maintenance within the site boundary could occasionally result in increased dust.
22 For these reasons, the applicant would be required to adhere to the requirements of a final
23 Fugitive Dust Control Plan (see Attachment I of this order) per ~~recommended~~ Soil Protection
24 Conditions 1 and 3. The plan will include measures for minimizing, mitigating and monitoring
25 for fugitive dust. The ~~Department recommends that~~ Council find~~s~~ that based on compliance
26 with the Fugitive Dust Control Plan through the ~~recommended~~ conditions, the proposed facility
27 will not have an adverse impact on air quality.
28

29 *Water Quality and NPDES 1200-C and ESCP:*

30 Construction-related activities could result in water quality impacts through erosion and
31 stormwater run-off at the proposed site, specifically resulting from vegetation removal, road
32 improvements and constructions within the site boundary. As described and evaluated under
33 Section IV.D. Soil Protection and ~~recommended~~ Soil Protection conditions, the facility will
34 require an approved NPDES-1200-C permit from Oregon Department of Environmental Quality
35 (DEQ) with an accompanying Erosion and Sediment Control Plan that will include specific Best
36 Management Practices (BMPs) to be implemented during construction to minimize and prevent
37 erosion of soil and other impacts to water quality.
38

39 During operations, the applicant would be required to implement revegetation and weed
40 control plans, on-going BMPs, operational spill prevention and control and countermeasures
41 plan (SPCC), and dust control measures. If proposed facility operations includes solar panel
42 washing, use of solvents or contaminants that could impact water quality if discharged on-site
43 are prohibited under ~~recommended~~ Soil Protection Condition 9. As described and evaluated
44 under Section IV.D., *Soil Protection* and IV.H., *Fish and Wildlife Habitat* (see ~~recommended~~ Soil

Protection Condition 11 and Fish and Wildlife Habitat Conditions 1, 2 and 3), based on compliance with the ~~recommended~~ conditions, the ~~Department recommends that~~ Council finds the proposed facility will not result in an adverse impact to water quality.

Agricultural Lands:

Construction and operation of the proposed facility would result in impacts to EFU-zoned land. If approved, the proposed facility would convert approximately 7,026 acres of land within the solar micro-siting corridor that is currently zoned for agricultural use to use by the facility; however, no high-value farmland is included in the solar micro-siting corridor. The applicant has estimated that up to 160 acres, or 2.3 percent, of land within the solar micro-siting corridor is currently in active dryland crop production which is solely used for livestock feed and is not grown for commercial purposes.

The applicant commits to recording Farm-Forest Management Easements with each landowner with property within the proposed site boundary (see ~~Recommended~~ Land Use Condition 5), as required per WCLUDO Section 3.218. Upon retirement, the land within the facility site boundary would be regraded and restored to be used for agricultural purposes in accordance with landowner agreements and as discussed in ASC Exhibits I and X. With adherence to these requirements, the ~~Department recommends that~~ Council finds that the facility will not adversely affect the land resource quality of the area.

Based on the information and evaluation presented above and included in associated Exhibits in the ASC, the ~~Department recommends that~~ Council finds that the proposed facility would not adversely affect the air, water or land resource quality of the area and therefore would satisfy WCLUDO Section 5.020(G).

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

The visual character of the area includes solar facilities and limited agricultural uses. The proposed site is relatively flat, marginal agricultural lands that is mostly undeveloped or used for limited livestock grazing or is in CRP status.

Facility components would include building and structures. The proposed O&M building height will be up to 24 feet; the proposed substation will include components up to 50 feet in height, and the solar arrays would be up to 12 feet in height. The facility footprint and height would create visual contrast and added modifications to the natural landscape on the east side of Bakeoven Road. The proposed facility will not be visible from Buck Hollow Canyon.

To ensure that the facility structures and buildings are designed to be consistent with the character of agricultural buildings in the area, minimizing impacts to the visual character of the area, the ~~Department recommends~~ Council imposes the following condition:

~~Recommended~~ **Land Use Condition 6 (PRE)**: Prior to construction of the O&M building, substation or battery energy storage system, as applicable, the certificate holder shall select neutral color external finishes to blend with the surrounding landscape and other agricultural buildings in the area.
[PRE-LU-05, Final Order on ASC]

Based on the ~~recommended~~ findings of fact and compliance with the ~~recommended~~ condition, the ~~Department recommends that~~ Council finds that the proposed facility would not adversely detract from the visual character of the area and therefore would satisfy WCLUDO Section 5.020(H).

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

WCLUDO Section 5.020(I) requires a demonstration that the proposed facility would preserve areas of historic value, natural or cultural significance, or assets of particular interest to the community. This demonstration is presented in Section IV.K., *Cultural, Historic and Archeological Resources*, of this order. The ~~recommended~~ findings of fact and analysis presented in this section are incorporated herein by reference.

Based on the ~~recommended~~ findings of fact and analysis presented in Section IV.K., *Cultural, Historic and Archeological Resources* of this order, and compliance with the ~~recommended~~ conditions, the ~~Department recommends that~~ Council finds that the proposed facility would satisfy WCLUDO Section 5.020(I).

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

K. The proposed use will not force a significant change in accepted farm or forest practices on surrounding lands devoted to or available for farm or forest use. (Revised 1-92)

WCLUDO Section 5.020(J) and (K) require 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. These two provisions mirrored LCDC's OAR 660-033-0130(5) until recently. LCDC adopted changes to OAR 660-033-0130(5) on December 5, 2024, which became effective on January 1, 2025. The local code is now inconsistent with the amended OAR 660-033-0130(5) rules. Accordingly, the Council is not required to apply both the county criteria and current OAR 660-033-0130(5) rules, and instead must only apply the OAR 660-033-0130(5) rules, as is evaluated in Section IV.E.1.3 Directly Applicable State Statutes and Administrative Rules of this order.

WCLUDO Chapter 10: Fire Safety Standards

Fire risks and prevention measures are further discussed in this section, in ASC Exhibits U and V, and in Section IV.M., Public Services, and Section IV.N., *Wildfire Prevention and Risk Mitigation*, of this order.

Section 10.020: Fire Safety Standards

A. Applicability of Fire Safety Standards in Different Rural Zones: County Ordinances affect all rural zones (all zones outside an Urban Growth Boundary). All rural zones are subject to fire standards but the applicability of the specific standards varies by zone and by use type. Zoning terms used to classify groups of land use designations in the Fire Safety Standard Checklist, Sections 10.110 to 10.150, are defined in the following table (any more specific distinctions based on parcel shape or specific zoning designation are also called out in the checklist):

WCLUDO Section 10.020 establish applicability of the county's Fire Safety Standards, which includes commercial power generating facilities located in the resource zone outside of an Urban Growth Boundary (UGB). The proposed facility is outside the UGB and within the EFU A-1 Zone. Therefore, WCLUDO Chapter 10.110 to 10.150 requirements would apply to the proposed facility.

B. Applicability of Fire Standards to Different Types of Land Uses

1. Zones affected by Fire Standards

Fire standards are applicable in all rural zones, but different standards may apply in different types of zones. The applicability of fire standards by zone is discussed in (A) above and noted in the fire safety standards checklist below, Sections 10.110 to 10.150. The checklist also highlights any specific differences in the applicability of the standard due to size of lot or specific zoning.

2. Uses affected by Fire Standards

Some fire standards are applicable only to new dwellings while others are applicable to all kinds of structures and alterations to structures. The following table lists the fire safety standards applicable to different types of development.

The proposed facility is outside the UGB and within the EFU A-1 Zone. Therefore, WCLUDO Chapter 10.110 to 10.150 requirements would apply and are evaluated below. WCLUDO Chapter 10.110 to 10.150 requirements also differ based what type of building or structure is under review. Under WCLUDO Section 1.090 – Definitions, Building is any structure built for the shelter, or enclosure of any persons, animals, chattels, or property of any kind.⁹⁴ Structure is anything constructed, erected or air inflated, permanent or temporary, which requires location

⁹⁴ https://cms5.revize.com/revize/wascocounty/document_center/Planning/FullWCLUDO_3_2021.pdf, Section 1.090 – Definitions, Accessed by the Department 9-24-2025.

on the ground. Among other things, structure includes buildings, walls, fences, billboards, poster panels and parking lots.

~~The Department, in~~ consultation with Wasco County, ~~recommend that~~ the Council ~~apply~~ applies the “buildings” definition to the O&M building and BESS because they are structures that shelter or enclose persons or property, and that the “structure” definition apply to the substation, solar arrays and transmission line.⁹⁵

Section 10.110: Siting Standards – Locating Structure for Good Defensibility

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

WCLUDO Section 10.110 establishes siting standards for buildings, which for the proposed facility include the O&M building and BESS. Slopes within the facility site boundary range from zero to 95 percent, with an average slope of 7.6 percent.⁹⁶ ASC Exhibit C, Figure C 2.2 illustrate the location of the O&M building and BESS within the same vicinity, adjacent to the proposed substation. The O&M building, BESS, and substation would be contained within a separate fenceline, would be located next to the existing Bakeoven substation and Bakeoven Road, all of which are within areas that are relatively flat with low slopes.

The proposed O&M building and BESS would be developed on land flatter than a 40 percent slope, and as shown in ASC Exhibit V, Figure V-1 (Slope) the area where the substation, BESS and O&M are, as mapped as 0-025 percent slope.⁹⁷ As discussed in Section IV.N., *Wildfire Prevention and Risk Mitigation*, this facility design feature that reduces wildfire risk is added in the facility description in the Construction and Operational Wildfire Mitigation Plans, as well as in the facility description in the ~~draft~~ site certificate, Attachment A to this order. Therefore, because compliance with this standard is met by the design feature described in the WMP’s and the site certificate, the ~~Department recommends~~ Council finds that this standard would be satisfied.

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

The O&M building would be set back at least 50 feet from slopes greater than 30 percent. The BESS would be located adjacent to the O&M building and would therefore also be set back at least 50 feet from slopes greater than 30 percent. As discussed in Section IV.N., *Wildfire Prevention and Risk Mitigation*, this facility design feature that reduces wildfire risk is added in

⁹⁵ YRBAPPD19-6 ASC SAG Comment WCLUDO Interpretation Building Def 2025-09-24.

⁹⁶ YRBAPPD1-12 ASC Exhibit K. Land Use 2025-09-05, Section 4.1.2.13.

⁹⁷ YRBAPPD1-23 ASC Exhibit V. Wildfire Risk and Mitigation 2025-09-05, Figure V-1.

1 the facility description in the Construction and Operational Wildfire Mitigation Plans, as well as
2 in the facility description in the ~~draft~~ site certificate, Attachment A to this order. Therefore,
3 because compliance with this standard is met by the design feature described in the WMP's
4 and the site certificate, the ~~Department recommends~~ Council finds that WCLUDO Section
5 10.110 would be satisfied.

6
7 *Section 10.120: Defensible Space – Clearing and Maintaining a Fire Fuel Break*

8
9 *A. Is your building surrounded by a 50-foot wide fire fuel break?*

10
11 *B. Is dense unmanaged vegetation beyond 50 feet from the outer edges of your*
12 *buildings, including any extensions such as decks or eaves, kept to a MINIMUM?*
13 *If located on steeper ground, have you created and maintained some clearings*
14 *beyond the 50 feet fire fuel break?*

15
16 WCLUDO Section 10.120(A) and (B) establish a 50-foot minimum clearance distance and 50-foot
17 vegetation maintenance requirement for buildings. As noted above, the ~~Department~~
18 ~~recommends the~~ Council finds that proposed buildings include the O&M building and the BESS.
19 The O&M building, BESS, substation and solar arrays would be fenced. The interior of the
20 perimeter fenceline will be designed to have 50-feet of defensible space (fuel break).⁹⁸ The fuel
21 break would extend from the fenceline to solar arrays, the BESS and O&M (and substation
22 area). Vegetation maintenance within the fuel break area would include maintaining maximum
23 ground cover vegetation height of 4 inches, no shrubs or tall plants under trees (no trees are
24 expected to be maintained on site), and well irrigated or flame resistance vegetation.⁹⁹ The
25 BESS, substation and O&M building would be constructed on concrete slabs with gravel base
26 with no vegetation present.¹⁰⁰

27
28 As discussed in Section IV.N., *Wildfire Prevention and Risk Mitigation*, the above-described
29 facility design features are binding and must be implemented. They are included in the facility
30 description in the Construction and Operational Wildfire Mitigation Plans, as well as in the
31 facility description in the ~~draft~~ site certificate, Attachment A to this order. Compliance with this
32 standard is met by the design features and representations described in the WMP's and the site
33 certificate; therefore, the ~~Department recommends~~ Council finds that WCLUDO Section 10.120
34 would be satisfied.

35

⁹⁸ During the review of the pASC, the Bakeoven-Shaniko Rangeland Fire Protection Association (RFPA) provided comments requesting that the facility should have a permanent fire barrier around it, preferably outside the perimeter fence that should be non-combustible and defensible to prevent the spread of wildfire. In response to the RFPA comments, the applicant commits to adopting WCLUDO Section 10.120 defensible space standards applicable to at least 50 feet from the interior of the fenceline to all facility electrical components.

⁹⁹ https://cms5.revize.com/revize/wascocounty/document_center/Planning/FullWCLUDO_3_2021.pdf, Chapter 10, Section 10.120, page 9.

¹⁰⁰ YRBAPPDoc1-3 ASC Exhibit B. Project Description 2025-09-05, Section 2.5.

Section 10.130: Construction Standards for Dwellings and Structures – Decreasing The Ignition Risks by Planning for A More Fire-Safe Structure

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

1. Roof Materials: Do you or will you have fire resistant roofing installed to the manufacturers specification and rated by Underwriter's Laboratory as Class A, B, or its equivalent (includes but not limited to: slate, ceramic tile, composition shingles, and metal)? NOTE: To give your structure the best chance of surviving a wildfire, all structural projections such as balconies, decks and roof gables should be built with fire resistant materials equivalent to that specified in the uniform building code.

WCLUDO Section 10.130 establishes roofing material requirements for dwellings and buildings. Buildings include the proposed O&M building and BESS. The proposed O&M building would include fire resistant roofing, such as metal roofing. "Structural projections" from the O&M building are not proposed. The proposed BESS will be contained inside fireproof steel Conex boxes.

The ~~Department-Council~~ has reviewed the additional standards under 10.130 and ~~recommends that Council find~~s that none of the remaining standards apply to the proposed facility and require no additional evaluation.

Section 10.140: Access Standards – Providing safe access to and escape from your home.

A. Does your residential driveway meet standards for improved, all weather driveway surface and minimum driveway widths?

ASC Exhibit K describes the possible need to improve existing private driveways along Bakeoven Road or Wilson Road. If these road improvements are needed, a Road Approach Permit and a Road Use Agreement with the County would be required, prior to construction. As presented in Section IV.B., *Organizational Expertise*, the ~~Department-recommends~~ Council imposes Organizational Expertise Condition 12 requiring that the applicant identify and obtain all local, state and third-party permits needed for siting of this facility. Based on compliance with this condition, the ~~Department-recommends that~~ Council find~~s~~ the facility would comply with this standard.

Section 10.150: Fire Protection and On-site Water Required

Ensuring dwellings have some fire protection available through manned or unmanned response.

A. Are you proposing to construct a dwelling inside a structural fire protection district?

There are no dwellings proposed. These requirements would not apply to the facility. However, the O&M building will be equipped with a sprinkler system.

WCLUDO Chapter 19: Standards for Non-Commercial Energy Facility, Commercial Energy Facilities & Related Uses

Section 19.030: Commercial Power Generating Facilities Review Process & Approval Standards

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

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

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

WCLUDO Section 19.030(C)(1) establishes air safety standards for commercial power generating facilities, when there are proposed structures greater than 200 feet in height, or that would exceed an airport imaginary surface, are proposed. There are no structures associated with the commercial power generating facility (solar photovoltaic power generation components) that would be 200 feet in height or greater. As a result, the ~~Department recommends the~~ Council find~~s~~ the provisions of WCLUDO Section 19.030(C)(1) are not applicable to the proposed facility.

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

Facility components are not expected to cause line-of-sight interference with communication systems, in part due to the limited height of solar arrays and transmission structures.¹⁰¹ Corona-induced broadband electromagnetic radiation (EMR) produced by transmission lines has limited

¹⁰¹ YRBAPPDoc1-12 ASC Exhibit K Land Use 2025-09-05, Section 4.2.1.18.

interaction with FM, digital, and satellite signals or wired communication systems, but may interfere with AM radio signals near the line. Radio noise from the proposed facility is calculated to be approximately 40 dB (dB-1 microvolt per meter [$1 \mu\text{V/m}$]) at the edge of the right-of-way, which is acceptable under the guideline levels es by the Institute of Electrical and Electronics Engineers (IEEE).¹⁰² Because line-of-sight interference is not expected and electromagnetic interference would be under acceptable levels, ~~the Department recommends~~ the Council find~~s~~ the requirements of WCLUDO Section 19.030(C)(2) are satisfied.

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

As described in more detail in Section IV.Q., *Noise Control Regulations for Industry and Commerce: OAR 340-035-0035*, the ~~Department recommends the~~ Council find~~s~~ that the information provided in ASC Exhibit Y demonstrates that, subject to the requirements of ~~recommended~~ Noise Control Conditions 1 and 2, the design, construction, and operation of the proposed facility would comply with the requirements of OAR 340-035-0035. Accordingly, the ~~Department recommends the~~ Council find~~s~~ the requirements of WCLUDO Section 19.030(C)(3) are satisfied.

4. *Visual Impact*

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

The Project Order established a two-mile analysis area for potential impacts to Scenic Resources based on the minimal potential for impacts beyond that distance given the topography and transportation routes near the site.¹⁰³ As described in Section IV.J., *Scenic Resources*, there are no scenic resources or values identified as significant or important identified within the Wasco County Comprehensive Plan located within the analysis area. Accordingly, the ~~Department recommends the~~ Council find~~s~~ the requirements of WCLUDO Section 19.030(C)(4)(a) are satisfied.

- b. *Protected Areas - Except as provided in subsections (b) and (c) below, an energy facility shall not be located in the areas listed below:*
(2) *National recreation and scenic areas, including but not limited to the Columbia River Gorge National Scenic Area;*

¹⁰² YRBAPPDoc1-28 ASC Exhibit AA 2025-09-05, Section 5.1.

¹⁰³ YRBNOIDoc42 Project Order 2024-01-26, Table 12.

- (3) *Scenic waterways designated pursuant to ORS 390.826, wild or scenic rivers designated pursuant to 16 U.S.C. 1271 et seq., and those waterways and rivers listed as potentials for designation;*
- (4) *State parks and waysides as listed by the Oregon Department of Parks and Recreation;*
- (5) *State wildlife areas and management areas identified in OAR 635-008;*
- (6) *National and state fish hatcheries or national and state wildlife refuges;*
- (7) *State natural heritage areas listed in the Oregon Register of Natural Heritage Areas pursuant to ORS 273.581;*
- (8) *Wilderness areas established pursuant to The Wilderness Act, 16 U.S.C. 1131 et seq. and areas recommended for designation as wilderness areas pursuant to 43 U.S.C. 1782; and*
- (a) *Exceptions to Protected Areas - Except where the following uses are regulated by federal, state or local laws, including but not limited to the Columbia River Gorge National Scenic Area Act and implement land use ordinances, the following may be approve in a protected area identified in subsection b above if other alternative routes or sites have been studied and been determined to have greater impacts*
- *An electrical transmission line;*
 - *A natural gas pipeline; or*
 - *An energy facility located outside a protected area that includes an electrical transmission line or natural gas or water pipeline as a related or supporting facility located within a protected area.*
- (b) *Transmission Line & Pipeline Exception - The provisions of subsection b above do not apply to electrical transmission lines or natural gas pipelines routed within 500 feet of an existing utility right-of-way containing at least one transmission line or one natural gas pipeline.*
- (c) *Additional Visual Mitigation Impacts for all Facilities - The design, construction and operation of the energy facility, taking into account mitigation, are not likely to result in significant adverse impact to scenic resources and values identified in subsection (b) above. Methods to mitigate adverse visual impacts could include but are not limited to:*
- (9) *Building the energy facility near the edge of contiguous timber areas or using the natural topography to obscure the energy facility;*
- (10) *Using materials and colors that blend with the background unless otherwise required by the Federal Aviation Administration or the Oregon Department of Aviation; and*
- (11) *Retaining or planting vegetation to obscure views of the energy facility.*

The Project Order established a two-mile analysis area for potential impacts to Protected Areas based on the minimal potential for impacts beyond that distance given the topography and transportation routes near the site.¹⁰⁴ As described in Section IV.F., *Protected Areas*, there are

¹⁰⁴ YRBNOIDoc43 Project Order 2024-01-26, Table 12.

no Protected Areas, as defined in OAR 345-001-0010, within the analysis area. The Council's definition includes all the designations listed under WCLUDO Section 19.030(C)(4)(b)(1) to (7). Accordingly, the ~~Department recommends the~~ Council find~~s~~ the requirements of WCLUDO Section 19.030(C)(4)(b) are satisfied.

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

- a. *Providing information pertaining to the energy facility's potential impacts and measures to avoid impacts on:*
 - (1) *Wildlife (all potential species of reasonable concern);*
 - (2) *Wildlife Habitat;*
 - (3) *Endangered Plants; and*
 - (4) *Wetlands & Other Water Resources.*
- b. *Conducting biologically appropriate baseline surveys in the areas affected by the proposed energy facility to determine natural resources present and patterns of habitat use.*
- c. *Selecting locations to reduce the likelihood of significant adverse impacts on natural resources based on expert analysis of baseline data.*
- d. *Utilizing turbine towers that are smooth steel structures that lack features that would allow avian perching. Where horizontal surfaces cannot be avoided, anti-perching devices shall be installed where it is determined necessary to reduce bird mortality.*
- e. *Designing and installing all aboveground transmission line support structures following the current suggested practices for avian protection on power lines published by the Avian Power Line Interaction Committee.*
- f. *Utilizing towers and transmission line support structures designed so the foundation area and supports avoid the creation of artificial habitat or shelter for raptor prey.*
- g. *Controlling weeds to avoid the creation of artificial habitat suitable for raptor prey such as spreading gravel on turbine pad.*
- h. *Avoiding construction activities near raptor nesting locations during sensitive breeding periods and using appropriate no construction buffers around known nest sites.*
- i. *Locating transmission lines or associated transmission lines with the energy facility to minimize potential impacts (e.g., 50 feet from the edge of the nearest*

wetland or water body except where the line is required to cross the wetland or water body; or separating transmission lines or associated transmission lines with the energy facility from the nearest wetland or water body by topography or substantial vegetation to the extent practical, except where the line is required to cross the wetland or water body).

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

- (1) Adjoining towers and conductors cannot safely and economically support the line(s) that span the stream without an in stream tower; and
- (2) The lines cannot be safely and economically placed under the water or streambed.
- (3) Developing a plan for post-construction monitoring of the facility site using appropriate survey protocols to measure the impact of the project on identified natural resources in the area.

Section IV.H., *Fish and Wildlife Habitat*, presents findings of fact and analysis of the surveys and studies used to identify habitats and species that could be affected by proposed facility construction and operation; and, the recommendations for avoidance, minimization and mitigation. Those findings and analysis are incorporated herein by reference.

The proposed facility site is within Wasco County's Sensitive Wildlife Habitat Overlay Zone (OZ-8) due to its location in Big Game Winter Range for Mule Deer. Except for developed land, which is considered Category 6 habitat, the entire site is considered Category 2 "essential" habitat due to its location in Big Game Winter Range. No federal or state-endangered or threatened species were documented at the site during surveys and no Category 1 habitat was identified within the site boundary, and while some waterways and wetlands exist within the proposed micrositeing area, the proposed facility is designed to avoid adverse impacts to wetlands or other jurisdictional Waters of the State. As evaluated in this section under WCLUDO 3.216(A)(2), facility components with foundations are required to be setback from non-fish bearing streams by a minimum of 50-feet (see ~~recommended~~ Land Use Condition 1).

The ~~Department further recommends the~~ Council finds that the conditions ~~recommended~~ in Section IV.H. Fish and Wildlife Habitat are adequate to ensure that the construction and operation of the proposed facility will not cause significant adverse impact to important or significant natural resources identified in the Wasco County Comprehensive Plan and Wasco County Land Use and Development Ordinance, and require appropriate monitoring and mitigation actions developed in consultation with ODFW. Accordingly, the ~~Department recommends the~~ Council finds the requirements of WCLUDO 19.030(C)(5) are satisfied.

6. *Protection of Historical and Cultural Resources - The applicant shall complete a cultural resources survey of areas where there will be temporary or permanent disturbance. During construction, cultural resources included in the Wasco County Comprehensive Plan shall be flagged and avoided in areas of potential temporary or*

permanent disturbance, and construction activities monitored to ensure all cultural resources in such areas are avoided, unless appropriate permits are obtained from the Oregon State Historic Preservation Office. Prior to construction an Inadvertent Discovery Plan (IDP) shall be developed that must outline the procedures to be followed in the case previously undiscovered archeological, historical or cultural artifacts are encountered during construction or operation of the energy facility, in compliance with ORS 358.905-358.955 and any other applicable local, state and federal law.

No cultural resources identified in the Wasco County Comprehensive Plan are located within the site boundary.

The evaluation of historical and cultural resources is presented in Section IV.K., *Cultural, Historic and Archeological Resources*, of this order. The ~~recommended~~ findings of fact and analysis presented in this section are incorporated herein by reference.

Based on the ~~recommended~~ findings of fact and analysis presented in Section IV.K., *Cultural, Historic and Archeological Resources* of this order, and compliance with the ~~recommended~~ conditions, ~~the Department recommends~~ the Council finds the requirements of WCLUDO 19.030(C)(6) are satisfied.

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

As discussed in Section IV.V., *Wildfire Prevention and Risk Mitigation*, compliance with Department-approved Wildfire Mitigation Plans (WMP) is required during proposed facility construction and operation. Draft Construction and Operational WMPs are attached to this order, Attachments W-1 and W-2.

The WMPs are in draft form and will be finalized prior to construction and operation based on final facility design and a current wildfire assessment at the time. ~~Recommended~~ Wildfire Prevention and Risk Mitigation Conditions 1 through 4 would require the applicant to finalize and implement the WMPs. To finalize the WMPs, the applicant is required to coordinate with the Bakeoven-Shaniko Rural Fire Protection Association and other emergency responders; and update the evaluation of wildfire risk at the site.

Construction Safety and Emergency Response Plans are often contractor-specific (i.e., developed by the contractor); Operational Safety and Emergency Response Plans are parent-

company, or corporate, specific. To ensure that contractor specific and/or parent-company specific emergency response measures are developed and implemented and include a list of hospitals, identification of first responders and first aid techniques (consistent with WCLUDO 19.030(C)(7)), the ~~Department recommends the~~ Council impose^s Land Use Condition 7 and 8, presented below:- :

~~Recommended~~ **Land Use Condition 7 (PRE):** Prior to construction, the certificate holder shall submit a Construction Emergency Response Plan (Site-Specific Safety Plan) to the Department, for review and approval. The plan shall be based on the contractor or parent company's corporate Safety Plan and, include :

1. Location and travel routes to nearby hospitals
2. Telephone numbers for emergency responders,
3. First aid techniques;
4. Contractor and certificate holder emergency contact information.

[PRE-LU-06; Final Order on ASC]

~~Recommended~~ **Land Use Condition 8 (CON):** During construction, the certificate holder shall implement the Construction Emergency Response Plan approved under PRE-LU-07. The Construction Emergency Response Plan may be updated during construction to address changes in emergency contact information or appropriate emergency response measures.

[CON-LU-01; Final Order on ASC]

~~Recommended~~ **Land Use Condition 9 (PRO):** Prior to operation, the certificate holder shall submit an Operational Emergency Response Plan (Site-Specific Safety Plan) to the Department, for review and approval. The plan shall be based on the parent company corporate safety plan and include:

1. Location and travel routes to nearby hospitals
2. Telephone numbers for emergency responders,
3. First aid techniques;
4. Certificate holder emergency contact information.

[PRO-LU-02; Final Order on ASC]

~~Recommended~~ **Land Use Condition 10 (OPR):** During operation, the certificate holder shall implement the Operational Emergency Response Plan approved under PRO-LU-02. The Operational Emergency Response Plan may be updated during operations to address changes in emergency contact information or appropriate emergency response measures.

[OPR-LU-01; Final Order on ASC]

Based on compliance with these ~~recommended~~ conditions, ~~the Department recommends the~~ Council find^s the requirements of WCLUDO 19.030(C)(7) are satisfied.

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

As described in Section III.A.2.6, Related or Supporting Facilities - Security Fencing and Gates, and Section IV.V, *Wildfire Prevention and Risk Mitigation*, the proposed facility will be surrounded by security fencing. The solar perimeter fence will be up to 8 feet tall; the substation, O&M building and BESS will also be separately fenced and gated. These security design features are binding and are included in the facility description of the ~~draft~~ Site Certificate (see Attachment A of this order). ~~Recommended~~ General Standard Condition 1 binds the applicant to the Site Certificate facility description by requiring that the design, construction and operation of the facility are substantially as described in the site certificate.

As described in Section IV.M., *Public Services*, ~~recommended~~ Public Services Condition 5 would require that, during proposed facility construction, the applicant provide onsite security and maintain communication with the Wasco County Sheriff's office to minimize and public safety issues.

Based the above ~~recommended~~ findings of fact and referenced conditions, the ~~Department recommends the~~ Council finds that the requirements of WCLUDO 19.030(C)(8) are satisfied.

9. *Transportation Plan - A transportation plan shall be developed and implemented in consultation with the Wasco County Road Department and/or the Oregon Department of Transportation (ODOT). The plan shall be consistent with any applicable requirements from the Wasco County Transportation System Plan and shall also provide or address:*
- a. *The size, number, and location of vehicle access points off of public roads.*
 - b. *Use of existing roads to the extent practical to minimize new access roads.*
 - c. *Restoring the natural grade and revegetating all temporary road cuts, used during construction of the energy facility. The applicant shall specify the type and amount of native seed or plants used to revegetate the disturbed areas and a timeline to complete this work.*
 - d. *A Road Impact Assessment/Geotechnical Report for roads to be used by the project. Said report should include an analysis of project-related traffic routes to be used during phases of construction, project operation and decommissioning. The report and any subsequent amendments shall be used as a discipline study and shall be incorporated into the Road Use Agreement between the Applicant and the County.*

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

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

As discussed in Section IV.M.2.5, *Traffic Safety*, the ~~Department recommends~~ Council imposes a condition requiring that, prior to construction, the applicant execute and adhere to the terms of a Road Use Agreement.¹⁰⁵ The Road Use Agreement will address the requirements of WCLUDO Section 19.030(C)(9) and (10). The ~~Department recommends the~~ Council find~~s~~ that, subject to compliance with these conditions, the proposed facility meets the requirements of WCLUDO Section 19.030(C)(9) and (10).

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

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

As described in Section III.A.2.5, *Access and Service Roads*, the proposed facility includes approximately 24.8 miles of new service roads within the perimeter fenceline and approximately 2.1 miles of improvements to existing roads. The service roads within the solar array will be up to 20-feet wide with up to a 48-foot turning radius and less than 10 percent grade to provide access to emergency vehicles. Road surfaces will be gravel, compacted aggregate base, or another commercially available suitable surface and be able to support 75,000 pounds. Vegetation will be cleared and maintained along perimeter service roads to provide vegetation clearance for fire safety.

These design features are binding and are included in the facility description of the ~~draft~~ Site Certificate (see Attachment A of this order). ~~Recommended~~ General Standard Condition 1

¹⁰⁵ YRBAPPDoc1-22 ASC Exhibit U. Public Services 2025-09-05, Attachment U-13 includes an email from Sherman County which indicates that the County does not have a boiler plate Road Use Agreement, but outlines the important measures that would be included in a future-executed Road Use Agreement. Also, note that is the transmission line alternative is not selected for construction, a Road Use Agreement with Serman County may not be necessary.

1 binds the applicant to the ~~s~~Site ~~c~~ertificate facility description by requiring that the design,
2 construction and operation of the facility are substantially as described in the site certificate.
3

4 The ~~Department recommends the~~ Council find~~s~~ that, subject to compliance with General
5 Standard Condition 1, the proposed facility meets the requirements of WCLUDO Section
6 19.030(C)(11).
7

8 *12. Dust Control - All approved non-paved temporary or permanent roads and staging*
9 *areas within the Energy Facility Project Area shall be constructed and maintained to*
10 *minimize dust, which may be addressed through the Road Use Agreement. If roads and*
11 *staging areas are not construct with material that would prevent dust, the permit*
12 *holder must regularly water roads and staging areas as necessary or apply an*
13 *approved dust suppression agent such as Earthbind 100 to minimize dust and wind*
14 *erosion.*
15

16 The applicant would be required to adhere to the requirements of a final Fugitive Dust Control
17 Plan (see Attachment I of this order) per ~~recommended~~ Soil Protection Conditions 1 and 3. The
18 plan will include measures for minimizing, mitigating and monitoring for fugitive dust. The
19 ~~Department recommends~~ Council impose~~s~~ a condition requiring that, prior to construction, the
20 applicant would also be required to execute and adhere to the terms of a Road Use Agreement,
21 under ~~recommended~~ Public Services Conditions 3 and 4.¹⁰⁶
22

23 The ~~Department recommends that~~ Council find that based on compliance with the above
24 referenced conditions, the facility meets the requirements of WCLUDO Section 19.030(C)(12).
25

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

34 As discussed in Section IV.D, *Soil Protection*, ~~recommended~~ Soil Protection Condition 2 requires
35 the applicant to obtain a NPDES 1200-C Permit from DEQ prior to construction. The ~~Department~~
36 ~~recommends the~~ Council find~~s~~ that, subject to compliance with this condition, the facility meets
37 the requirements of WCLUDO Section 19.030(C)(13).
38

¹⁰⁶ YRBAPPDoc1-22 ASC Exhibit U. Public Services 2025-09-05, Attachment U-13 includes an email from Sherman County which indicates that the County does not have a boiler plate Road Use Agreement, but outlines the important measures that would be included in a future-executed Road Use Agreement. Also, note that is the transmission line alternative is not selected for construction, a Road Use Agreement with Serman County may not be necessary.

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

As discussed in Section IV.H, *Fish and Wildlife Habitat*, the applicant provided a draft Noxious Weed Control Plan as attachment P-4 to ASC Exhibit P. ~~Recommended~~ Fish and Wildlife Habitat Condition 4, 5 and 6, require the applicant to finalize the plan in consultation with the Department and the Wasco County Weed Department prior to construction and implement the plan during construction and operation of the proposed facility. The ~~Department recommends~~ the Council finds that, subject to compliance with this condition, the facility meets the requirements of WCLUDO Section 19.030(C)(14).

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

- a. *Signs required for public or employee safety or otherwise required by law; (e.g., OSHA or compliance with the Manual of Uniform Traffic Control Devices (MUTCD) administered through the County Road Department); and*
- b. *No more than two signs relating to the name and operation of the energy facility of a size and type to identify the property for potential visitors to the site, but not to advertise the product. No signs for advertising of other products are permitted.*

The facility will include one permanent sign posted on the perimeter fence at the facility entrance. That sign will include facility name and emergency contact information. Additional permanent signage will mark facility building or structures, and be placed along the perimeter fence around the substation that include safety and warnings. As presented in the evaluation under WCLUDO Section 3.216, the ~~Department recommends~~ Council imposes a preconstruction condition to ensure that signage selected at final facility design complies WCLUDO requirements. This condition would also ensure compliance with WCLUDO Section 19.030(C)(15).

The ~~Department recommends the~~ Council finds that, subject to compliance with this condition, the facility meets the requirements of WCLUDO Section 19.030(C)(15).

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

Underground 34.5-kV collector lines will be buried at a depth of approximately 3 feet, consistent with the requirements of this section. This depth is reflected in the site certificate and is therefore binding on the applicant. Accordingly, the ~~Department recommends the~~ Council finds the requirements of WCLUDO Section 19.030(C)(16) are satisfied.

17. *Operation & Maintenance Buildings - Permanent maintenance/operations buildings shall be located in the same zone as the principal energy facility, except that such buildings may be constructed in a separate zone if:*
- a. *The building is designed and constructed generally consistent with the character of similar buildings used in the surrounding area; and*
 - b. *The building will be removed or converted to another approved use upon decommissioning of the energy facility consistent with the provisions of this ordinance.*

The proposed O&M building would be located within Wasco County's A-1 Zone, the same zone as the proposed solar arrays. Accordingly, the ~~Department recommends the~~ Council finds the requirements of WCLUDO Section 19.030.C.17 are satisfied.

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

Under ~~recommended~~ Organizational Expertise Condition 12, prior to construction, as applicable, the applicant must document and provide, to the Department, copies of all state, local and third-party permits necessary for facility construction. The ~~Department recommends the~~ Council finds this condition is adequate to ensure compliance with the requirements of WCLUDE Section 19.030(C)(18).

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

- 1 (1) *If operation of the energy facility ceases or begins construction of the project,*
2 *but does not complete it, the permit holder shall restore the site according to a*
3 *plan approved by Wasco County. A plan shall be submitted that ensures the site*
4 *will be restored to a useful, non-hazardous condition without significant delay,*
5 *including but not limited to the following:*
- 6 (a) *Removal of aboveground and underground equipment, structures and*
7 *foundations to a depth of at least three feet below grade (four feet if*
8 *cropland). Underground equipment, structures and foundations need not*
9 *be removed if they are at least three feet below grade and do not*
10 *constitute a hazard or interfere with agricultural use or other resource*
11 *uses of the land. Restoration of the surface grade and soil after removal*
12 *of aboveground structures and equipment.*
- 13 (b) *Removal of graveled areas and access roads and restoration of surface*
14 *grade and soil.*
- 15 (c) *Revegetation of restored soil areas with native seed mixes, plant species*
16 *suitable to the area, consistent with Wasco County's weed control plan*
- 17 (d) *For any part of the energy facility on leased property, the plan may*
18 *incorporate agreements with the landowner regarding leaving access*
19 *roads, fences, gates or buildings in place or regarding restoration of*
20 *agricultural crops or forest resource land. Said landowner will be*
21 *responsible for maintaining said facilities for purposes permitted under*
22 *applicable zoning.*
- 23 (e) *The underground power collector and communication lines need not be*
24 *removed if at a depth of three feet or greater. These cables can be*
25 *abandoned in place if they are deemed not a hazard or interfering with*
26 *agricultural use or other consistent resource uses of the land.*
- 27 (f) *The plan must provide for the protection of public health and safety and*
28 *for protection of the environment and natural resources during site*
29 *restoration.*
- 30 (g) *The plan must include a schedule for completion of site restoration work.*
- 31 (2) *Before beginning construction of the energy facility, the permit holder must*
32 *submit in a form and amount satisfactory to Wasco County, assuring the*
33 *availability of adequate irrevocably committed funds to restore the site to a*
34 *useful, non-hazardous condition naming Wasco County as beneficiary or payee.*
35 *The form may include posting a bond, issuing an irrevocable letter of credit,*
36 *purchasing a paid up insurance policy or by other means acceptable by Wasco*
37 *County and shall ensure continuity between owners.*
- 38 (3) *The amount of the financial assurance (bond or other such form of guarantee)*
39 *shall be annually adjusted for inflation using the U.S. Gross Domestic Product*
40 *Implicit Price Deflator, Chain-Weight, as published in the Oregon Department*
41 *of Administrative Services' "Oregon Economic and Revenue Forecast," or by any*
42 *successor agency (the "Index"). The permit holder (including possible successor*
43 *if sold or transferred) shall increase the amount of the financial assurance*
44 *annually by the percentage increase in the Index and shall pro-rate the amount*

within the year to the date of retirement. If at any time the Index is no longer published, Wasco County shall select a comparable index for adjusting the amount. The amount of the financial assurance shall be prorated within the year to the date of decommissioning.

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

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

WCLUDO 19.030(C)(19) requirements mirror the requirements of the Council's Retirement and Financial Assurance standard. The applicant's compliance with the Council's Retirement and Financial Assurance standard is presented in Section IV.G., *Retirement and Financial Assurance*. The ~~recommended~~ findings of fact and analysis from that section are incorporated herein by reference. Based on the analysis presented in Section IV.G. of this order, the ~~Department recommends the~~ Council finds the requirements of WCLUDO 19.030(C)(19) are satisfied.

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

The ~~Department recommends the~~ Council imposes the following condition to ensure compliance with WCLUDO 19.030(C)(20):

~~Recommended~~ Land Use Condition 11 (OPR): Within 90-days of commercial operation of the facility or any phase of the facility, as applicable, the certificate holder shall provide to the Department and Wasco County GIS Department the actual latitude and longitude location or Oregon State Plane NDA83 HARN (international feet) coordinate of all facility components. GIS layers may be provided consistent with the datum reference above or any other datum deemed acceptable by the Department.
[OPR-LU-02; Final Order on ASC]

Based on compliance with the above condition, the ~~Department recommends the~~ Council finds the requirements of WCLUDO 19.030(C)(20) are satisfied.

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

The proposed facility is not being permitted through the County, and the Wasco County Board

of Commissioners has not requested that Council impose a condition requiring that the applicant submit a nonproprietary power production report. Accordingly, the ~~Department recommends the~~ Council finds that WCLUDO Section 19.030(C)(21) is not applicable.

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

b) Solar Energy Facilities

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

Slopes within the site boundary range from 0 to 95 percent. The site will require grading; the ~~draft s~~Site ~~c~~Certificate Section 4.3 requires that existing vegetation be maintained to the maximum extent practicable and that a grading plan be developed demonstrating that disturbance will be minimized and appropriate BMPs will be onsite and available based on the level of disturbance planned within a given area.

All clearing and grading activities will follow the BMPs listed in the NPES 1200-C permit under ~~recommended~~Soil Protection Conditions 2 and 3.

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

The requirements of WCLUDO Section 19.030(D)(1)(b) are applicable to concentrating solar-thermal power plants and are not applicable to the proposed photovoltaic power generation facility.

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

As discussed in Section III., *Description of the Proposed Facility*, the facility will utilize photovoltaic modules with anti-reflective coating, which is expected to minimize glare. In addition, the use of tracking systems will ensure that any glare that is produced will be directed back towards the sun. Because the proposed facility is not expected to generate more than minimal amounts of glare, the ~~Department recommends the~~ Council finds the requirements of WCLUDO Section 19.030(D)(1)(c) are satisfied.

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

~~Recommended~~ Soil Protection Condition 9 would prohibit the use of chemicals, soaps, detergents and heated water for solar panel washing during operations unless specific low volatile organic compound/biodegradable cleaning chemicals or solvents are approved by the Department. Subject to compliance with this condition, the Council finds ~~Department recommends~~ the requirements of WCLUDO Section 19.030(D)(1)(d) are satisfied.

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

The requirements of WCLUDO Section 19.030(D)(1)(e) are applicable to concentrating solar-thermal power plants and are not applicable to the proposed photovoltaic power generation facility.

WCLUDO Chapter 20: Site Plan Review

Section 20.040: Site Plan Approval Standards

A. All provisions of this ordinance and other applicable ordinances are complied with.

B. Elements of the site plan are arranged so that:

- 1. Traffic congestion is avoided.*
- 2. Pedestrian and vehicular safety and welfare are protected.*
- 3. Significant features and public amenities are preserved and maintained.*
- 4. There will be minimal adverse effect on surrounding property.*

C. Proposed lighting is arranged to direct light away from adjoining properties.

D. Proposed signs will not interfere with traffic or limit visibility by size, location or illumination.

WCLUDO 20.040 provides the approval standards for the proposed facility site plan review. The standards under WCLUDO 20.040 are already addressed under WCLUDO 3.210 and 19.030 standards above. Specifically, the applicant demonstrated compliance with the applicable provisions of the WCLUDO, addressed traffic congestion and safety, public safety, and potential adverse impacts on surrounding properties. ~~C~~Proposed conditions of approval address lighting and signs. For these reasons, the ~~Department recommends~~ that Council finds that the applicant can satisfy WCLUDO 20.040(A)-(D).

Section 20.050: Off Street Parking

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

G. Industrial

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

WCLUDO Section 20.050 provides off-street parking requirements for industrial land uses, including one space per employee for various industrial uses including a storage warehouse. While the section does not appear to apply directly to a commercial power generating facility, the applicant confirms that the proposed O&M building would include parking space for 10-15 employees, which is the maximum number of permanent workers anticipated for proposed facility operation. This design representation is binding on the applicant and reflected in the ~~draft~~ Site Certificate (Attachment A Table 2). Therefore, based on the O&M parking lot design (20 spaces) and maximum number of workers (15), the ~~Department recommends that~~ Council finds that the proposed facility would comply with WCLUDO Section 20.050(G).

Section 20.055: Bicycle Parking Requirements

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

- A. Number of Bicycle Parking Spaces - A minimum of two bicycle parking spaces per use is required for all uses with greater than ten vehicle parking spaces.

The applicant proposes to provide secure parking space for two bicycles inside the O&M building and for these reasons, the Council finds the facility would not be required to meet the additional requirements under WCLUDO Section 20.055 for parking bicycles outdoors.

Section 20.070: Off Street Loading

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

for loading and unloading operations except during periods of the day when not required to take care of parking needs.

WCLUDO Section 20.070 establishes off-street loading requirements.

As previously described, facility access roads are required to be 20-feet wide with an up to 48-foot turning radius to be consistent with Oregon Fire Code requirements and applicable standards (i.e., access for first-responder apparatus), which would conform to the 2018 International Fire Code. The surface would be composed of gravel, compacted aggregate base, or another commercially available suitable surface and be able to support 75,000 pounds.

Therefore, the proposed access roads would be able to accommodate off-street loading during proposed facility construction and operation. Based on the design and size of the O&M building yard (approximately 4 acres), the ~~Department recommends that~~ Council find~~s~~ that the proposed facility would comply with WCLUDO Section 20.070.

Section 20.080: General Provisions – Off Street Parking and Loading

WCLUDO Section 20.080 establishes general off-street parking and loading provisions, which the applicant asserts would be satisfied through O&M building design, which includes sufficient space given the size of the O&M building (169,750 square feet), within an approximately 4-acre site, with parking spaces for up to 20 vehicles and internal parking provided for 2 bicycles. These design representation are binding on the applicant and reflected in the ~~draft~~ ~~Site~~ ~~c~~Certificate (Attachment A Table 2). Based on the proposed O&M building design, the ~~Department recommends that~~ Council find~~s~~ that the proposed facility would comply with WCLUDO Section 20.080.

Wasco County Comprehensive Plan (WCCP)

The County recommends that County Policies related to Goal 5 (Open Spaces, Scenic and Historic Areas and Natural Resources) and Policy 13.1.7 (Energy Conservation) are applicable to the review of the proposed facility¹⁰⁷, and the applicant provides evidence to support its compliance with a number of specific policies. The County has adopted specific standards in the WCLUDO to implement the policies for solar photovoltaic power generation systems, and the WCLUDO and Council Standards, require the applicant to evaluate the potential adverse impacts the construction and operation of the proposed facility would have on natural resources and to avoid, minimize, and mitigate impacts as needed.

As described in this section, the ~~Department recommends that the~~ Council find~~s~~, with the exception of the acreage standards for solar photovoltaic power generation facilities under WCLUDO Section 3.215(M), the applicant has met the applicable standards and in doing so, has

¹⁰⁷ YRBNOIDoc26 SAG NOI Comments Wasco County 2023-11-01.

demonstrated that the proposed facility is consistent with the applicable goals and policies of the comprehensive plan.

IV.E.1.2 Sherman County Local Applicable Substantive Criteria

The proposed facility includes approximately 1.9 miles of a 500 kV transmission line that would extend into Sherman County, within EFU zoned land. The proposed alternate 500 kV transmission line will be constructed on approximately 160 to 180-foot-tall steel structures that will be spaced approximately 1,000 feet apart. As a result, the proposed alternate 500 kV transmission line does not meet the SCZO definitions or use categories *for a commercial utility facility* (SCZO 3.1(3)(q)) or *a transmission tower over 200 feet in height* (SCZO 3.1(3)(x)). The SCZO does not contain provisions adopting ORS 215.283(1)(c) for “utility facilities necessary for public service”. Given the lack of County code provisions implementing the statute, ORS 215.283(1)(c) and ORS 215.274 are directly applicable; directly applicable state statutes and administrative rules are evaluated in Section IV.E.1.3 of this order.

IV.E.1.3 Directly Applicable State Statutes and Administrative Rules – OAR 345-021-0010(1)(k)(C)(iii)

Pursuant to OAR 660-033-0120, photovoltaic solar power generation facilities must comply with the standards set forth in OAR 660-033-0130(5) and (38). Because Wasco County has not amended WCLUDO 5.020 to align with LCDIC’s recent amendment of OAR 660-033-0130(5), OAR 660-033-0130(5) is evaluated in this section. Wasco County has also not adopted ORS 215.274 or OAR 660-033-0130(38) into the WCLUDO. Sherman County has not adopted ORS 215.274. These directly applicable administrative rules and statutes are evaluated in the section below.

Oregon Revised Statutes (ORS)

ORS 215.283(1)(c) and ORS 215.274

Transmission lines that meet the definition of an “associated transmission line” must consider the requirements of ORS 215.274.¹⁰⁸ If a utility facility necessary for public service is an “associated transmission line” as defined in ORS 215.274 and ORS 469.300, the use may be established in EFU-zoned land pursuant to ORS 215.283(c).

As proposed, both the preferred POI and the 4.5-mile 500 kV gen-tie transmission line alternative are “associated transmission lines”. Neither Wasco nor Sherman counties have

¹⁰⁸ ORS 469.300(3) defines “associated transmission lines” as “new transmission lines constructed to connect an energy facility to the first point of junction of such transmission line or lines with either a power distribution system or an interconnected primary transmission system or both or to the Northwest Power Grid,” and that definition is incorporated by reference in ORS 215.274.

adopted local code provisions to implement ORS 215.274. Therefore, the requirements of the statute apply directly to the proposed and alternative transmission line(s), as evaluated below.

Associated transmission lines necessary for public service; criteria; mitigating impact of facility.

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

ORS 469.300(3): "Associated transmission lines" means new transmission lines constructed to connect an energy facility to the first point of junction of such transmission line or lines with either a power distribution system or an interconnected primary transmission system or both or to the Northwest Power Grid.

(2) *An associated transmission line is necessary for public service if an applicant for approval under ORS 215.213(1)(c)(B) or 215.283(1)(c)(B) demonstrates to the governing body of a county or its designee that the associated transmission line meets:*

- (a) At least one of the requirements listed in subsection (3) of this section; or*
- (b) The requirements described in subsection (4) of this section.*

ORS 215.274(a) requires that the applicant demonstrate that the associated transmission line meets the requirements of either ORS 215.274(3) or (4). As discussed below, in ASC Exhibit K, the applicant provides evidence to support Council's review of the requirements of subsection (3); the applicant does not evaluate the requirements of subsection (4).

(3) *The governing body of a county or its designee shall approve an application under this section if an applicant demonstrates that the entire route of the associated transmission line meets at least one of the following requirements:*

- (a) The associated transmission line is not located on high-value farmland, as defined in ORS 195.300, or on arable land;*
- (b) The associated transmission line is co-located with an existing transmission line;*
- (c) The associated transmission line parallels an existing transmission line corridor with the minimum separation necessary for safety; or*
- (d) The associated transmission line is located within an existing right of way for a linear facility, such as a transmission line, road or railroad, that is located above the surface of the ground.*

The proposed associated transmission line routes are not located on high-value farmland, but are located on arable land. ORS 215.274(3)(a) is not met.

The proposed associated transmission line routes are not co-located with an existing transmission line. ORS 215.274(3)(b) is not met.

The proposed associated transmission line routes are parallel to the existing BPA transmission corridor containing three 500-kV transmission lines, as demonstrated in ASC Exhibit C Figure C-2.1 and C.2-2. The centerline of the proposed associated transmission line routes would be

1 between 60-250 feet from the easternmost existing BPA line. The ~~Department recommends~~
2 ~~that~~ Council find^s that this criterion is met.

3
4 The proposed associated transmission line routes are not located within an existing right of way
5 for a linear facility. ORS 215.274(3)(d) is not met.

6
7 Because the proposed associated transmission line routes would be parallel to BPA's existing
8 transmission line corridor, satisfying ORS 215.274(3)(c), the ~~Department recommends~~ Council
9 find^s that the associated transmission line is a utility facility "necessary for public service."

10
11 OAR 660-033-0130(5)

12
13 Under OAR 660-033-0130 *Minimum Standards Applicable to the Schedule of Permitted and*
14 *Conditional Uses*:

15
16 (5) *Approval requires review by the governing body or its designate under ORS 215.296.*

17 *Uses may be approved only where such uses:*

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

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

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

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

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

33
34
35 OAR 660-033-0130(5) applies to the proposed facility, with the exception of the proposed 500
36 kV transmission line routes, which are evaluated separately under OAR 215.274 above.

37
38 Landowners and current land management practices for lands surrounding the proposed site
39 are presented in Table 8 below. Based on the assessment of farm practices on surrounding
40 lands, some lands are used for cattle grazing and approximately 605 acres, or 8.1 percent, are
41 used for dryland winter wheat cultivation.

Table 8: Landowners within Surrounding Lands

Landowner	Map and Tax Lot (MTL)	MTL in Lease Agreement with Facility	Farm Operations within Surrounding Lands
Steven L Ashley et al. (aka A & K Ranches)	5S 15E 0 100 5S 15E 0 101 4S 15E 0 1500	Yes No Yes	Farm Operation: Cattle. A portion of the surrounding lands within this tract (Tract 1 on Figure K-3) has been approved for the siting of the Sunset Solar Project. As provided by landowner testimony, cattle ranching may occur within portions of the surrounding land that have suitable slopes and vegetation and are not located within CRP. These cattle only graze on Tract 1 for five months during the year. As provided by landowner testimony and as shown on Figure K-9 and 2023 aerial photography, the surrounding lands do not contain crop production. Irrigation water rights: Permit G17321.
United States of America	5S 15E 0 200	No	Farm Operation: None. Bakeoven Substation, no crop production or cattle. No irrigation water rights.
Betty J Odom et al.	4S 15E 0 100 4S 16E 0 100	No (both)	Farm Operation: None. Vacant, undeveloped. Primarily consists of steep slopes associated with Buck Hollow Canyon. No irrigation water rights.
Douglas Bibby	4S 16E 0 200	No	Farm Operation: None. Vacant, undeveloped. Primarily consists of steep slopes associated with Buck Hollow Canyon. Figure K-9 and 2023 aerial photography do not show crop production activity. Irrigation water rights: Certificate 42677.
Don Phillips et al.	4S 16E 0 300 4S 16E 0 900 5S 16E 0 900	Yes No Yes	Farm Operation: None. Ranching occurs within the Don Phillips tract within the site boundary but not within the surrounding lands due to slopes and CRP.

Table 8: Landowners within Surrounding Lands

Landowner	Map and Tax Lot (MTL)	MTL in Lease Agreement with Facility	Farm Operations within Surrounding Lands
			No irrigation water rights.
United States of America	4S 16E 0 400	No	Farm Operation: None. Vacant, undeveloped. Primarily consists of steep slopes associated with Buck Hollow Canyon. No irrigation water rights.
Douglas Bibby	4S 16E 0 500	No	Farm Operation: None. Vacant, undeveloped. Primarily consists of steep slopes associated with Buck Hollow Canyon. Figure K-9 and 2023 aerial photography do not show crop production activity. Irrigation water rights: Certificate 42677.
United States of America	4S 16E 0 700	No	Farm Operation: None. Vacant, undeveloped. Primarily consists of steep slopes associated with Buck Hollow Canyon. No irrigation water rights.
United States of America	4S 16E 0 600	No	Farm Operation: None. Vacant, undeveloped. Primarily consists of steep slopes associated with a tributary of Buck Hollow Canyon. No irrigation water rights.
A & K Ranches	5S 16E 0 800	No	Farm Operation: None. This tax lot is vacant and primarily consists of steep slopes associated with a tributary of Buck Hollow Canyon. Ranching occurs within A & K Ranches Tract 1 (see ASC Exhibit K Figure K-9). No irrigation water rights.
Levi Chrisman Family LLC	5S 16E 0 1300 5S 16E 0 2600	Yes No	Farm Operation: Leased to Carver Family Ranches LLC for Cattle & Crop Production.

Table 8: Landowners within Surrounding Lands

Landowner	Map and Tax Lot (MTL)	MTL in Lease Agreement with Facility	Farm Operations within Surrounding Lands
			As provided by landowner testimony, the landowner does not have a farm operation; 240 acres of these tax lots are leased by Carver Family Ranches LLC for their farming operation (see row below). No irrigation water rights.
Carver Family Ranches LLC	5S 16E 0 600 5S 16E 0 2800	No (both)	Farm Operation: Cattle & Crop Production. As provided by landowner testimony and as shown on ASC Exhibit Figure K-9 and 2023 aerial photography, dryland wheat production and cattle ranching occur within the surrounding lands of these tax lots. No irrigation water rights.
United States of America	5S 16E 0 1400	No	Farm Operation: None. Vacant and undeveloped. ASC Exhibit K Figure K-9 and 2023 aerial imagery indicate no crop cultivation. No irrigation water rights.
Bakeoven I LLC	5S 16E 0 2500 5S 16E 0 3200	No (both)	Farm Operation: None. Vacant and undeveloped. Majority (61 percent) Class 7 soils. ASC Exhibit K Figure K-9 and 2023 aerial imagery indicate no crop cultivation. No irrigation water rights.
Kenneth W Clark et al.	5S 16E 0 2501 5S 16E 0 2502	No (both)	Farm Operation: None. Vacant and undeveloped. ASC Exhibit K Figure K-9 and 2023 aerial imagery indicate no crop cultivation. No irrigation water rights.
Blaine D Carver	5S 16E 0 3300	No	Farm Operation: Crop Production. Active farming of irrigated and dryland wheat crops in surrounding lands. Irrigation water rights: Certificate 68500 and Permit G12480.
A & K Ranches	5S 16E 0 2000 5S 16E 0 2300	No (both)	Farm Operation: None.

Table 8: Landowners within Surrounding Lands

Landowner	Map and Tax Lot (MTL)	MTL in Lease Agreement with Facility	Farm Operations within Surrounding Lands
			No agricultural activities. A majority of these tax lots are identified as containing Class 8 soils. They also contain a mineral aggregate site (#154). Cattle ranching occurs within a separate A & K Ranches tract (Tract 1 on Figure K-3). No irrigation water rights.
Vicki Ashley	5S 16E 0 1201 5S 16E 0 2200 5S 15E 0 1100	No (all)	Farm Operation: Leased for Crop Production. The portion of these tax lots located within the surrounding lands is used for both the siting of solar energy facilities and crop production. ASC Exhibit K Figure K-9 and 2023 aerial imagery indicate dryland wheat cultivation alongside Bakeoven and Daybreak solar facilities. No irrigation water rights.
Lawson Place Partners LLC	5S 15E 0 102	No	Farm Operation: None. The portion of this property located within the surrounding lands is used for a solar energy facility. ASC Exhibit K Figure K-9 and 2023 aerial imagery indicate no crop cultivation. No irrigation water rights.
A & K Ranches	5S 16E 0 1200	No	Farm Operation: Crop Production. The portion of this property located within the surrounding lands has been approved for the siting of the Sunset Solar Project. ASC Exhibit K Figure K-9 and 2023 aerial imagery indicate a small area of dryland wheat cultivation within the Sunset Solar Project boundary. No irrigation water rights.

(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.

Impacts to Farm Operations on Surrounding Lands

As presented in Table 8, farm practices on surrounding lands include cattle grazing and dryland winter wheat cultivation.

Cumulative Impacts to Farm Operations

The surrounding lands evaluated consist of approximately 7,388 acres. There are cultivated portions of four farm operations within the surrounding lands totaling approximately 605 acres, or approximately 8.1 percent of the surrounding lands. Landowner letters and review of visual evidence of crops growing adjacent to solar facilities during construction indicate that existing farm operations will be able to continue to operate, if the facility is approved by Council. The applicant has not identified any unique crops being grown within the surrounding lands, the agricultural potential for these lands is marginal, and without an active irrigation water right, most lands are not commercially farmable. As a result, the minimal amount of agriculture on surrounding lands is not likely to be impacted significantly, either individually or cumulatively, as a result of facility construction or operations.

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

In addition to the detailed evaluation included in specific exhibits and sections of this order referenced below, potential impacts and minimization measures are presented below:

- **Traffic** - (See Exhibit U, and Section IV.M Public Services). Applicant has coordinated with Wasco County and Wasco County Sheriff on traffic management concerns and prepared a draft Construction Traffic Management Plan (Exhibit U, Attachment U-7) to minimize and prevent traffic impacts.
- **Water availability and delivery** - (See Exhibit U, and Section IV.M Public Services; Exhibit O, and Section IV.S. Water Rights). While there are no irrigation place of use water rights authorized for use on land within the facility site boundary, there are three that are located within the surrounding lands (see Figure K-5). Applicant intends to obtain water for construction from one or more of the municipal water sources using a bulk water agreement (see Attachments O-1, O-4, and O-5 in Exhibit O). In addition, two landowners (one participating, one adjacent) have also offered to provide water during construction using existing wells subject to any required approvals or permits. Thus, demonstrating the ability to acquire and deliver water needed for construction and operations.

- 1 • *Introduction of weeds or pests* - (See Exhibit I, and Section IV.D Soil Protection; Exhibit P,
2 and Section IV.H Fish and Wildlife Habitat). The potential introduction and spread of
3 noxious weeds as a result of facility construction is addressed and mitigated through the
4 Revegetation and Reclamation Plan and Noxious Weed Control Plan (Attachments P-1
5 and P-2).
- 6 • *Damage to crops or livestock* - (See Goal 3 Exception, Section IV.E.1.3 below). Farming
7 operations within the surrounding lands are not expected to experience a reduction in
8 crop yields.
- 9 • *Litter* - (See Exhibit W, and Section IV.O Waste Minimization) The applicant is required
10 to minimize litter and solid waste as part of construction and operations, and is required
11 to develop and implement Waste Management Plans with an emphasis on recycling
12 where feasible. Because the facility will be protected by a perimeter fence, it is not
13 anticipated that random litter will be an issue.
- 14 • *Trespass* - (See Exhibit U and Section IV.M. Public Services, and Exhibit B, Section III
15 Project Description). The facility will be enclosed in a perimeter fence, marked with
16 signage excluding the public, monitored remotely through the SCADA system, and the
17 presence of operational staff. For these reasons, it is unlikely that trespassing will be an
18 issue.
- 19 • *Reduction in crop yields* - (See Goal 3 Exception, Section IV.E.1.3 below). The proposed
20 facility should not result in a reduction in crop yields. Crop yields are tied to viability of
21 soils, availability of water for irrigation, and temperatures. Soil impacts onsite will be
22 minimized and avoided and should not result in any off-site impacts. Soil management
23 through erosion and sediment control will be implemented as discussed in Exhibit I and
24 Section IV.D Soil Protection and through compliance with the NPDES-1200 C permit,
25 Erosion and Sediment Control Plan and the Fugitive Dust Plan required for construction.
- 26 • *Flooding* - (See Exhibit H and Section IV.C Structural Standard). The potential risk of non-
27 seismic hazards such as flooding have been evaluated as part of the assessing non-
28 seismic risks. Due to location and topography, the risk of flooding at the facility is
29 considered to be low.
- 30 • *Fire Risks* - (See Exhibit U and Section IV.M Public Services, and Exhibit W and Section
31 IV.N Wildfire Prevention and Risk Mitigation). The potential risk of wildfire and fire are
32 evaluated and mitigated through the implementation of an approved Wildfire
33 Mitigation Plan for Construction and Operations. Additional fire prevention measures
34 are part of Public Services and required emergency response plans.
- 35 • *Litigation* - Prior to construction, a Farm-Forest Management Easement is required and
36 will be signed and recorded by each landowner with property within the facility site
37 boundary, as required per WCLUDO 3.218. This easement requires the landowners to
38 acknowledge that farm and forest operations are allowed to occur on land located
39 within the exclusive farm use zone and prevents them from requesting compensation
40 from adjacent property owners due to damage resulting from accepted farm and forest
41 practices. These agreements will minimize the potential for litigation over the facility
42 with these landowners.

1 Based upon the ~~recommended~~ findings of fact and analysis included in the aforementioned
2 exhibits and evaluations in relevant sections of this order, the ~~Department recommends that~~
3 Council finds that the facility will be constructed in a manner that minimizes or avoids potential
4 impacts to individual and cumulative farm practices on surrounding lands.

5
6 *(E) For purposes of subsection (a) and (b), potential impacts to farm and forest*
7 *practices or the cost of farm and forest practices, impacts relating to the*
8 *construction or installation of the proposed use shall be deemed part of the use*
9 *itself for the purpose of conducting a review under subsections (a) and (b).*

10
11 The ~~Department recommends that~~ Council finds that the proposed use will be compatible with
12 adjacent agricultural uses because it will not limit or impact current or future farm activities on
13 the surrounding land and will not diminish the opportunity for neighboring parcels to expand,
14 purchase, or lease any vacant land available for agricultural uses.

15
16 The ~~Department recommends~~ Council finds that, based on conditions ~~recommended~~ in this
17 order to address dust, erosion, noxious weeds, traffic and wildfire, proposed facility
18 construction and operation will not limit or adversely impact existing farming operations within
19 the surrounding lands or force a significant change in accepted farm or forest practices or
20 significantly increase the cost of accepted farm or forest practices on surrounding lands
21 devoted to farm or forest use.

22
23 *(F) In the consideration of potentially mitigating conditions of approval under*
24 *ORS 215.296(2), the governing body may not impose such a condition upon the*
25 *owner of the affected farm or forest land or on such land itself, nor compel said*
26 *owner to accept payment to compensate for the significant changes or*
27 *significant increases in costs described in subsection (a) and (b).*

28
29 The ~~Department has not recommended~~ Council ~~has not imposed~~ any conditions that apply to
30 the owners of affected farmland nor any conditions that would compel the landowner to accept
31 payment for compensation of significant impacts.

32
33 OAR 660-033-0130(38)

34
35 *OAR 660-033-0130 Minimum Standards Applicable to the Schedule of Permitted and Conditional*
36 *Uses*

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

39
40 *(a) "Arable land" means land in a tract that is predominantly cultivated or, if not*
41 *currently cultivated, predominantly comprised of arable soils.*

42
43 The proposed facility would be located on "arable land."
44

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

5
6 Each tract associated with the proposed site boundary is predominantly comprised of “arable
7 soils”. Some currently cultivated lands are located within Tracts 2 and 3. The area within the
8 site boundary is predominantly composed of arable soils (See Table 7 below). Per OAR 660-033-
9 0130(38)(b), “‘arable soils’ means soils that are suitable for cultivation as determined by the
10 governing body or its designate based on substantial evidence in the record of a local land use
11 application, but ‘arable soils’ does not include ‘high-value farmland soils’ described at ORS
12 195.300(10) unless otherwise stated.” ORS 195.300(10)(a) and (c) are applicable to the facility.

13
14 (c) “Dual-use development” means developing the same area of land for both a
15 photovoltaic solar power generation facility and for farm use.

16
17 No dual-use development is proposed, therefore (c) is not applicable to the proposed facility.

18
19 (d) “Nonarable land” means land in a tract that is predominantly not cultivated and
20 predominantly comprised of nonarable soils.

21
22 (e) “Nonarable soils” means soils that are not suitable for cultivation. Soils with an NRCS
23 agricultural capability class V–VIII and no history of irrigation shall be considered
24 nonarable in all cases. The governing body or its designate may determine other soils,
25 including soils with a past history of irrigation, to be nonarable based on substantial
26 evidence in the record of a local land use application.

27
28 Some “nonarable soils” exist within the site boundary, but there is no “nonarable land.”
29 Figure 7 below shows the distribution of arable/nonarable soils in the analysis area.

Figure 7: Arable and Non-Arable Soil within Analysis Area

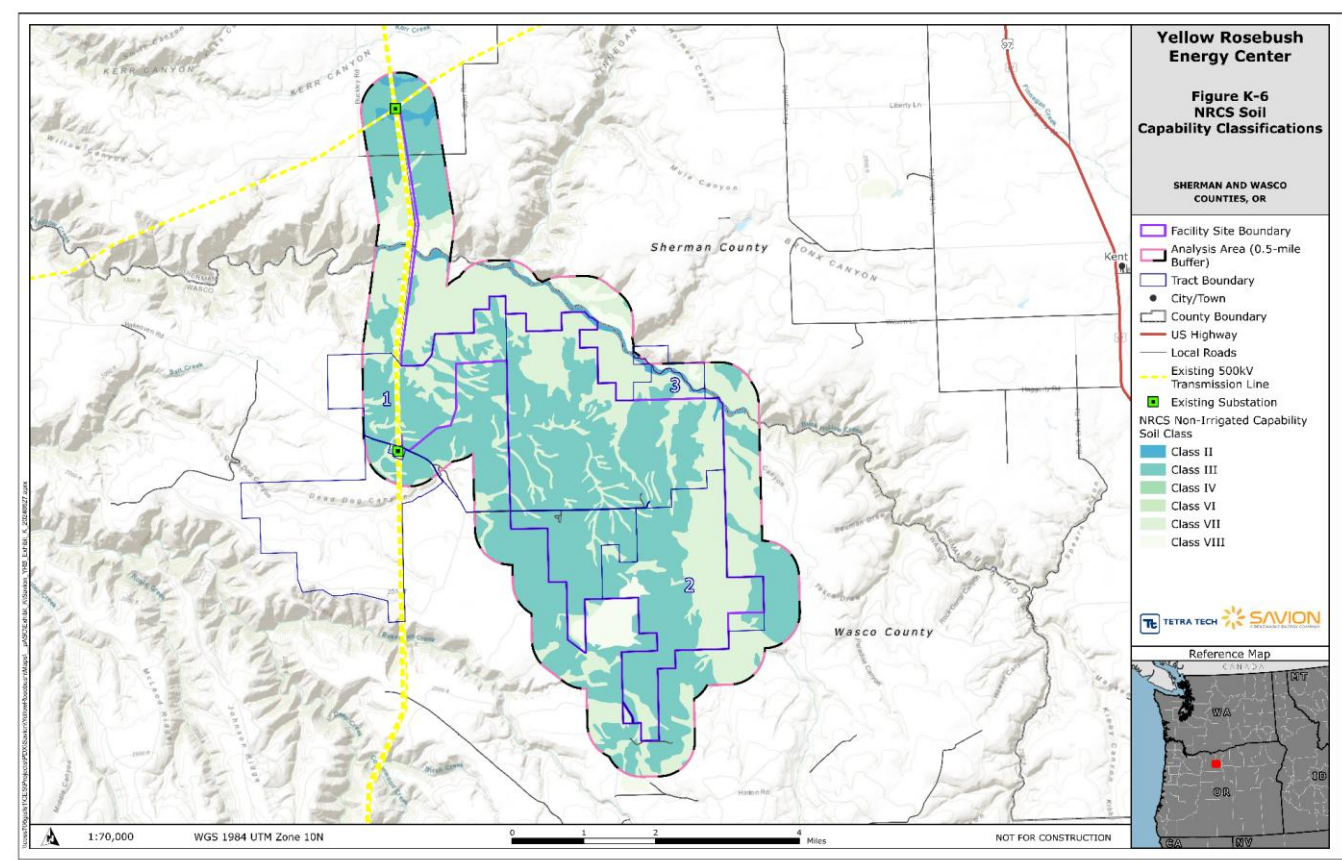


Table 9 below shows arable/non arable lands within the proposed site boundary and associated tracts. Based upon this information, the applicable provisions above are (a) “arable land”, (b) “arable soils”.

Table 9: Arable Lands by Tracts in Analysis Area

Tract	Owner	Total Tract Acreage	Acreage of Arable Soils ¹	Acreage of Cultivated Land and Arable Soils ²	Percent of Tract Area
1	ASHLEY L STEVEN ET AL	4,985	3,548	3,548	71%
2	CHRISMAN LEVI FAMILY LLC	2,548	1,392	1,449	55%
3	PHILLIPS DON W ET AL	4,940	3,261	3,289	66%

1. Per the USDA Soil Conservation Service, NRCS Class I through IV soils are considered suitable for cultivation or arable soils while Class V and higher are considered non-arable soils (Helms 1992). As Class I and II soils are considered high-value farmland soils per ORS 195.300(10) and the definition of arable soils per OAR 660-033-0130(38)(b) excludes high-value farmland soils, the predominance test included only NRCS Class III and IV soils.

2. OAR 660-033-0130(38)(a) defines arable land as “land in a tract that is predominantly cultivated, or if not cultivated, predominantly comprised of arable soils.”

(f) “Photovoltaic solar power generation facility” includes, but is not limited to, an assembly of equipment that converts sunlight into electricity and then stores, transfers, or both, that electricity. This includes photovoltaic modules, mounting and solar tracking equipment, foundations, inverters, wiring, storage devices and other components. Photovoltaic solar power generation facilities also include electrical cable collection systems connecting the photovoltaic solar generation facility to a transmission line, all necessary grid integration equipment, new or expanded private roads constructed to serve the photovoltaic solar power generation facility, office, operation and maintenance buildings, staging areas and all other necessary appurtenances. For purposes of applying the acreage standards of this section, a photovoltaic solar power generation facility includes all existing and proposed facilities on a single tract, as well as any existing and proposed facilities determined to be under common ownership on lands with fewer than 1320 feet of separation from the tract on which the new facility is proposed to be sited. Projects connected to the same parent company or individuals shall be considered to be in common ownership, regardless of the operating business structure. A photovoltaic solar power generation facility does not include a net metering project established consistent with ORS 757.300 and OAR chapter 860, division 39 or a Feed-in-Tariff project established consistent with ORS 757.365 and OAR chapter 860, division 84.

The proposed solar array and associated components meet the definition of “photovoltaic solar power generation facility.” This would include the BESS, collector substation and

interconnection equipment (including overhead cables connecting the substation to the existing BPA switchyard or proposed alternate gen-tie line within the site boundary), and O&M building. The facility's aboveground components would be located within the fence line of the solar facility (with possible exception of interconnection cables extending over the collector substation fence line to the proposed BPA switchyard and the alternate gen-tie line) The 34.5-kV collector lines that would collect the energy from the solar panels and transfer it to the collector substation are also part of the facility.

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

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

(B) A county adopts, and an applicant satisfies, land use provisions authorizing projects subject to a dual-use development plan. Land use provisions adopted by a county pursuant to this paragraph may not allow a project in excess of 20 acres. Land use provisions adopted by the county must require sufficient assurances that the farm use element of the dual-use development plan is established and maintained so long as the photovoltaic solar power generation facility is operational or components of the facility remain on site. The provisions of this subsection are repealed on January 1, 2022.

OAR 660-033-0130(38)(g) restricts a photovoltaic solar power generation facility from using, occupying, or covering more than 12 acres of high value farmland unless the provisions of OAR 660-033-0130(38)(h)(H) are satisfied or the County adopts a dual-use development plan, which would then allow use, occupation or coverage on no more than 20 acres of high-value farmland as defined in ORS 195.300.

High value farmland under ORS 195.300(10)(a):

High-value farmland as described in ORS 215.710 (High-value farmland description for ORS 215) that is land in an exclusive farm use zone or a mixed farm and forest zone, except that the dates specified in ORS 215.710 (High-value farmland description for ORS 215) (2), (4) and (6) are December 6, 2007.

As previously noted, the proposed facility is sited within an EFU zone. In order to determine whether the project site boundary contains high-value farmland based on the definition under ORS 195.300(10)(a), the ~~Department Council~~ evaluates the following:

- Assess whether the soils within the tract are irrigated or not irrigated;
- Based on the irrigation status, assess whether the soils within each tract are classified as prime, unique, Class I or II; and

- Based on soil capability classifications, assess whether the total area within each tract is predominantly composed of soils that are prime, unique, Class I or II soils¹⁰⁹.

The proposed site boundary is not located in an irrigation district nor a diking district.

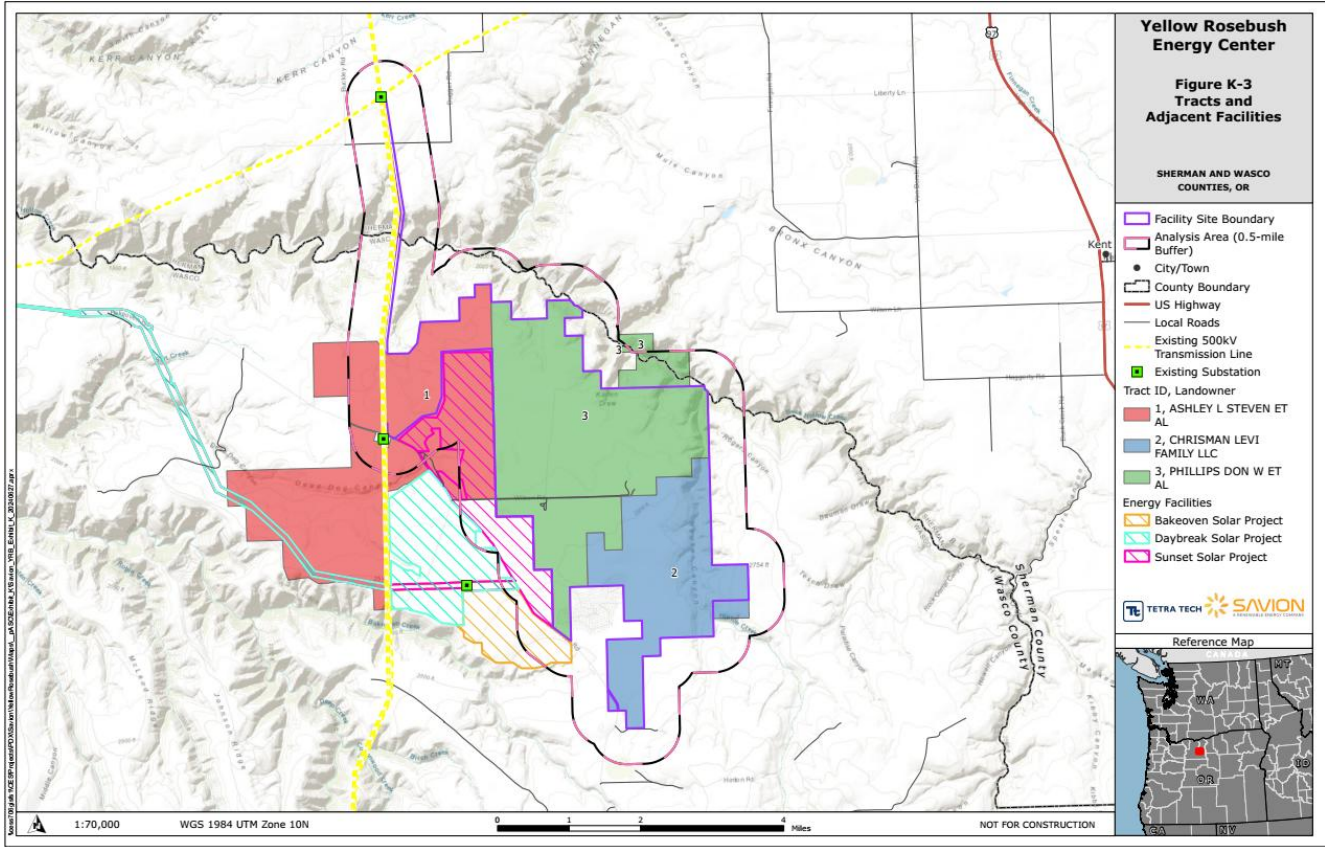
As shown in Figure 8 and Table 10 below, only 1% of one of the tracts (Tract 3) contains high-value soils (73 acres) with an associated water right, but also note that the high-value soils on that tract are not irrigated and per landowner, the water right for irrigation is used on a different tract. Similarly, the water right associated with Tract 1 is used on a different tract not associated with the site boundary.

Table 10: Facility Land Tracts, Water Rights, Acreages and High Value Soils

Tract	Owner	Water Right ¹	Total Tract Acreage	Acreage of High Value Soils (HVS; NRCS Soils Class I, II, Prime, or Unique)			
				Irrigated Acreage of Tract ²	Non-Irrigated Acreage of Tract	Total	Percent of Tract Area
1	ASHLEY L STEVEN ET AL	Permit: G 17321 * IR ³	4,985	0	0	0	0%
2	CHRISMAN LEVI FAMILY LLC		2,548	0	0	0	0%
3	PHILLIPS DON W ET AL	Cert: 42677 OR * IR ⁴	4,940	0	73	73	1%
Notes:							
1. The locations of the place of use of these water rights are not located within the facility site boundary (OWRD 2024b).							
2. According to the definition of "irrigated" in OAR 660-033-0020(9).							
3. This water right place of use is located outside the Facility site boundary. This is confirmed by the tract owner (Section 4.5.1.2, Table K-7).							
4. This certificate is associated with the Estate of Joseph Bibby (OWRD 2024b). George Bibby owns land along Buck Hollow Creek adjacent to the Don Phillips tract. The OWRD water rights map shows overland between this water right and Tract 3; however, Mr. Phillips has confirmed that no portion of his property contains water rights (Section 4.5.1.2, Table K-7).							

¹⁰⁹ Prime and unique soil designations are from the NRCS "Farmland classification" data set which identifies the following soil map units: prime farmland if irrigated, farmland of statewide importance, farmland of local importance, not prime farmland, or unique farmland. Class I and II soil designations are from the NRCS "Irrigated Capability Class" and "Nonirrigated Capability Class" data sets. Certain soils have different assigned soil capability classes depending on the irrigation status. The definition of "irrigated" under OAR 660-033-0020(9) shall apply to the NRCS capability class datasets.

Figure 8: Tracts and Adjacent Facilities within Analysis Area



- 1 The facility site avoids all high-value farmland. As shown in Tables 10 and 11, while there is
 2 high-value farmland within the proposed tracts and within the Land Use analysis area, there is
 3 no high-value farmland within the proposed site boundary per ORS 195.300.

Table 11: High Value Farmland in Analysis Area

Land Type	Analysis Area		Site Boundary		Estimated Permanent Disturbance of HVF within Site Boundary (Acres/%)	
	Acres	Percent	Acres	Percent	Acres	Percent
High-value farmland Per ORS 195.300(10)(a) (i.e., Class 1 or 2 soils) ¹	336.68	2%	0.00	0%	0.00	0%
High-value farmland Per ORS 195.300(10)(c) (i.e., within place of use water right or irrigation district)	111.44	1%	0 ²	0%	0.00	0%
High-value farmland Per ORS 195.300(10)(f) (i.e., within AVA and meets slope, elevation, aspect criteria.	0.00	0%	0.00	0%	0.00	0%
High-value farmland/high-value soils (merged all 3 HVFs) ²	416.39	2%	0	0%	0.00	0%
Notes: 1. ORS 195.300(10)(a) cites ORS 215.710, which defines high-value farmland as land within a tract comprised predominantly of soils that are irrigated or not irrigated, and classified as prime, unique, Class I, or Class II. This row shows high-value farmland as result of predominance test that examines soils across tracts that intersect the site boundary. Portions of the analysis area may not include the high-value farmland soils tract analysis per ORS 195.300(10)(a) if the tract boundary does not extend fully across the analysis area. In this case, the analysis area column accounts for the raw acreage of Class 1 and 2 soils present regardless of predominance throughout the tracts that extend further beyond the analysis area boundary. 2. This certificate is associated with the Estate of Joseph Bibby (OWRD 2024b). George Bibby owns land along Buck Hollow Creek adjacent to the Don Phillips tract. The OWRD water rights map shows overland between this water right and Tract 3, however, Mr. Phillips has confirmed that no portion of his property contains water rights (Section 4.5.1.2, Table K-5). 3. High-value farmland designations per ORS 195.300(10)(a), (c), and (f)						

1 None of the portions of the tracts within the site boundary meet the definition of high-value
2 farmland under ORS 195.300(10)(a). Based upon this information, the ~~Department~~
3 ~~recommends that~~ Council find~~s~~ the facility would not be located on high-value farmland per
4 ORS 195.300(10).

5
6 Based upon the information provided in Exhibit K and the ~~Department's Council's~~ evaluation of
7 the provisions in OAR 660-033-0130(38), the ~~Department recommends that~~ Council find~~s~~ that
8 the provisions of OAR 660-033-0130(38)(g) and (h) do not apply to the facility, but because the
9 facility is sited on arable lands, OAR 660-033-0130(38)(i) is applicable and is evaluated below.

10
11 *(i) For arable lands, a photovoltaic solar power generation facility shall not use, occupy,*
12 *or cover more than 20 acres. The governing body or its designate must find that the*
13 *following criteria are satisfied in order to approve a photovoltaic solar power generation*
14 *facility on arable land:*

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

18 *OAR 660-033-0020(8)(a) "High-Value Farmland" means land in a tract*
19 *composed predominantly of soils that are:*

- 20 *(A) Irrigated and classified prime, unique, Class I or II; or*
21 *(B) Not irrigated and classified prime, unique, Class I or II.*

22
23 *(B) The project is not located on those high-value farmland soils listed in OAR 660-*
24 *033-0020(8)(b)-(e) or arable soils unless it can be demonstrated that:*

- 25 *(i) Nonarable soils are not available on the subject tract;*
26 *(ii) Siting the project on nonarable soils present on the subject tract would*
27 *significantly reduce the project's ability to operate successfully; or*
28 *(iii) The proposed site is better suited to allow continuation of an existing*
29 *commercial farm or ranching operation on the subject tract than other possible*
30 *sites also located on the subject tract, including those comprised of nonarable*
31 *soils;*

32
33 *(C) No more than 12 acres of the project will be sited on high-value farmland soils*
34 *described at ORS 195.300(10);*

35
36 The proposed facility would use, occupy, or cover an estimated 7,026 acres of arable lands
37 within an 8,075-acre site boundary, well over the 20-acre threshold established by OAR 660-
38 033-0130(38)(i). 660-033-0130(38)(i)(A)-(C) restricts a photovoltaic solar power generation
39 facility from occupying more than 20 acres of arable land and requires the above criteria per
40 OAR 660-033-0020(8) to be met. To satisfy OAR 660-033-0130(38)(i)(A), the proposed facility
41 must not be located on those high-value farmland soils listed in OAR 660-033-0020(8)(a). The
42 proposed facility would not be located on high-value farmland soils listed in OAR 660-033-
43 0020(8)(a), consistent with OAR 660-033-0130(38)(i)(A), and therefore would comply with the
44 criteria in (A).

OAR 660-033-0130(38)(i)(B) pertains to high-value farmland soils listed in OAR 660-033-0020(8)(b)-(e) or arable soils. As defined in OAR 660-033-0130(38)(b), “arable soils” means soils that are suitable for cultivation as determined by the governing body or its designate based on substantial evidence in the record of a local land use application, but “arable soils” does not include high-value farmland soils described at ORS 195.300(10) unless otherwise stated. The proposed facility does not contain high-value farmland soils listed in OAR 660-033-0020(8)(b)-(e). It does, however, contain arable soils; therefore, one of the three factors under OAR 660-033-0130(38)(i)(B) must be met. As shown in ASC Exhibit K Table K-7, the proposed facility will be located on both arable and nonarable soil. The proposed site boundary is predominantly composed of arable soil and therefore qualifies as arable land.

(i) Nonarable soils are not available on the subject tract;

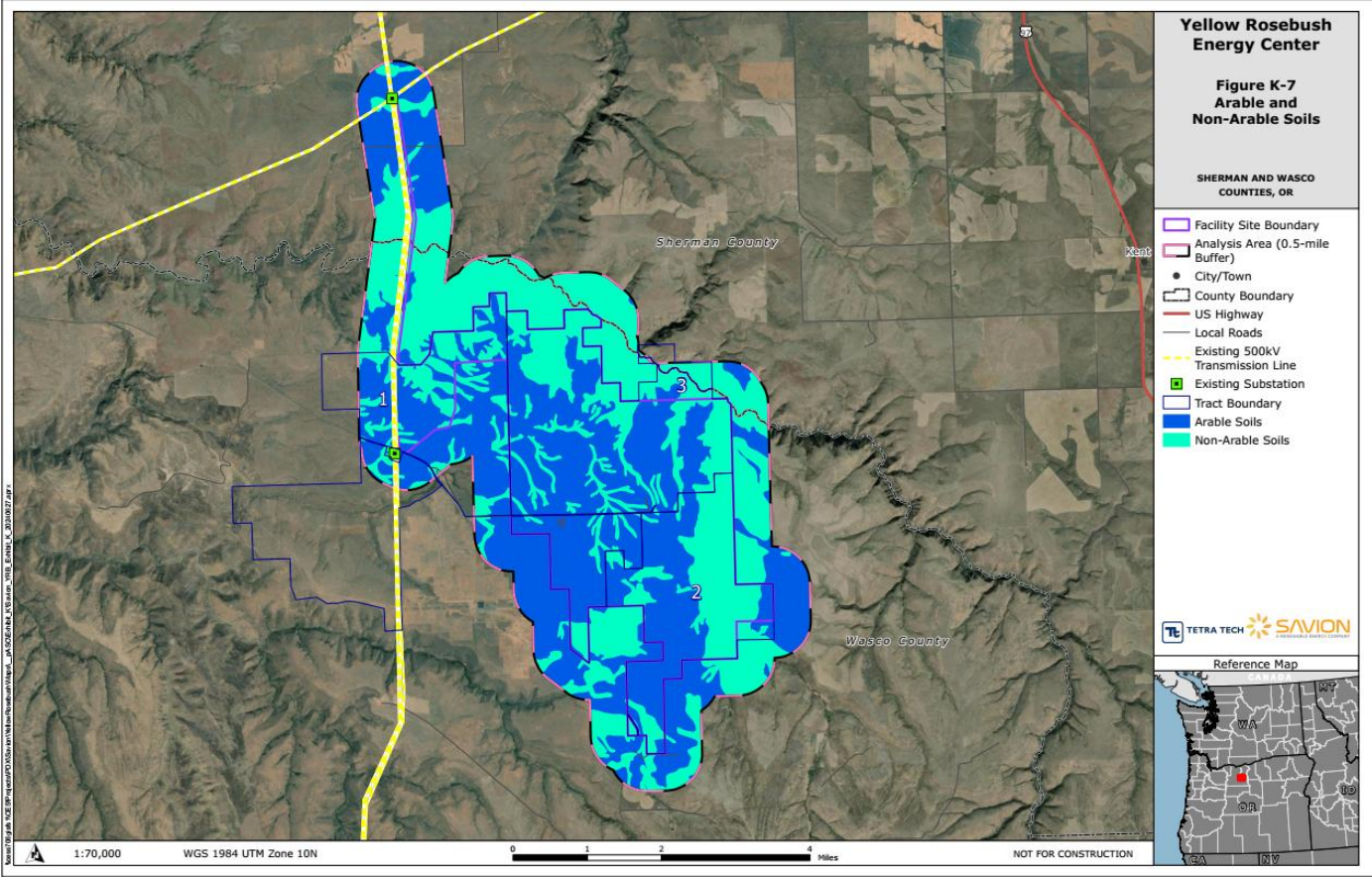
Because nonarable soils are available on the subject tract, factor (B)(i) does not apply.

(ii) Siting the project on nonarable soils present on the subject tract would significantly reduce the project’s ability to operate successfully; or

Figure 9 below shows that the site boundary and proposed solar micro-siting area are sited on both arable and nonarable soils. The primary differentiation between nonarable and arable soils is based on topography and the nonarable soils are generally located along the creeks, canyons, and drainages where the slopes are prone to landslides and are not suitable for solar panel placement (see slopes on ASC Exhibit H Figure H-3). ASC Exhibit P Figure P-4 shows the nonarable soils as either shrub-steppe or cliffs, caves and talus, with some portions as eastside grasslands and all non-cultivated lands as ODFW designated habitat Category 2. Per the applicant’s estimates, siting entirely on nonarable soils would reduce the size of the facility by over 50% and the nature of alternating arable/nonarable soils throughout the site boundary makes it nearly impossible to site the facility only on arable soils.

Figure 9: Arable and Non-arable Soil within Analysis Area

1



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

As provided by the landowners (See ASC Exhibit K, Section 4.5.1.2, Table K-7 and Figure K-4), only 230 acres of dryland crops are currently grown within the proposed site boundary and of those acres, only 160 are grown within the solar micrositng area.

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

As evaluated above, the proposed facility is not sited on any high-value farmland soils per ORS 195.300(10). Table 11 above shows the acreage and percentage of high value farmland in the analysis area and site boundary.

As described above, the combined total of high-value farmland across all three tracts comprises approximately 5% of the analysis area, but the proposed site boundary and solar micrositng corridor have been sited so that they contain no high-value farmland under ORS 195.300(10). Based on NRCS soil classification, there are no high-value soils present within the proposed micrositng corridor.

Based upon the Department's Council's evaluation of the information provided in the ASC Exhibits H, I, K, and P, the ~~Department recommends that~~ Council find~~s~~ that the proposed solar facility would not be sited on high-value farmland and would satisfy OAR 660-033-0130(i)(A)-(C).

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

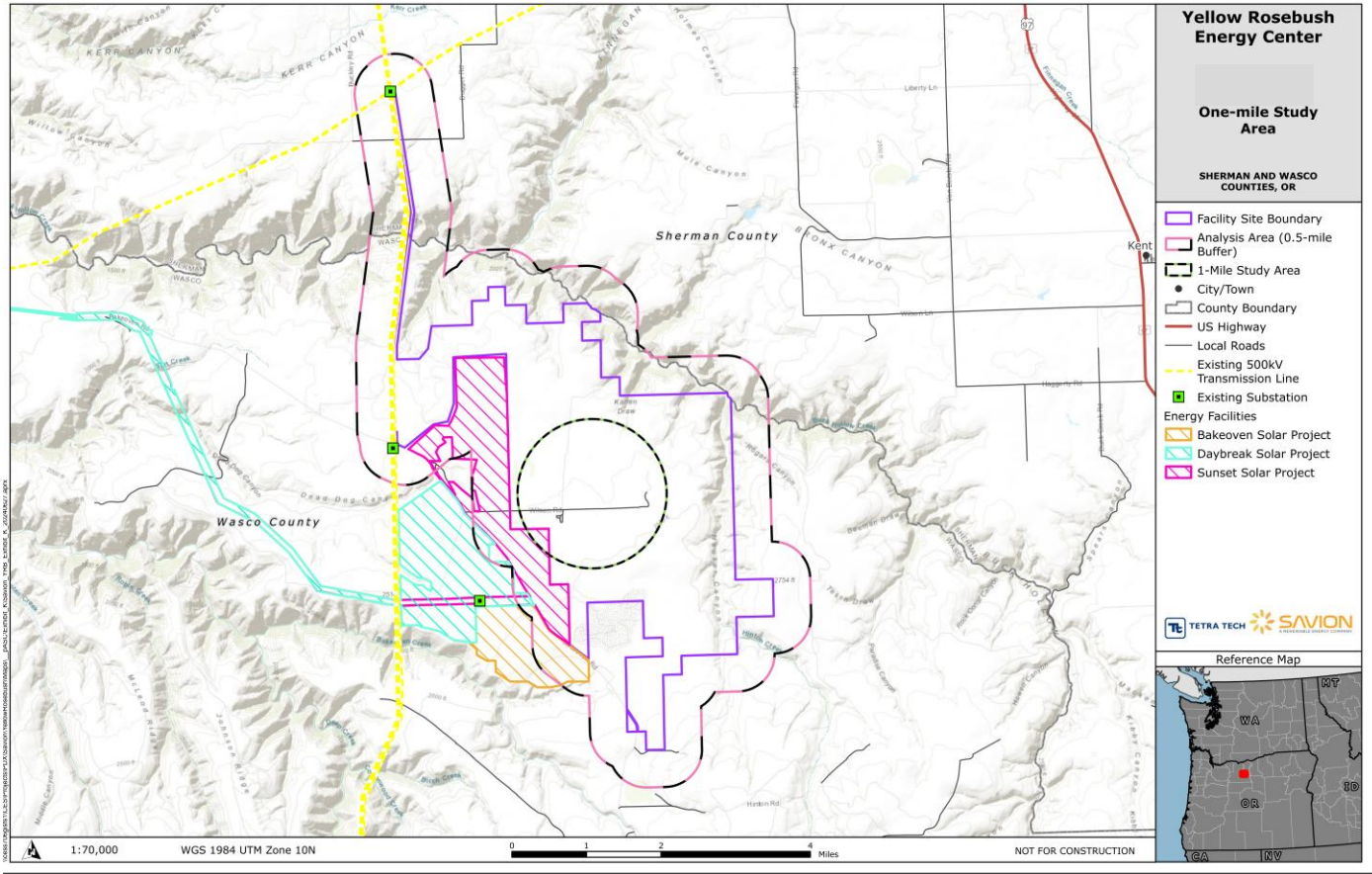
(i) If fewer than 80 acres of photovoltaic solar power generation facilities have been constructed or received land use approvals and obtained building permits within the study area, no further action is necessary.

(ii) When at least 80 acres of photovoltaic solar power generation facilities have been constructed or received land use approvals and obtained building permits, either as a single project or as multiple facilities within the study area, the local government or its designate must find that the photovoltaic solar power generation facility will not materially alter the stability of the overall land use pattern of the area. The stability of the land use pattern will be materially altered if the overall effect of existing and potential photovoltaic solar power generation facilities will make it more difficult for the existing farms and ranches in the area to continue operation due to diminished opportunities to expand, purchase or lease farmland, acquire water rights, or diminish the number

*of tracts or acreage in farm use in a manner that will destabilize the
overall character of the study area; and*

OAR 660-033-0130(38)(i)(D) requires an evaluation of photovoltaic solar power generation facility development within 1-mile from the center of the proposed project site. Portions of the adjacent Sunset Solar Project facility are located within one mile of the center point of the proposed facility, as shown in Figure 10 below.

Figure 10: Solar Facilities within 1 mile of Proposed Facility Center Point



The location of the proposed facility in proximity to other existing or approved renewable energy facilities allows for efficient use of transmission infrastructure and potential sharing infrastructure, such as a BPA substation. Based on the distance from the center point of the proposed facility, less than 80 acres of other solar facilities are within one mile so that (i) applies and (ii) is not applicable. Based on these facts, the ~~Department recommends~~ Council finds that the proposed facility will not materially alter the stability of the overall land use pattern of the area and would satisfy OAR 660-033-0130(38)(i)(D)(ii).

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

OAR 660-033-0130(38)(i)(E) requires Council to find that OAR 660-033-0130(38)(h)(A)-(D) are satisfied. In the ASC, the applicant does not evaluate under this provision, but rather incorporates by reference the applicable provisions in their evaluation of applicable provisions of the WCLUDO 5.020 *Authorization to Grant or Deny Conditional Uses, and Standards and Criteria Used* that are presented and evaluated in ASC Exhibit K, Section 4.2.1.11, and evaluated by ~~the Department Council~~ above in Section IV.E.1 Local Applicable Substantive Criteria, WCLUDO Section 5.020 of this order.

The ~~Department Council~~ provides its summary evaluation of OAR 660-033-0130(38)(h) below:

OAR 660-033-0130(38)(h):

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

Potential impacts to agriculture are evaluated in detail as part of the Goal 3 Exception request in the following *Section IV.E.1.4. Goal 3 Exception* of this order.

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

Potential impacts to soil and erosion control measures are evaluated in Section IV.D. Soil Protection of this order. With ~~recommended~~ Soil Protection Conditions 3-4, the applicant will be required to implement specific measures, best management practices, and comply with the site-specific erosion control measures specified in the NPDES -1200-C permit, accompanying Erosion and Sediment Control Plan (ESCP) and the Fugitive Dust Control Plan for the construction of the facility, with additional requirements for operations to ensure protection of soils from erosion and soil loss that could occur as a result of the facility construction or operations. Further, site certificate conditions require that the certificate holder restore soils upon retirement of the facility. For these reasons, and with compliance with ~~recommended~~ site certificate conditions, the ~~Department recommends the~~ Council find^s that the facility will meet these requirements.

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

During both construction and maintenance, soil compaction in agricultural areas outside the fence line would be avoided, or if they did occur, they would be remedied in a timely manner through deep soil decompaction or other appropriate practices as agreed upon with the landowner. By limiting the extent of grading during construction, to specific areas needed for construction and performing work during the dry season, construction impacts such as soil compaction would be minimized. Whenever possible, construction activities would be scheduled in the dry season when soils are less susceptible to compaction. Similarly, soil disturbance would be postponed when soils are excessively wet (e.g., following a precipitation event). Driving routes for construction vehicles will be limited to access roads and approved routes, and off-road travel outside the fence line will be prohibited. All of these are best management practices that will minimize and prevent soil compaction and will be included in the required NPDES 1200-C permit and ESCP. For these reasons, the ~~Department recommends that~~ Council find^s that with compliance with the ~~recommended~~ Soil Protection conditions in this order, the facility meet these requirements.

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

Following construction and during operations, the applicant will be required to comply with the Noxious Weed Control Plan for areas within the perimeter fence and the Revegetation and Reclamation Plan (Attachment P-1) for areas temporarily impacted by facility construction. The Noxious Weed Control Plan is included as Attachment P-2 to this order and includes measures identifying, monitoring, and treating areas within the fenceline to prevent the introduction and spread of noxious weeds, and approved treatment for noxious and monitoring protocols for the life of the facility to ensure success. The plan was developed in consultation with Wasco County Weed Department for the facility and the Sherman County Weed District for the alternative transmission line corridor and is required under ~~recommended~~-Fish and Wildlife Habitat Condition 4 and will apply during the operational lifetime of the facility. For these reasons, and with ~~recommended~~-site certificate conditions, the ~~Department recommends that~~Council finds the facility will comply with these requirements.

Based upon the evaluation above, and in the above-referenced standards and sections of this order, and ~~recommended~~-site certificate conditions and associated plans, the ~~Department recommends that~~Council finds the requirements of OAR 660-033-0130(38)(h)(A)-(D) are satisfied.

Because the facility would use more than 20 acres of arable land for a commercial solar energy facility, the facility would not comply with OAR 660-033-0130(38)(i) and an exception to the thresholds is required. The ~~Department's Council's~~ evaluation of the exception request is provided in Section IV.E.1.3 Goal 3 Exception below.

IV.E.1.4 Goal 3 Exception

Statewide Planning Goal 3 (OAR 660-015-0000(3)) seeks to preserve and maintain agricultural land for farm use, consistent with existing and future needs for agricultural products, forest and open space and with the state's agricultural land use policy expressed in ORS 215.243 and 215.700. Because the proposed facility does not comply with the 20-acre maximum established for solar photovoltaic power generation facilities sited on agricultural (arable) lands under OAR 660-033-0130(38)(i), an exception to Goal 3 must be taken in order for the Council to approve the facility.

Under ORS 469.504(2) and OAR 345-022-0030(4) the Council may take an exception to a goal if it 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.

The provisions of ORS 469.504(2)(a) and (b) / OAR 345-022-0030(4)(a) and (b) are not applicable to the proposed facility. Under ORS 469.504(2)(c) and OAR 345-022-0030(4)(c), an exception can be granted if the above criteria in (A) through (C) are met. Under ORS 469.504(2)(c)(A) and OAR 345-022-0030(4)(c)(A), Council must find “reasons justify why the state policy embodied in the applicable goal should not apply.”

Proposed Reasons to Justify an Exception: ORS 469.504(2)(c)(A) and OAR 345-022-0030(4)(c)(A)

The applicant proposes that the following reasons justify taking an exception to Statewide Planning Goal 3:

1. The facility is locationally dependent (proximity to regional transmission grid, existing energy infrastructure, and major transportation corridors).
2. The facility does not impact high-value farmland or water availability and imposes minimal direct impacts to agricultural activities.
3. The facility creates local economic benefits (landowners, local government and local agricultural economy).
4. The facility imposes minimal impacts to resources protected by Council standards.
5. The facility responds to important state and county goals and priorities.

The applicant’s proposed reasons for justifying an exception to Goal 3, the ~~Department’s recommended Council’s~~ findings of facts, followed by ~~an Council’s~~ analysis for each of the proposed “reasons”, are presented below.

1. *The facility does not impact high-value farmland or water availability and imposes minimal direct impacts to agricultural activities.*

ASC Exhibit K Facts Related to: Minimal Impacts to Agriculture

The applicant proposes that the use of the facility site for an energy facility rather than agricultural practices is justified because the proposed use would result in minimal impacts to agriculture. The proposed solar micro-siting area includes 7,026 acres, which covers three

individual tracts owned by Steven Ashley (Tract 1), Levi Chrisman Family LLC (Tract 2) and Don Phillips (Tract 3).¹¹⁰ Within these tracts, there is no high-value farmland, no lands with water rights and no lands that utilize irrigation.^{111, 112, 113} Existing farm practices within each tract are summarized in Table 12 below.¹¹⁴

Lands within the proposed solar micrositng area in Tract 1 and 2 are not currently used for farm operations. Land owned by Steven Ashley (Tract 1), within the proposed solar micrositng area, consists almost entirely of unfarmable rock draws or land enrolled in CRP; the area is not used for cattle grazing and is not leased for use by tenant farmers. The land has not been used for agricultural practices in over 20 years.¹¹⁵ Land owned by Levi Chrisman Family LLC (Tract 2), within the proposed solar micrositng area, is used for a recreational hunting operation and enrolled in CRP due to rocky, shallow soil depth. The landowners stated that using the land for dryland winter wheat is cost prohibitive given the low yields anticipated.¹¹⁶

A portion of the land owned by Don Phillips (Tract 3) is currently used for cattle operations. Agricultural practices include minimal cattle grazing (~217 head/year) and the cultivation of dryland wheat and other feed crops on approximately 160 acres. The applicant argues the direct impacts of discontinuing the cattle operation, which are estimated to be approximately \$80,000 in lost revenue, would be compensated for through lease payments to the participating landowners; however, indirect and induced impacts to the agricultural economy would still result from lost spending on agricultural inputs (feed, services, etc.) and decreased marketing of agricultural outputs (cattle) if cattle operations are discontinued.¹¹⁷

ASC Exhibit K Attachment K-2 provides an economic impact assessment prepared by ECONorthwest evaluating the potential indirect and induced impacts that would result from discontinuing the cattle operation.

ECONorthwest estimated that conversion of the land to an energy use would result in annual indirect impacts of:

- 0.04 jobs lost in the agriculture and forestry support sector
- \$800 in labor income associated with those jobs lost, and

¹¹⁰ OAR 660-033-0020(14) defines "tract" one or more contiguous lots or parcels under the same ownership.

¹¹¹ High-value farmland as defined in ORS 195.300(10).

¹¹² YRBAPPD0c1-12 ASC Exhibit K. Land Use 2025-09-05, Table K-8, Table K-9.

¹¹³ YRBAPPD0c1-12 ASC Exhibit K. Land Use 2025-09-05, Figure K-5.

¹¹⁴ YRBAPPD0c1-12 ASC Exhibit K. Land Use 2025-09-05, Attachment K-1 Landowner letter from Don Phillips on behalf of Don W Phillips et al.

¹¹⁵ YRBAPPD0c1-12 ASC Exhibit K. Land Use 2025-09-05, Attachment K-1 Landowner letter from Bob Krein, A&K Ranch.

¹¹⁶ YRBAPPD0c1-12 ASC Exhibit K. Land Use 2025-09-05, Attachment K-1 Landowner letter from Brad Chase of Levi Chrisman Family LLC.

¹¹⁷ YRBAPPD0c1-12 ASC Exhibit K. Land Use 2025-09-05, Section 4.5.1.2.

- \$7,000 in lost economic output.^{118,119}

A potential reduction of 0.04 jobs represents approximately 0.0005 percent of existing employment in this sector and about 0.00005 percent of total agricultural jobs in Wasco County.¹²⁰

Induced impacts are generated by household spending associated with ongoing agricultural operations within the proposed site boundary. Assuming this income is no longer earned, it is not available to spend and would also represent lost economic activity when agricultural production stops. ECONorthwest estimates the following induced impacts:

- 0 jobs
- \$100 labor income
- \$400 in lost economic output

ECONorthwest estimates the total indirect and induced impacts to be \$900 per year in lost labor income and \$7,400 per year in lost economic output. This represents approximately 0.005 percent of total agricultural economic output in Wasco County.

The findings of the ECONorthwest Agricultural Impact Analysis suggest that the proposed facility's removing 160 acres of arable land from agricultural use and discontinuation of cattle operations at the site would have minimal direct, indirect, and induced impacts to agricultural activities and the overall agricultural economy in Wasco County.

¹¹⁸ YRBAPPDoc1-12 ASC Exhibit K. Land Use 2025-09-05, Attachment K-2, Table 9. Indirect impacts are impacts from the loss of economic activity supported by the agricultural production within the proposed facility site, including spending on goods such as utilities and equipment repairs.

¹¹⁹ "Outputs" refers to the value of goods and services produced.

¹²⁰ *Id.*

Table 12: Current Agricultural Uses on Tracts within Solar Micrositing Area

Landowner & Tract Acreage	USDA Farmland and CRP/Marginal Pastureland (MPL) Acreage	Irrigation Water Rights	Crop Practices	Crop Schedule	Cattle Ranching & Grazing	Direct Jobs Currently Supported by Operations	Spending on Labor, Supplies, and Services for Agricultural Operations (estimated reductions)	Range of Crop Yields over the Past 5-10 Years	Plans for Land Outside of Site Boundary during Facility Operation
STEVEN L ASHLEY ET AL (aka A&K RANCHES) (Tract 1) 4,985 Total tract acres 881 acres inside micrositing corridor	<u>Current Tract Land in</u> - CRP: 2,037.75 acres - MPL: 240.4 acres 46% of land in CRP/MPL	None	No crops are grown. Approximately half of land is in CRP and 1,200 acres are in Sunset Solar Project.	None. CRP land is minimally mowed and sprayed infrequently as needed.	~100 head of livestock graze within Tract 1 for 5 months each year (area within solar micrositing area is not used for grazing). Grazing land is leased for the remainder of the year.	Two ranch employees	No reductions are expected.	None	Winter cattle grazing will continue on land outside the facility site boundary within Tract 1.
LEVI CHRISMAN FAMILY LLC (Tract 2) 2,548 Total tract acres 1,799 acres inside micrositing corridor	<u>Current Tract Land in</u> - CRP: 1,181.25 46% of land in CRP	None	None by the Levi Chrisman Family LLC and none have been grown since the early 1980s. 240 acres are subleased to the Carver Family Ranches LLC. Approximately 70 acres of these acres grow dryland wheat/barley or support intermittent cattle grazing when vegetation is available (these lands are outside of the solar micrositing area)	None	None	One manager	None	None	Land currently being subleased will continue to be farmed by the Carver Family Ranches LLC.
DON W PHILLIPS ET AL (Tract 3) 4,940 Total tract acres 4,331 acres inside micrositing corridor	<u>1989-2022 Tract Land in</u> - CRP: 2,388.4 acres 48% of land in CRP <u>Current Tract Land in</u> - CRP: 30.11 acres (reduced due to Facility lease) - MPL: 51.62 acres	None	80 acres dryland wheat and triticale/barley (160 acres with 80 acres summer fallow rotation) to feed on-site cattle herd during winter.	Planted November Harvested June No fertilizer or spraying	~217 livestock grazing year-round	Family members only	No reductions are expected.	No crops have been grown for sale only for cattle operation feed. All tillable acreage has been in CRP since 1989.	Crop production will cease. Cattle grazing will be moved outside of facility site boundary or discontinued.

Department's Council's Evaluation of Facts Related to: Minimal Impacts to Agriculture

The ~~Department recommends that the~~ Council finds_s that the applicant has adequately characterized the site and provided maps (ASC Exhibit K Figures K-5, K-6 and K-7) that demonstrate that land with the solar micro-siting area are not high-value farmland and do not contain water rights. The applicant has shown that none of the lands have ever been used for irrigated agricultural practices. The ~~Department recommends~~ Council finds_s that the proposed facility would therefore not impact high-value farmland or high value farmland soils and would not impact water availability, water rights or any irrigated agricultural practices.

The construction and operation of the proposed facility would directly impact cattle raising operations, including grazing and cultivating crops for supplemental feed, but the applicant has provided an economic analysis demonstrating that discontinuing these practices would have minimal indirect or induced impacts on the local agricultural economy.

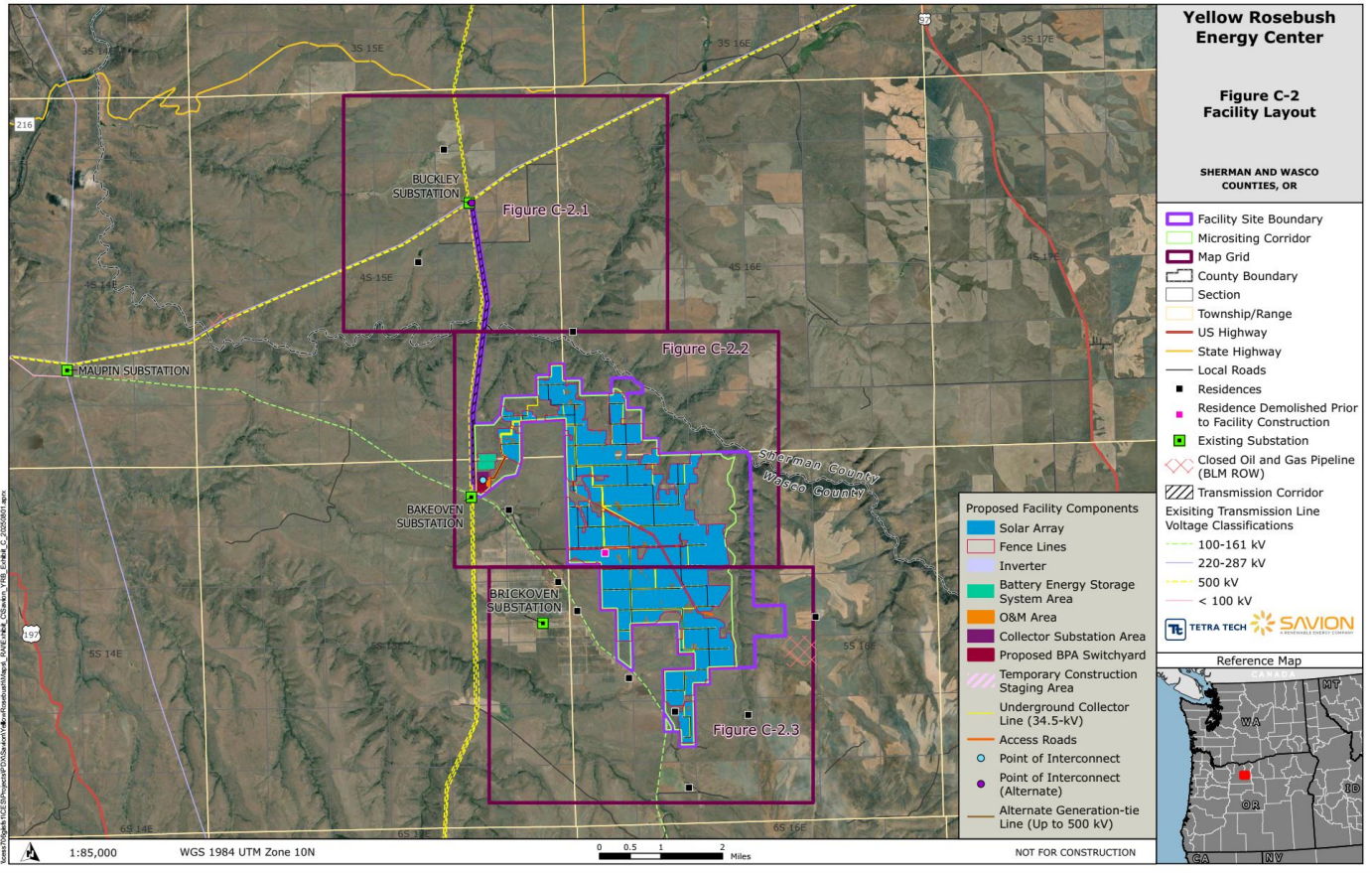
The ~~Department, therefore, recommends the~~ Council finds_s that use of the site would have minimal impacts to high value farmland, water availability and any direct impacts to agricultural practices. The ~~Department recommends that the~~ Council finds_s, based on these facts, that this is a reason that justifies an exception to Goal 3 for the proposed site.

2. *The facility is locationally dependent (proximity to regional transmission grid, existing energy infrastructure, and major transportation corridors).*

ASC Exhibit K Facts Related to: Locational Dependency

The applicant contends the site is locationally dependent based on its proximity to: BPA's existing John Day to Grizzly 500-kV transmission line and transmission corridor, as presented in Figure 11 below; other utility-scale, EFSC solar PV facilities, which beneficially consolidate rather than disperse impacts to a specific area; and existing major transportation routes, I-84 and US-97.

Figure 11: Proximity of BPA’s 500-kV Transmission Line and Buckley Substation to Proposed Facility Site



Department's Council's Evaluation of Facts Related to: Locational Dependency

Certain locational dependency characteristics including proximity to the existing transmission grid, proximity to existing energy infrastructure, proximity to transportation corridors and proximity to unique geographic features have been determined by the Council to justify, in part, a reason to take an exception to Statewide Planning Goal 3.^{121, 122}

Proximity to BPA transmission line

The applicant suggests that the facility is locationally dependent on the site's proximity to the existing BPA's transmission line, which would allow power generated by the facility to be transmitted to the regional transmission grid at a Point of Interconnection adjacent to the site (primary POI). Siting the facility adjacent to BPA's existing transmission line could allow for efficient use of infrastructure by omitting the need to construct a new high-voltage line and minimizing impacts to surrounding agricultural lands and other resources; however, in order for the facility to utilize the primary POI, BPA would first have to construct a new switchyard (the "Proposed BPA Switchyard in Figure 11 above). The applicant has not provided evidence that BPA is planning or committed to constructing this switchyard, and whether or not this interconnection proposal is feasible remains uncertain. The uncertainty is further underscored by the applicant's request for approval for an alternate interconnection option that would require a new 4.5 mile, 500-kV transmission line to connect the energy facility site to BPA's Buckley Substation (alternate POI). The proposed alternate POI transmission line would be located adjacent to the existing transmission corridor, but would not be located within an existing right of way.

The ~~Department recommends that Council finds that~~, generally, locational dependence based on proximity to existing transmission infrastructure ~~has~~ not be relied upon as a reason to justify an exception to Goal 3 when an applicant would need to construct and operate new associated

¹²¹ Oregon Department of Energy. Final Order Application for Site Certificate on Boardman Solar Energy Facility (2018); Final Order on Request for Amendment 1 for Carty Generating Station (2018); Final Order on Montague Wind Project Request for Amendment 4 (Pachwaywit Fields and Oregon Trail) (2019); Final Order on Wheatridge Wind Energy Facility Request for Amendment 4 (2019); Final Order on Application for Site Certificate for Bakeoven Solar Project (2020); Final Order on Application for Site Certificate for Madras Solar Energy Facility (2021); Final Order on Application for Site Certificate for West End Solar Project (2023); and Final Order on Application for Site Certificate for Nolin Hills Wind Power Project (2023).

¹²² Oregon Department of Energy. Final Order on Application for Site Certificate for the Nolin Hills Wind Power Project (2023), Available at: <https://www.oregon.gov/energy/facilities/Facilities%20library/2023-08-30-NHW-APP-Final-Order.pdf>; https://www.oregon.gov/energy/facilities_safety/facilities/Facilities%20library/2023-08-30-NHW-APP-Final-Order.pdf; Final Order on Applicant for Site Certificate for Madras Solar Energy Facility (2021) available online at: <https://www.oregon.gov/energy/facilities/Facilities%20library/2021-08-02-MSEF-Final-Order-SIGNED-Attachments.pdf>; https://www.oregon.gov/energy/facilities_safety/facilities/Facilities%20library/2021-08-02-MSEF-Final-Order-SIGNED-Attachments.pdf; and Final Order on Application for Site Certificate Bakeoven Solar Project, Available at: <https://www.oregon.gov/energy/facilities/Facilities%20library/2020-04-24-BSP-ASC-Final-Order.pdf>; https://www.oregon.gov/energy/facilities_safety/facilities/Facilities%20library/2020-04-24-BSP-ASC-Final-Order.pdf

transmission lines of significant length to connect to the grid. In this proceeding, although the applicant may need to construct and operate a new 4.5 mile 500-kV transmission line in order to interconnect with the grid, the new transmission line would still be adjacent to an existing transmission corridor, and in accordance with ~~Recommended~~-General Condition 8, would be sited the minimum distance necessary for safety from the BPA transmission line corridor (60 – 260 feet). The alternate POI transmission line corridor would cross important habitat and other resource areas, and as described in Section IV.A, *General Standard of Review*, the applicant has not completed resource surveys for the proposed transmission corridor, however the applicant would be required to do so and address any impacts to resources protected by Council standards prior to construction under ~~Recommended~~-Conditions PRE-FW-01, PRE-TE-01, PRE-HC-01, and PRE-RF-01.

The ~~Department recommends the~~ Council find~~s~~ that, subject to compliance with ~~Recommended~~ General Standard Condition 8, the site's proximity to the existing BPA corridor supports a locational dependence reason because it would allow the proposed facility to interconnect with the regional transmission grid at a POI adjacent to the site; or if that site is unavailable; would allow new transmission infrastructure to be located immediately adjacent to the existing transmission corridor.

Proximity to Existing Energy Infrastructure

The applicant contends proximity to other existing energy infrastructure, specifically three EFSC-approved solar energy generating facilities directly south of the proposed facility, is a basis to grant an exception to Goal 3 based on a locational dependence reason. Other than a brief narrative, the applicant provides no supporting facts or evidence for this position. The applicant hasn't asserted that there will be operational or resource benefits in siting the proposed facility adjacent to existing energy infrastructure or that locating close to existing infrastructure will reduce the impacts its facility would otherwise have. For example, the applicant hasn't stated that it will share infrastructure with an existing facility, thus reducing the footprint/impacts of its own facility. Given this lack of supporting facts or evidence, the ~~Department recommends~~ Council reject~~s~~ the applicant's proposed rationale that the site is locationally dependent because it would be close to existing energy infrastructure.

Proximity to Major Transportation Corridors

Bakeoven Road runs alongside the site boundary and connects the site to US-97, which connects to I-84. Further, Wilson Road provides direct access from Bakeoven Road into the center of the proposed facility, as presented in ASC Exhibit C Figure C-2.2.¹²³ The ~~Department recommends that the~~ Council find~~s~~ that the facility site provides efficient use of existing major transportation corridors, I-84 and US-97, with facility access via Bakeoven Road and Wilson Road, and while some improvements of existing roads may be necessary, would not require

¹²³ YRBAPPDoc1-3 ASC Exhibit B. Project Description 2025-09-05, Section 3.5.

new major road development, this is a reason to grant an exception to Goal 3 based on locational dependence.

Based on the above ~~recommended~~ findings of facts and analysis, ~~the Department recommends~~ the Council accept~~s~~ the applicant's argument that proximity to the existing BPA's existing John Day to Grizzly 500-kV transmission line and proximity to existing major transportation corridors supports a locational dependence reason that would, in part, justify an exception to Statewide Planning Goal 3.

3. The facility creates local economic benefits (landowners, local government and local agricultural economy).

ASC Exhibit K: Facts related to Local Economic Benefits

The applicant proposes that the use of the facility site for an energy facility rather than agricultural practices is justified because the proposed use would result in local economic benefits to landowners, the local government and the local agricultural economy.

As previously identified, the proposed solar micrositng area includes 7,026 acres encompassing parts of three individual tracts owned by Steven Ashley (Tract 1), Levi Chrisman Family LLC (Tract 2) and Don Phillips (Tract 3).¹²⁴ The owners of A&K Ranch (Tract 1) own approximately 9,300 acres in Wasco County. Approximately 1,200 out of 9,300 acres, outside of the proposed solar micrositng area, are used for cattle grazing. Bob Krein of A&K Ranch stated that lease payments would allow them to reinvest in their ranching operation for infrastructure and equipment and allow them to increase jobs or at least provide job security for current employees.¹²⁵ Brad Chase, on behalf of the Levi Chrisman Family LLC (Tract 2), stated the proposed facility would "provide a net economic benefit" but did not assert that the facility would have any benefit to the local agricultural economy. Don Phillips (Tract 3) stated that (lease payments) would provide a net economic benefit and "possible" new agricultural applications for their ranch operations.¹²⁶

Current annual property taxes paid to the County on the 7,206 acres within the solar micrositng corridor are estimated at \$12,000 per year. Cirrus Advisors, a consulting company specializing in state and local tax incentive services estimated potential property tax payments to the County if the proposed solar photovoltaic power generation facility is approved and constructed. Using the Oregon Department of Revenue's solar valuation model, Cirrus Advisors estimated property taxes paid by the applicant to the County at \$4.4 million per year for the

¹²⁴ OAR 660-033-0020(14) defines "tract" one or more contiguous lots or parcels under the same ownership.

¹²⁵ YRBAPPDoc1-12 ASC Exhibit K. Land Use 2025-09-05, Attachment K-1 Landowner letter from Bob Krein, A&K Ranch.

¹²⁶ YRBAPPDoc1-12 ASC Exhibit K. Land Use 2025-09-05, Attachment K-1 Landowner letter from Don Phillips on behalf of Don W Phillips et al.

first 20 years, and \$11.1 million per year in year 20; totaling up to \$258 million over a forecasted 40-year operational lifetime.¹²⁷

Facility construction is estimated to generate \$218.3 million in secondary (indirect and induced) economic output in the Wasco County economy over the entire construction period, or \$36.4 million annually. Facility operation will support between 10 and 15 employees, which in turn is estimated to support 33 indirect and induced jobs. The total average annual output of direct, indirect and induced economic benefits during operations is estimated at \$60.6 million.

As discussed under the minimal direct impacts to agricultural reason, within the approximately 7,206 acres proposed for siting of the solar photovoltaic power generation facility, there is one cattle operation where 160 acres are used for cultivation of cattle feed, and up to 100 head of cattle use the land for grazing. The estimated indirect and induced impact of the proposed facility on the agricultural economy is \$7,400 per year.¹²⁸ Landowner lease payments will be of equal or greater value. A reduction of \$7,400 per year in economic output represents approximately 0.02 percent of existing economic output in grain farming and agricultural support activities, and 0.005 percent of total agricultural economic output in Wasco County.¹²⁹

The applicant proposes to offset the indirect impacts to the local agricultural economy through use of local services to support land management of the site including mowing, noxious weed treatment and equipment maintenance. To estimate potential land management costs within the proposed solar micro-siting area, Wasco County Soil and Water District cost share reimbursement rates were relied upon. The cost share reimbursement rate for ground spraying in 2025-2026 is \$11/acre. If 1,000 acres per year require treatment, this would amount to \$11,000 per year. In addition, mowing will be required at least twice per season. The area to be mowed will be less than the full 5,000 fenced acres because roads and other obstructions will not require mowing, so a conservative estimate is that 4,500 acres would require mowing twice per season. At the cost share reimbursement rate of \$17 per acre for mowing or clipping, the estimated spend on this activity is \$150,000 per year.

Department's Council's Evaluation of Facts Related to: Facility Creates Local Economic Benefits

The Council has found that evidence demonstrating a proposed facility will benefit a local economy in *general* – e.g., creation of jobs constructing and operating a facility and generation of tax revenue is not sufficient to serve as an economic benefits reason for granting an exception to Goal 3.¹³⁰ Any development will result in some level of job creation and tax revenue. Rather, to justify an economic benefits reason for an exception to Goal 3, an applicant

¹²⁷ YRBAPDoc1-12 ASC Exhibit K. Land Use 2025-09-05. Attachment K-2 Economic and Agricultural Impacts Memorandum, p.10-11.

¹²⁸ YRBAPDoc1-12 ASC Exhibit K. Land Use 2025-09-05. Attachment K-2 Economic and Agricultural Impacts Memorandum, p.26

¹²⁹ YRBAPDoc1-12 ASC Exhibit K. Land Use 2025-09-05. Attachment K-2 Economic and Agricultural Impacts Memorandum, Table 6, p.19.

¹³⁰ Madras Solar Energy Facility - Final Order on Application for Site Certificate; MSEFAPDoc4-1 Final Order (SIGNED) with Attachments 2021-08-02, p. 104.

1 should provide evidence demonstrating how the local agricultural economy will benefit as a
2 result of the proposed facility.

3
4 Council has accepted landowner lease payments, as part of the evidence in support of the
5 economic benefits reason, when the underlying landowner has affirmed that lease payments
6 would be used to support agricultural operations. The owner of Tract 1 confirmed that lease
7 payments would be used to support their ranch operations on 1,200 acres. The owner of Tract
8 3 stated only that lease payments would allow for “possible” new agricultural applications for
9 their ranch operations, while the owner of Tract 2 did not assert the lease payments would be
10 used to benefit the agricultural economy in any way. Thus, only one of the three landowners
11 clearly stated lease payments would be used for agricultural purposes. The ~~Department~~
12 ~~recommends~~ Council concludes this evidence is not enough to support a finding that the
13 benefit lease payments represent for the local agricultural economy justifies taking an
14 exception to Goal 3.

15
16 When an applicant argues the local agricultural economy will benefit from a proposed facility,
17 specificity is needed. The applicant notes that, as with land managed by local farm or ranch
18 operations, land management within the proposed solar micrositings corridor will include
19 mowing, noxious weed treatment and equipment maintenance and contends that spending on
20 these activities would more than offset the facility’s estimated minimal indirect impact to the
21 local agricultural economy. However, there is no evidence that individuals or businesses within
22 the local agricultural sector would be utilized for these services. The applicant states only that
23 “where practicable” it would make these purchases from business and individuals within Wasco
24 County.¹³¹ The ~~Department recommends~~ Council finds this representation is not sufficient for
25 Council to find any direct benefit to the agricultural community and economy.

26
27 For the reasons discussed above, the ~~Department recommends~~ Council finds that the applicant
28 has not provided sufficient evidence to support a finding that the proposed facility’s purported
29 benefits to the local agricultural economy are a reason justifying an exception to Goal 3.

30
31 *4. The Facility imposes minimal impacts to resources protected by Council standards.*

32
33 Facts related to Impacts to Other Resources Protected by Council Standards.

34 The applicant proposes that the facility would have minimal impacts to non-agricultural
35 resources protected by Council Standards, including soils, wetlands, fish and wildlife habitat,
36 threatened and endangered species, scenic resources, and cultural resources. The applicant
37 states that it “has paid particular attention to habitat and cultural resource protection,
38 avoidance, and mitigation.”¹³²

39
40 Evaluation of Facts related to Impacts to Other Resources Protected by Council Standards.

¹³¹ YRBAPPDoc1-12 ASC Exhibit K. Land Use 2025-09-05, p. 94.

¹³² YRBAPPDoc1-12 ASC Exhibit K. Land Use 2025-09-05, Section 4.5.1.4.

As described in Section IV.F., Protected Areas; IV.J., Scenic Resources; and IV.L, Recreation, the proposed facility is not located near, or expected to impact any protected areas, significant or important scenic resources, or recreational opportunities. As described in Section IV.K, there are numerous historic, cultural, and archaeological sites present at the site, but the facility has been designed to avoid direct impacts to those resources. As described in Section IV.J, while wetlands and waters of the state are present at the proposed site and the proposed 500-kV transmission line would cross mapped Essential Salmonoid Habitat, the applicant has committed to micrositing the facility to ensure that no wetlands or other jurisdictional waters will be impacted by facility construction or operations. As described in Section IV.I, no occurrences of threatened or endangered species were recorded during field surveys of the energy facility site, but surveys for Tygh Milkvetch, a listed plant with the potential to occur at the site, have not been completed for the proposed 230-kV transmission line corridor for the alternate POI.

In contrast, soils on site are susceptible to erosion from wind and water and impacts would be minimized through compliance with the terms of an approved NPDES 1200-C Permit and other measures. However, the NPDES 1200-C is not a no impact permit; erosion impacts and risk at the site are expected. In contrast, soils on site are susceptible to erosion from wind and water and impacts would be minimized through compliance with the terms of an approved NPDES 1200-C Permit and other measures. ~~However, the NPDES 1200-C is not a no impact permit; erosion impacts and risk at the site are expected.~~ More significantly, as described in Section IV.H., Fish and Wildlife Habitat, the facility would permanently impact approximately 4,670 acres of Category 2 wildlife habitat, and would temporarily impact an estimated additional 198 acres of Category 2 wildlife habitat. The applicant would be required to provide compensatory mitigation for these impacts to comply with the standard. The ~~Department recommends the~~ Council finds that the siting of a facility on a significant amount of Category 2 habitat constitutes more than a minimal impact.

As described below, under OAR 345-022-0030(4)(c)(B) and ORS 469.504(2)(c)(B), when granting an exception the Council must also find that any significant environmental consequences of a proposed facility have been identified and appropriate mitigation has been provided. As a result, the ~~Department recommends the~~ Council finds that a minimal impacts to resource reason is only appropriate to justify an exception when a facility avoids all potentially significant impacts to resources, and no additional mitigation is required to demonstrate compliance with the Council's standards.

Because the facility would have more than a minimal impact on important fish and wildlife habitat that must be mitigated, the ~~Department recommends the~~ Council rejects the applicant's argument that the facility would have minimal impacts on resources protected by Council standards.

5. The Facility responds to important state and county goals and priorities.

Facts related to: Important State and Council Goals and Priorities.

The applicant proposes that the use of the facility site for an energy facility rather than agricultural practices is justified because the proposed use responds to important state and county goals, and public and private greenhouse gas priorities. The applicant offers as evidence Wasco County's Comprehensive Plan Goal 13 and the State's Renewable Portfolio Standards.¹³³ The applicant also refers to private entity goals, such as PacifiCorp, that are geared towards greenhouse gas reduction through use of renewable energy sources.

Evaluation of Facts related to: Important State and Council Goals and Priorities.

Statewide Planning Goal 13 is an energy conservation goal, and does not require, directly or indirectly, the development of energy facilities on EFU land.¹³⁴ The Council has previously rejected reliance on responsiveness to Statewide Planning Goal 13, and local policies implementing the goal, as a reason to justify an exception from the requirement to preserve agricultural land for farm use under Statewide Planning Goal 3. The Council has also previously found that abstract consistency with the state's Renewable Portfolio Standard, without evidence that power produced by the proposed facility will be used to meet Oregon's energy goals, cannot be relied upon to justify an exception to Statewide Planning Goal 3.¹³⁵

Consistent with its previous findings, the ~~Department recommends the~~ Council finds that responsiveness to state, county and private energy conservation goals is not an appropriate reason to justify an exception to Goal 3.

~~Department's Recommendations on Council's~~ Reasons for Exception

In summary, the ~~Department recommends~~ Council finds the following reasons justify taking an exception to Goal 3:

1. The facility does not impact high-value farmland or water availability and would have minimal direct, indirect, and induced impacts to agricultural activities at the site and the overall agricultural economy in Wasco County.
2. The facility site is locationally dependent on its proximity to an existing BPA transmission corridor and major transportation corridors.

Significant Environmental, Economic, Social and Energy Consequences

Under OAR 345-022-0030(4)(c)(B) and ORS 469.504(2)(c)(B), for the Council to determine whether to grant an exception to a statewide planning goal, the applicant must show that "the significant environmental, economic, social and energy consequences" of the solar facility have been identified and will be mitigated in accordance with Council standards.

¹³³ YRBAPPD01-12 ASC Exhibit K Land Use 2025-09-05. Section 4.5.1.5, pg. 96-97.

¹³⁴ 1000 Friends of Oregon v. Jackson County, 292 Or App 173 (2018) at 192.

¹³⁵ BSPAPPD02 Final Order 2020-04-24, p. 112-113; MSEFAPPD04 Final Order (CLEAN) 2021-06-25, p. 103-104; MWPAMD04Doc23 Final Order (Signed) with Attachments 2019-09-06, p. 99; OSCAPPD02 Final Order on ASC 2022-02-25, p. 87; WESAPPD02-2 Final Order on ASC Combined w Attachments Signed 2023-03-24, p. 82-83.

Environmental Consequences

The facility must satisfy the requirements of all applicable EFSC standards, rules and statutes. Applicable environmental EFSC standards include Soil Protection standard; Protected Areas standard; Recreation Standard; Scenic Resources standard; Fish and Wildlife Habitat standard; and the Threatened and Endangered Species standard, as evaluated in this order. Based on the ~~recommended~~ findings of fact, conclusions of law, and conditions of approval presented in this order related to these EFSC standards, the ~~Department recommends~~ Council finds that the facility, including mitigation, would not cause significant adverse environmental consequences or impacts.

Social and Economic Consequences

Social and economic consequences that could result from proposed facility construction and operation include potential impacts to providers of public services. As described in Section IV.M, ~~the Department recommends~~ the Council finds that, subject to compliance with conditions, the proposed facility will not significantly impact sewers and sewage treatment, water, storm water drainage, solid waste management, housing, traffic safety, police and fire protection, health care or schools. As evaluated above, ~~the Department recommends that~~ the Council finds that removal of up to 7,206 acres of arable land will have minimal impacts to the local agricultural economy.

The construction and operation of the proposed facility will also have positive effects on the availability of renewable energy for sale to the public and will promote the energy and economic development goals of Wasco County and could support utility efforts to meet Oregon's Renewable Portfolio Standard and clean energy targets.

The ~~Department recommends the~~ Council finds that 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.

Energy Consequences

The proposed facility would produce up to 800 MW of renewable, emissions-free energy. Therefore, the ~~Department recommends~~ Council concludes that the facility would not cause significant adverse energy consequences and would have a positive energy consequence by producing clean, renewable electricity.

Compatibility With Adjacent Uses

Under OAR 345-022-0030(4)(c)(C) (and ORS 469.504(2)(c)(C)), in order for the Council to determine whether to grant an exception to a statewide planning goal, the applicant must

show that the facility is compatible with other adjacent land uses or will be made compatible through mitigation measures.

As described in the section evaluating OAR 660-033-0130(5), like the site itself, the majority of land surrounding the proposed site is not cultivated nor used for cattle grazing, and are primary drainage areas, creeks, tributaries and canyons where slopes are too steep for crop production or cattle grazing. There are approximately 605 acres of surrounding land used for dryland winter wheat production. Proposed facility construction and operation could potentially result in adverse impacts from erosion, dust, weeds, and traffic. The ~~Department recommends~~ Council impose conditions to minimize and mitigate these potential effects.

Subject to compliance with ~~recommended~~ conditions addressing the potential adverse impacts from erosion, dust, weeds, and traffic that may result from proposed facility construction and operation, the ~~Department recommends that the~~ Council find that the proposed facility will be compatible with accepted farm or forest practices on surrounding lands devoted to farm or forest use.

IV.E.2. Conclusions of Law

Based on the foregoing findings and the evidence in the record, and subject to compliance with site certificate conditions, the Council finds that the construction and operation of the proposed facility would comply with all applicable land use criteria with the exception of the maximum acreage standards for solar photovoltaic power generation facilities sited on agricultural (arable) lands under OAR 660-033-0130(38)(i). Because these standards are directly tied to its implementation, the ~~Department recommends~~ Council find that the facility does not comply with the requirements of Statewide Planning Goal 3. However, after considering reasons presented by the applicant as discussed above, the ~~Department recommends~~ Council find that an exception to Statewide Planning Goal 3 is justified under OAR 345-022-0030(4)(c) and ORS 469.504(2)(c); and as such ~~that the~~ Council find the proposed facility would comply with the Council's Land Use standard.

IV.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.

* * * * *.¹³⁶

IV.F.1. Findings of Fact

The analysis area for impacts to protected areas, as established in the Project Order, is the area within and extending 2-miles from the site boundary.¹³⁷

IV.F.1.1 Protected Areas in the Analysis Area and Potential Impacts

Geographic Information System data, maps, and the most current information for the categories of protected areas; including data from the Bureau of Land Management, Oregon Department of State Lands, National Park Service, Oregon Parks and Recreation Department, Oregon State University, and the United States Forest Service, Geological Survey, and Fish and Wildlife Service were evaluated to identify the presence of protected areas within the analysis area.¹³⁸ Based on review of these sources and the Oregon Renewable Energy Siting Assessment Tool, the ~~Department recommends that~~ Council find~~s~~ that there are no protected areas within the analysis area. Therefore, the proposed facility would not impact any protected areas.

IV.F.2. Conclusions of Law

Based on the foregoing ~~recommended~~ findings, ~~the Department recommends~~ the Council concludes~~s~~ that the design, construction and operation of the proposed facility would not be likely to result in significant adverse impacts to any protected areas, in compliance with the Council's Protected Area standard.

IV.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.

¹³⁶ Administrative Order EFSC 5-2022, effective December 19, 2022. Sections (2) through (4) provide exceptions and applicability statements that are not relevant to this evaluation.

¹³⁷ YRBNOIDoc42 SIGNED Project Order w Attachments 2024-01-26.

¹³⁸ YRBAPPDc1-12 pASC Exhibit L. Protected Areas 2024-08-30, Section 6.0 References.

(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.¹³⁹

IV.G.1. Findings of Fact

The estimated useful life of the proposed facility is 40 years. While the life of the facility could be extended through routine maintenance and replacement of facility components, it is likely that the facility would either be repowered or decommissioned after 40 years of operation.¹⁴⁰

IV.G.1.1 Restoration of the Site Following Cessation of Construction or Operation

At the time of decommissioning, all aboveground facility components would be removed including solar and battery components, the O&M buildings, transmission line, poles and foundations, inverter pads, the substation, and perimeter fencing. Underground electrical cables would be removed to its lateral depth; buried lateral runs are assumed to be a minimum of 3 feet deep and would be abandoned in place. Concrete foundations for transformers, inverters, battery storage system, substations, O&M building, and switchyard will be removed to at least 4 feet below grade, then filled with soil or gravel as part of site restoration.¹⁴¹ Roads will be retained and used for decommissioning activities, once concluded, roads will be regraded to restore the surface soil to a useful condition consistent with site zoning. On private lands, roads will be restored at the request of the current landowner. All disturbance areas would be restored to a useful, non-hazardous condition suitable for agricultural use and revegetated in a manner compatible with surrounding uses. Vegetation would be restored to the maximum extent practicable in accordance with landowner wishes, and all areas disturbed by decommissioning construction may be regraded and reseeded with seed mixes, consistent with the Draft Reclamation and Revegetation Plan.

As described in Section IV.D, *Soil Protection*, the ~~Department recommends the~~ Council imposes conditions of approval to minimize adverse impacts to soils from erosion or contamination by spills, and, subject to compliance with these conditions, significant remediation of soil conditions is not expected to be required to restore the site.

The ~~Department-Council~~ reviewed the above-summarized tasks and actions and compared the details against the information presented in ASC Exhibit B, C, X and G. The ~~Department-Council~~ also verified that all tasks and action summaries involved in removing and restoring each type of facility components were represented in the ASC. Based on this review and comparison, the ~~Department-Council~~ affirms that the information is consistent across relevant exhibits, and

¹³⁹ Administrative Order EFSC 1-2002, April 3, 2002.

¹⁴⁰ YRBAPPDoc1-25 ASC Exhibit X. Retirement and Financial Assurance 2025-09-05, Section 2.0.

¹⁴¹ YRBAPPDoc1-25 ASC Exhibit X. Retirement and Financial Assurance 2025-09-05, Section 3.0.

1 ~~recommends~~ Council finds that the tasks and actions accurately represent facility
2 decommissioning and site restoration.

3
4 Under OAR 345-025-0006(7), the Council must impose a condition in every site certificate that
5 requires the applicant to prevent the development of any conditions that would preclude site
6 restoration. Accordingly, the ~~Department recommends the~~ Council imposes Retirement and
7 Financial Assurance Condition 1, as presented below.

8
9 **Retirement and Financial Assurance Condition 1 (GEN):** The certificate holder shall
10 prevent the development of any conditions on the site that would preclude restoration
11 of the site to a useful, non-hazardous condition to the extent that prevention of such
12 site conditions is within the control of the certificate holder.

13 [Mandatory Condition OAR 345-025-0006(7); GEN-RF-01; Final Order on ASC]
14

15 Under OAR 345-025-0006(9) the Council must impose a condition in each site certificate
16 requiring the applicant retire the facility at the end of its useful life and restore the site to a
17 useful, non-hazardous condition according to a Council-approved final retirement plan. The
18 Council must also impose a condition establishing procedures for the retirement of the site if
19 the applicant fails to meet these obligations, as provided under OAR 345-025-0006(16).

20 Accordingly, the ~~Department recommends the~~ Council imposes Retirement and Financial
21 Assurance Condition 2 and 3, as presented below:
22

23 **Retirement and Financial Assurance Condition 2 (RET):** The certificate holder must
24 retire the facility if the certificate holder permanently ceases construction or operation
25 of the facility. The certificate holder must retire the facility according to a final
26 retirement plan approved by the Council, as described in OAR 345-027-0410. The
27 certificate holder must pay the actual cost to restore the site to a useful, non-hazardous
28 condition at the time of retirement, notwithstanding the Council's approval in the site
29 certificate of an estimated amount required to restore the site.

30 [Mandatory Condition OAR 345-025-0006(9); RET-RF-01; Final Order on ASC]
31

32 **Retirement and Financial Assurance Condition 3 (RET):** If the Council finds that the
33 certificate holder has permanently ceased construction or operation of the facility
34 without retiring the facility according to a final retirement plan approved by the Council,
35 as described in OAR 345-027-0410, the Council must notify the certificate holder and
36 request that the certificate holder submit a proposed final retirement plan to the
37 Department within a reasonable time not to exceed 90 days. If the certificate holder
38 does not submit a proposed final retirement plan by the specified date, the Council may
39 direct the Department to prepare a proposed final retirement plan for the Council's
40 approval. Upon the Council's approval of the final retirement plan, the Council may
41 draw on the bond or letter of credit described in Condition PRE-RT-01 to restore the site
42 to a useful, non-hazardous condition according to the final retirement plan, in addition
43 to any penalties the Council may impose under OAR chapter 345, division 29. If the
44 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, non-hazardous 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.

[Mandatory Condition OAR 345-025-0006(16); RET-RF-02; Final Order on ASC]

IV.G.1.2 Retirement Cost Estimate

The applicant estimates that the total cost of retirement and restoration of the facility would be approximately \$45.7 million.¹⁴² Based on the ~~Department's Council's~~ review of the ASC, as described below, the ~~Department recommends~~ Council finds that \$46.2 million is a sufficient estimate to restore the site to a useful nonhazardous condition.

The applicant prepared the retirement cost estimate based on its prior experience and consultation with engineering staff and contractors, and use of data and estimating software published by RS Means. The applicant's estimate includes the costs of the labor and equipment needed for removal of facility components and restoration activities as well as site mobilization and demobilization, site support, contractor markups, and contingencies. The methods and assumptions used to produce the estimate are summarized below:

- All costs were estimated in Q2 2024 dollars.
- Production rates, equipment and crew needs, and unit costs for individual tasks were developed using RS Means and the applicant's prior experience.¹⁴³
- Labor costs were based on U.S. Department of Labor wage determinations. The applicant estimated hourly wage rates for decommissioning activities based on an assumed 50-hour work week that included 40 hours of standard time and 10 hours of overtime pay. The total labor cost includes wages, benefits, and payroll tax liability.
- Equipment rates assume use of rental equipment and include fuel and maintenance costs.
- Mobilization and demobilization costs reflect the actual costs to mobilize equipment, provide facilities including an office trailer, storage units, and portable toilets, and to staff the site with workers and field management personnel. Mobilization costs do not include front loaded costs from other tasks.
- Unit costs include the estimated costs of labor and equipment, and miscellaneous costs including permits, engineering, signage, fencing, traffic control, and utility disconnects.
- Steel components, including conductors, transmission support structures, solar racking systems and posts will be removed and transported off site for sale as scrap. The costs of loadout and hauling are included in the estimate. No disposal fees or scrap value are included in the estimate.
- The alternate 500-kilovolt generation-tie line was assumed to be composed of steel tower structures and cables.

¹⁴² YRBAPPDoc1-25 ASC Exhibit X. Retirement and Financial Assurance 2025-09-05, Section 4.1.

¹⁴³ A production rate is used to determine the number of worker hours needed to complete individual tasks.

- Site restoration will include the placement of delivered topsoil on disturbed areas associated with the collector substation. With the exception of the collector substation area, it is assumed that topsoil required for other restoration activities is available on-site as a result of the original installation. Final seeding will use a mix of native grasses.

The applicant applied a 5 percent contractor markup for home office and project management to the total retirement and restoration cost estimate and a 15 percent markup for Overhead and Fees. The applicant also applied contingencies for costs that would be incurred by the state if the applicant defaults on its obligation to retire the facility and restore the site were applied to the total cost with contractor markups, this included a 1 percent contingency for the costs of performance bonding, a 10 percent contingency for administrative and project management costs, and a 10 percent contingency for adverse future development at the site. ~~Department recommendations for Council~~-applied contingencies are discussed directly below.

The ~~Department recommends the~~ Council finds that the applicant used reasonable methods and assumptions to develop the cost estimate, with the adjustments described below. An adjusted estimate is provided as Table 13, below.

The ~~Department Council~~ made the following adjustments to the applicant's proposed cost estimate and ~~recommends the~~ Council finds that these items more accurately reflect the cost to restore the site:

- Increased the duration of decommissioning from 10 months to 12 months for site support and field management,
- Increased the substation transformers from 2 to 4 to be consistent with the project description,
- Added foundation removal for solar array posts, assumes that 10 percent of the posts would have concrete foundations,
- Increased the acreage for the site that would need to be graded and reseeded.

The applicant's 1 percent performance bond contingency was applied to the total decommissioning cost before Contractor markup; however, Council typically imposes that cost on the total cost with markup, this is reflected in Table 13 below. The 10 percent contingency for administrative and management expenses would cover the anticipated direct costs 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. The Council has previously imposed 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. The ~~Department recommends~~ Council finds a similar contingency is justified for the BESS proposed to be included in this facility, presented in the table below.

Table 13: Proposed Facility Decommissioning Tasks and Cost Estimate

Task or Component	Quantity	Unit	Unit Cost (\$)	Estimate (\$)
1.1 Mobilization / Demobilization				
1.1.1 Equipment Mob	1	Lump Sum	121,800.00	121,800.00
1.1.2 Site Facilities	1	Lump Sum	5,600.00	5,600.00
1.1.3 Crew - Mob & Site Setup	2	Day	36,347.12	72,694.23
1.1.4 Crew - Demob & Site Cleanup	2	Day	36,347.12	72,694.23
Subtotal				272,788.46
1.2 Project Site Support				
1.2.1 Site Facilities	10	Month	3,255.00	32,550.00
1.2.2 Field Management	10	Month	53,947.28	539,472.80
Subtotal				572,022.80
1.3. Substation Retirement				
1.3.1 Fence Removal	1	Day	1,354.33	1,354.33
1.3.2 Transformer Removal	4	Each	102,049.58	408,198.32
1.3.3 Control Building Removal	1	Each	2,508.66	2,508.66
1.3.4 UG Utility & Ground Removal	1	Day	1,354.33	1,354.33
1.3.5 Remove Foundations	1,000	Cubic Yard	27.85	27,846.68
1.3.6 Misc. Material Disposal	1	Each	2,675.00	2,675.00
1.3.7 Restore Yard	1	Each	40,451.63	40,451.63
Subtotal				484,388.95
1.4. Switchyard Retirement				
1.4.1 Fence Removal	1	Day	1,354.33	1,354.33
1.4.2 UG Utility & Ground Removal	1	Day	1,354.33	1,354.33
1.4.3 Dismantle/Loadout Racks & Switching	1	Each	13,481.28	13,481.28
1.4.4 Remove Foundations to Subgrade	284	Cubic Yard	27.85	7,908.46
1.4.5 Misc. Material Disposal	1	Each	2,675.00	2,675.00
1.4.6 Restore Yard	1	Each	31,608.04	31,608.04
Subtotal				58,381.43
1.5 500 kV Transmission Line Retirement				
1.5.1 Remove Structures	25	Each	5,391.45	134,786.25
1.5.2 Remove Foundations to Subgrade	25	Each	4,946.85	123,671.25
Subtotal				258,457.50

Commented [KT4]: Update this table to match re-done Excel file

Table 13: Proposed Facility Decommissioning Tasks and Cost Estimate

Task or Component	Quantity	Unit	Unit Cost (\$)	Estimate (\$)
1.6 O&M Building Removal				
1.6.1 Structure Demo	40	Ton	514.43	20,577.20
1.6.2 Remove Foundations To Subgrade	56	Cubic Yard	35.74	2,001.31
1.6.3 Remove Stone Base & Parking	1	Lump Sum	3,803.10	3,803.10
1.6.4 Material T&D	40	Ton	95.00	3,800.00
Subtotal				30,181.61
1.7 DC Storage Retirement				
1.7.1 Battery Removal & Disposal	800	MW	1,986.36	1,589,088.00
1.7.2 Structure & Components Removal	800	MW	1,116.77	893,416.00
Subtotal				2,482,504.00
1.8 Solar Array Retirement				
1.8.1 Fence Removal	268,418	Linear Feet	1.30	348,943.40
1.8.2 Solar Panel Removal & Disposal	2,037,360	Each	8.58	17,480,548.80
1.8.3.1 Solar Rack (Trackers) & Post Removal	20,622	Each	257.21	5,304,184.62
1.8.3.2 Trucking Disposal for Trackers and Posts	917	Per Load	1,375.00	1,260,875.00
1.8.3.3 Concrete Trucking Offsite	10,391	Cubic Yard	11.97	124,380.27
Subtotal				24,518,932.09
1.9/1.10 Inverter/Transformer Removal				
1.9.1 Disconnect Electrical	199	Each	401.02	79,802.98
1.9.2 Loadout Inverter & Transformer	199	Each	709.74	141,238.26
1.9.3 Trucking - Per Load	199	Each	1,375.00	273,625.00
1.10.1 Excavate / Remove Foundation	1,474	Cubic Yard	15.87	23,392.38
1.10.2 Concrete Transport Offsite	1,474	Cubic Yard	11.97	17,643.78
Subtotal				535,702.40
1.11 Site Restoration				
1.11.1 Site Roads - Removal and Restoration	123,781	Linear Feet	1.71	212,066.18
1.11.2 Spot Grade Disturbed Areas	1,757	Acre	287.72	505,525.58

Table 13: Proposed Facility Decommissioning Tasks and Cost Estimate

Task or Component	Quantity	Unit	Unit Cost (\$)	Estimate (\$)
1.11.3 Re-Seed With Native Vegetation - Roads & Areas Disturbed By Construction	1,757	Acre	800.00	1,405,600.00
Subtotal				2,123,191.75
Total Decommissioning Cost				31,336,550.99
Contractor Markups				
Home Office, Project Management			0.05	1,566,827.55
Contractor OH & Fee			0.15	4,935,506.78
Subtotal				6,502,334.33
Total Decommissioning Cost				37,838,885.32
Performance Bond			0.01	378,388.85
Gross Cost				38,217,274.17
	Basis (% of Cost)	Basis (\$)	Contingency	Estimate (\$)
Administration and Project Management	100%	38,217,274.17	0.10	3,821,727.42
Future Development (Exclude Battery)	92%	35,189,674.36	0.10	3,518,967.44
Future Development (Battery Only)	8%	3,027,599.82	0.20	605,519.96
Subtotal				7,946,214.82
TOTAL ESTIMATED COST (\$Q2 2024)				46,163,488.99
Notes: 1. See ASC Exhibit X Attachment X-1 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, Substation, Solar, Battery, and Transmission Line will be removed as described in the Final Order on ASC, 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 ASC Exhibit X, Attachment X-1.				

IV.G.1.3 Ability of the Applicant to Obtain a Bond or Letter of Credit

As shown in Table 13, above, the ~~Department recommends the~~ Council finds that the cost that would be incurred by the state if the applicant defaulted on its obligation to retire the facility and restore the site following the permanent cessation of construction or operation of the facility is estimated to be approximately \$46.2 million, in Q2 2024 dollars.

1 In an August 29, 2024 letter, the Director of Citi Bank (Citi), ~~describes~~ identifies a
2 Decommissioning Cost currently projected to be approximately U.S. \$46,000,000. The letter
3 continues stating that Citi would be highly interested in making the credit available to the
4 Company in connection with the proposed facility. ~~that~~ The letter continues by describing that
5 upon ~~request~~ submission of an application from the applicant's parent company Shell USA, Inc,
6 Citi Bank would issue a letter of credit during 2027 with a tenure of approximately 40 year(s), in
7 an amount equal to the amount required to restore the proposed energy facility site to a
8 useful, non-hazardous condition.¹⁴⁴ While the letter does not provide a binding commitment
9 from the bank, it indicates that the bank would be comfortable-interested with potentially
10 providing a letter of credit in the amount of approximately \$46 million dollars to the applicant.
11 Citi Bank N. A. is a Council-approved financial institution which the Council has previously
12 approved to provide letters of credit.¹⁴⁵

13
14 Under OAR 345-25-0006(8), the Council must impose a condition in each site certificate
15 requiring the applicant to submit and maintain a bond or letter of credit in a form and amount
16 satisfactory to the Council to restore the site to a useful, non-hazardous condition. As described
17 above, based on maximum buildout of the proposed facility, facility retirement and site
18 restoration are estimated to cost approximately \$46.2 million in Q2 2024 dollars, imposed
19 under ~~Recommended~~ Retirement and Financial Assurance Condition 4, below. ~~Recommended~~
20 Retirement and Financial Assurance Condition 5 and 6, below, apply during construction and
21 operation of the facility and outline the process to annually update the bond or letter of credit
22 for the facility.

23
24 The Council has approved recent site certificates that include subsection (c) in ~~recommended~~
25 Retirement and Financial Assurance Condition 5 and 6, which designates that the Department
26 and Council have "the right to adjust the contingencies, as appropriate and necessary to ensure
27 that costs to restore the site are adequate to maintain health and safety of the public and
28 environment." The intent of this clause is to provide the Council the ability to adjust
29 contingencies in the event the established decommissioning estimate may no longer be
30 sufficient for site restoration (e.g., because the facility is not operated in compliance with the
31 terms and conditions of the site certificate).

32
33 To ensure that the applicant has the ability to restore the site to a useful, nonhazardous
34 condition, the ~~Department recommends~~ Council authorizes review and adjustment of
35 contingencies applied to the decommissioning estimate, based on the Department's ongoing
36 review of site certificate compliance and the decommissioning estimate. The circumstances
37 that would merit the Department or Council adjusting the contingencies would be if the
38 Department learns of circumstances that demonstrate the existing contingency estimates may
39 not be enough to restore the site to a useful, non-hazardous condition, such as recurring,

¹⁴⁴ YRBAPPDoc1-14 ASC Exhibit M. Financial Capability 2025-09-05, Attachment M-2.

¹⁴⁵ Energy Facility Siting Council 2024 Financial Institution List.

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.¹⁴⁶

Recommended Retirement and Financial Assurance Condition 4 (PRE): Prior to construction, the certificate holder shall:

- a. Submit to the Department Table 13 (Retirement Table with tasks/unit/unit costs) of the Final Order on ASC, 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.

[PRE-RF-01; Final Order on ASC]

Recommended Retirement and Financial Assurance Condition 5 (CON): If construction 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 ~~proposed~~ 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 ASC]

Recommended Retirement and Financial Assurance Condition 6 (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 ~~proposed~~ 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-01; Final Order on ASC]

Commented [KT5]: Change in SC

¹⁴⁶ YRBAPPD011 DPO Applicant Comments on DPO 2025-10-22, EFSC Review of the DPO at its November 21, EFSC Meeting, See 2025-11-21 November EFSC Meeting transcript and recording at 03:27:04.829.

1 **IV.G.2. Conclusions of Law**

2
3 Based on the foregoing ~~recommended~~ findings of fact, and subject to compliance with the
4 ~~recommended~~ conditions, the ~~Department recommends that the~~ Council finds that the site can
5 be restored adequately to a useful, non-hazardous condition following permanent cessation of
6 construction or operation of the facility and that the applicant has a reasonable likelihood of
7 obtaining a bond or letter of credit in a form and amount satisfactory to the Council to restore
8 the site to a useful, non-hazardous condition.
9

10 **IV.H. Fish and Wildlife Habitat: OAR 345-022-0060**

11
12 *To issue a site certificate, the Council must find that the design, construction*
13 *and operation of the facility, taking into account mitigation, are consistent*
14 *with:*

15
16 *(1) The general fish and wildlife habitat mitigation goals and standards of OAR*
17 *635-415-0025(1) through (6) in effect as of February 24, 2017***¹⁴⁷*
18

19 This standard creates requirements for mitigating impacts to fish and wildlife habitat, based on
20 the functional quantity and quality of the habitat impacted as well as the nature, extent, and
21 duration of the impact. Functional quality is presented using a habitat classification system
22 based on the function and value of the habitat it would provide to a species or group of species
23 likely to use it. ODFW policy identifies six habitat categories, with Category 1 being the most
24 valuable, and Category 6 the least valuable.
25

26 **IV.H.1. Findings of Fact**

27
28 The analysis area for potential impacts to fish and wildlife habitat, as defined in the Project
29 Order, is the area within and extending 0.5 miles from the site boundary (approximately 18,382
30 acres).
31

32 **Habitat Categories within the Analysis Area**

33 Habitat categories within the analysis area include Category 2 and 6, as presented in Table 14
34 below. Habitat categories within the proposed micrositings area were based on field surveys,
35 where habitat categorization within the analysis area was based on a desktop analysis, both
36 developed in consultation with ODFW.¹⁴⁸ The entire analysis area is within ODFW's mapped

¹⁴⁷ Administrative Order EFSC 1-2017, effective March 8, 2017.

¹⁴⁸ Wildlife and habitat surveys were conducted within the majority of the proposed micrositings corridor in June 2023 to field verify habitat mapping. Each delineated vegetation polygon was assigned a habitat type, subtype, and habitat quality category guided by the draft habitat categorization table in ASC Exhibit P, Attachment P-1: Botanical Survey Report. See also YRBAPPDoc12 Applicant Response to DPO Comments_w Attchs 2025-11-07 in response to YRBAPPDoc9-11 DPO Public Comment Lee 2025-11-02.

- 1 Category 2 Big Game Winter Range for Mule Deer habitat. Cultivated lands, even if within
 2 ODFW's mapped Category 2 Big Game Winter Range, are considered Category 6.
 3

Table 14: ODFW Habitat Categories and Sub-Types in Analysis Area and Micrositing Corridor

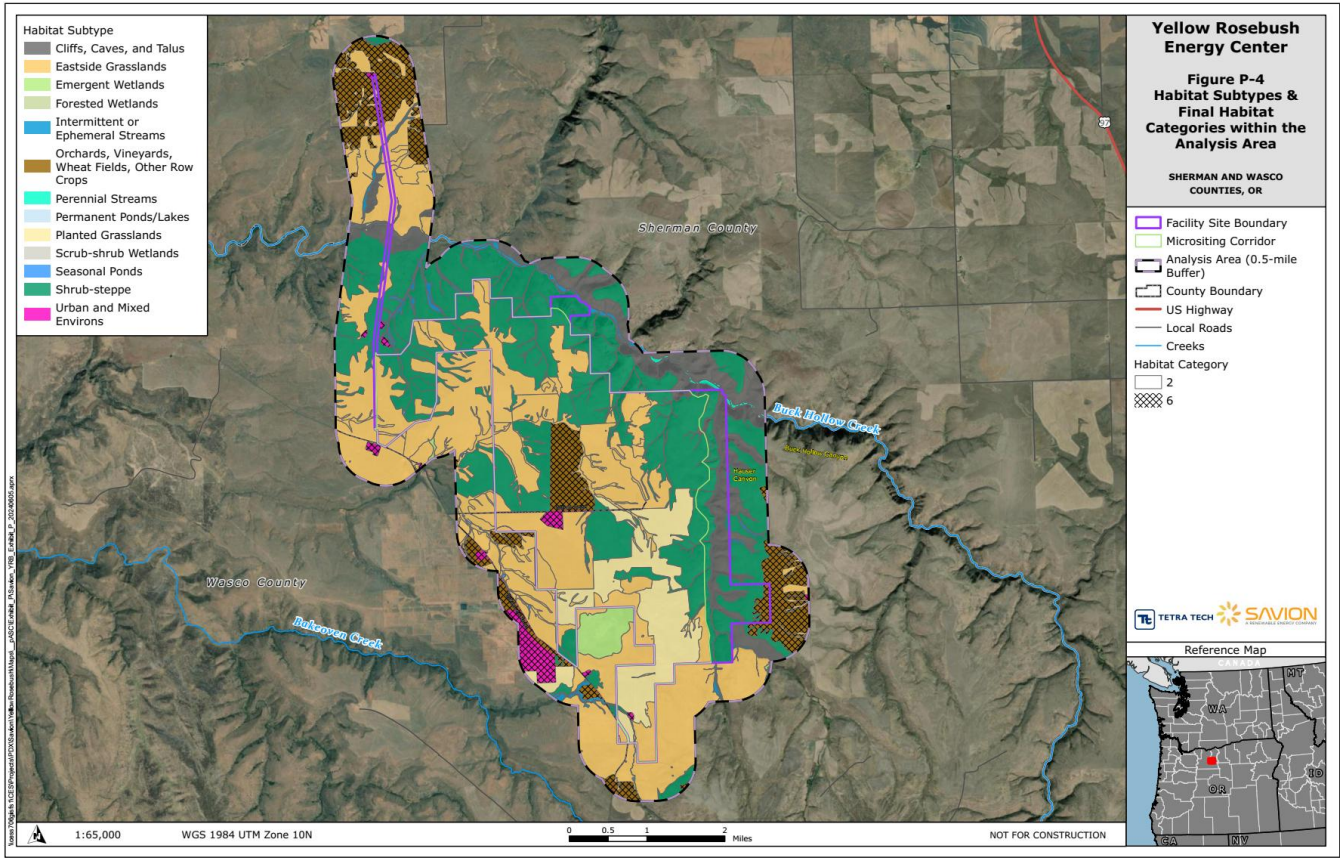
Final Habitat Category	Preliminary Habitat Category	Habitat Type-Subtype	Acres within Micrositing Corridor	Acres within Analysis Area
2	2	Emergent Wetlands	—	3.9
		Forested Wetlands	0.4	5.1
		Intermittent or Ephemeral Streams	—	0.1
		Perennial Streams	—	53.0
		Scrub-shrub Wetlands	—	2.9
		Shrub-steppe	71.9	72.3
	Category 2 Total		72.3	137.3
2	3	Cliffs, Caves, and Talus	19.7	1,399.4
		Eastside Grasslands	402.3	947.9
		Emergent Wetlands	0.3	4.4
		Forested Wetlands	0.2	0.3
		Intermittent or Ephemeral Streams	0.1	212.3
		Permanent Ponds/Lakes	—	4.1
		Scrub-shrub Wetlands	—	3.1
	Shrub-steppe	2,463.8	4,477.7	
Category 3 Total		2,886.2	7,049.2	
2	4	Eastside Grasslands	1,362.0	4,447.8
		Intermittent or Ephemeral Streams	0.2	80.4
		Perennial Streams	—	0.6
		Planted Grasslands	1,247.3	1,313.7
		Seasonal Ponds	—	1.7
	Shrub-steppe	149.2	1,425.1	
Category 4 Total		2,758.7	7,269.2	
2	5	Eastside Grasslands	949.4	1,672.8
		Emergent Wetlands	0.5	241.6
		Intermittent or Ephemeral Streams	4.4	6.4
		Seasonal Ponds	1.4	5.2
	Shrub-steppe	—	107.9	
Category 5 Total		955.6	2,033.8	
Category 2 Final Total			6,672.9	16,489.5
6	6	Wheat Fields and Other Row Crops	303.2	1,605.1
		Urban and Mixed Environs	49.7	287.6
	Category 6 Total		352.9	1,892.7
Category 6 Final Total			352.9	1,892.7

Table 14: ODFW Habitat Categories and Sub-Types in Analysis Area and Micrositing Corridor

Final Habitat Category	Preliminary Habitat Category	Habitat Type-Subtype	Acres within Micrositing Corridor	Acres within Analysis Area
Grand Total			7,025.8	18,382.2

- 1
- 2 Habitat category and subtype within the analysis area are presented in Figure 12 below.

Figure 12: Habitat Categories and Subtypes within the Analysis Area



Habitat Impacts and Mitigation

ODFW habitat mitigation goals are outlined by habitat categories as shown in Table 15 below:

Table 15: ODFW Mitigation Goals by Category

Habitat Category	Definition	Goal for Mitigation	Mitigation Strategy
1	Essential, limited, and irreplaceable habitat	No loss of habitat quantity or quality	Avoidance
2	Essential and limited habitat	No net loss of habitat quantity or quality and to provide a net benefit of habitat quantity or quality	In-kind, in-proximity mitigation
3	Essential habitat, or important and limited habitat	No net loss of habitat quantity or quality	In-kind, in-proximity mitigation
4	Important habitat	No net loss of habitat quantity or quality	In-kind or out-of-kind, in-proximity or off-proximity mitigation
5	Habitat having high potential to become either essential or important habitat	Net benefit in habitat quantity or quality	Actions that improve habitat conditions
6	Habitat that has low potential to become essential or important habitat	Minimize impacts	Minimize direct habitat loss and avoid off-site impacts

Habitat impacts can be temporary, temporal or permanent depending on whether the impact can be restored within 3-5 years, 5-10 years (temporal loss) or is not recoverable and therefore considered permanent due to siting of facility structures.

Temporary impacts will occur in association with the improvement of existing roads, as well as during the construction of collector and transmission lines, new roads, staging areas, and fences. The intensity of the construction impact will vary. In some areas, the impact will be relatively light; but in other areas, heavy construction activity will remove all vegetation, remove topsoil, and compact the remaining subsoil. Some areas of temporary disturbance, such as staging areas, will be graveled during construction, and will be reclaimed by removing the gravel surface, regrading to match adjacent contours, and reseeding.

Permanent impacts will occur within the perimeter fenceline, even if areas within the fenceline will be revegetated. These areas are considered permanent impacts to fish and wildlife habitat

1 because the perimeter fence and energy facility operations will preclude use of the land by
 2 species for the life of the facility (estimated 30 years).

3

4 Table 16 below shows the estimated temporary and permanent impacts to habitat.

5 Minimization, avoidance, and mitigation measures are described and evaluated below.

Table 16: Estimated Habitat Impacts from Proposed Facility Construction and Operation

Habitat Type	Habitat Subtype	Estimated Potential Impacts (Acres)	
		Permanent	Temporary
Category 2			
Agriculture, Pasture, and Mixed Environs	Planted Grasslands	1,144	14.6
Cliffs, Caves, and Talus	Cliffs, Caves, and Talus	0.1	3.7
Open Water – Lakes, Rivers, Streams	Intermittent or Ephemeral Streams	0.4*	0.3*
Open Water – Lakes, Rivers, Streams	Perennial Streams	-	<0.1*
Open Water – Lakes, Rivers, Streams	Seasonal Ponds	.2*	0.4*
Upland Grassland, Shrub-steppe and Shrubland	Eastside Grasslands	2,198	87.5
Upland Grassland, Shrub-steppe and Shrubland	Shrub-steppe	1,326.5	91.3
Wetlands	Emergent Wetlands	0.4*	-
Wetlands	Scrub-shrub Wetlands	-	<0.1*
Category 2 Total		4,670	198
Category 6			
Agriculture, Pasture, and Mixed Environs	Orchards, Vineyards, Wheat Fields, Other Row Crops	292	15.2
Urban and Mixed Environs	Urban and Mixed Environs	30.3	13.1
Category 6 Total		322	28.3
Grand Total		4,992	226.3
Note: Totals in this table may not be precise due to rounding.. “-” means no acres while“<0.1” means greater than zero but less than 0.05 acres. Rounded up to 0.1. * Impacts to wetlands and Waters of the State will be avoided during final design (see Exhibit J). Wetlands and Waters of the State within the fenced solar array area are considered permanently impacted for the purposes of habitat impacts, but will not be disturbed by the Facility.			

6

1 *Mitigation of Temporary Impacts to Habitat*

2
3 Proposed facility construction is estimated to result in up to 226 acres of temporary impacts to
4 Category 2 and 6 habitats. Temporary impacts to Category 2 habitat would be mitigated
5 through implementation of a Revegetation and Reclamation Plan and a Noxious Weed Control
6 Plan. As described further below, the ~~Department recommends that~~ Council requires that the
7 applicant, through its Revegetation and Reclamation Plan, evaluate temporary disturbance
8 impacts to determine whether the impacts are temporal/permanent or temporary. Disturbance
9 impacts to shrub-steppe habitat from grading should be considered a temporal/permanent
10 loss, given that the likelihood of recovery is greater than 10 years.

11
12 The draft Revegetation and Reclamation Plan (see Attachment P-1 of this order) includes a
13 range of measures to be implemented prior to, during and post construction. Prior to
14 construction, the applicant will be required to establish paired monitoring and reference sites
15 for each habitat subtype temporarily impacted.

16
17 The draft plan requires that monitoring be conducted by a qualified botanist or revegetation
18 specialist and will begin within 60 days of completion of the initial site restoration effort.
19 Monitoring will be conducted annually for five years, with the first monitoring period to occur
20 the first growing season following initial seeding. The draft plan requires reporting of the
21 monitoring results. Each monitoring report will include an assessment of whether the
22 revegetated areas are meeting or trending toward meeting the success criteria. An area will be
23 deemed successfully revegetated when the following success criteria are met:

- 24 • **Native Forbs:** The average percent cover of desirable forbs (i.e., species included in seed
25 mixes and/or native species that have naturally colonized) will be a minimum of 75
26 percent of the reference site within 5 years. Richness of native and desirable forbs on a
27 reclaimed site will be at least equal to the richness measured on the reference site
28 within 5 years (applicable to all revegetation areas).
- 29 • **Native Shrubs:** The average cover of the shrub component will be at least 50 percent of
30 the reference site within 5 years. At least 15 percent of the shrub density will be the
31 dominant species found on the reference site. The richness of shrub species and the
32 shrub density within the revegetated areas will be at least equal to the shrub species
33 richness and density measured on the reference site (only applicable to shrub-steppe
34 revegetation areas).
- 35 • **Native and Desirable Grasses:** Cover and richness of native and desirable (i.e., species
36 included in seed mixes and/or native species that have naturally colonized) grass species
37 is at least 85 percent similar to reference sites. Native and/or desirable grasses are to be
38 seeded at rates sufficient to achieve abundance and richness characteristics of the grass
39 component at the reference site (applicable to all revegetation areas).
- 40 • **Noxious Weeds:** Presence and cover of noxious weeds is 75 percent or less than that of
41 the reference site (applicable to all revegetation areas).

Final determination of whether the certificate holder has met the revegetation obligations will be made by ODOE, in consultation with ODFW.

The ~~Department recommends~~ Council imposes the following condition requiring that, prior to construction, the applicant submit to the Department, for review and approval, a Final Revegetation and Reclamation Plan. The finalization of the Revegetation and Reclamation Plan will include determining final estimated temporary habitat disturbance based on final facility design or phase, by habitat type and category. Based on the final estimated temporary habitat impacts, plan finalization then includes establishing the number and location of reference sites to be utilized during short- and long-term monitoring and conducting preconstruction surveys for collection of baseline quantitative data (vascular plant species present, native/non-native species present, percent cover of dominant species, percent cover of state and county listed noxious weed, and evidence of disturbance) for the reference sites. The ~~recommended~~ condition is as follows:

~~Recommended~~ **Fish and Wildlife Habitat Condition 1 [PRE]:** Prior to construction of the facility, facility component or phase, the certificate holder shall finalize the Revegetation and Reclamation Plan, based on the draft provided in Attachment P-1 of ~~this Order~~ the Final Order on ASC, and submit to the Department for review and approval.
[PRE-FW-01; Final Order on ASC]

The ~~Department recommends~~ Council imposes the following two additional conditions requiring that the Revegetation and Reclamation Plan, as finalized per the ~~recommended~~ condition above, be implemented and adhered to during construction, as applicable, and during operations.

~~Recommended~~ **Fish and Wildlife Habitat Condition 2 [CON]:** During construction, the certificate holder shall implement and adhere to the Revegetation and Reclamation Plan, as applicable, and included in reporting in the 6-month semi-annual construction report under CON-OE-01. The Revegetation and Reclamation Plan may be amended, as needed, to ensure that revegetation and monitoring methods are effective at the site.
[CON-FW-01; Final Order on ASC]

~~Recommended~~ **Fish and Wildlife Habitat Condition 3 [OPR]:** During operation, the certificate holder shall implement and adhere to the Revegetation and Reclamation Plan, as applicable. The Revegetation and Reclamation Plan may be amended, as needed, to ensure that revegetation and monitoring methods are effective at the site.
[OPR-FW-01; Final Order on ASC]

Noxious weed control measures are required prior to and during construction, and for the life of facility operations. The Noxious Weed Plan will require coordination with the County weed programs on both identification and the recommended methods for treatment and prevention. The goal of the Noxious Weed Control Plan is to prevent the introduction of new noxious weed

populations and the spread of existing noxious weed populations. The draft Noxious Weed Control Plan included in Attachment P-2 of this order and utilizes a three step approach:

- **Prevention:** Implementing measures to prevent the introduction of and/or spread of noxious weeds during construction, operation, and maintenance activities.
- **Treatment:** Treating noxious weed populations with County-approved appropriate control methods, at appropriate time intervals using mechanical and herbicide or other approved methods.
- **Monitoring:** Assessing noxious weed changes within the Facility site boundary over time and ensuring that legacy as well as new weed populations are not increasing their distributions. (If the applicant contracts with the Wasco County Weed Department Supervisor or Sherman County Weed District to perform weed control at the Facility, then no monitoring report will be provided except for a statement that the county agency performed the work).

The ~~Department recommends~~ Council imposes the following condition requiring that, prior to construction, the applicant submit to the Department, for review and approval, a Final Noxious Weed Control Plan.

~~Recommended~~ **Fish and Wildlife Habitat Condition 4 [PRE]:** Prior to construction of the facility, facility component or phase, as applicable, the certificate holder shall finalize the Noxious Weed Control Plan, based on the draft provided in Attachment P-2 of ~~this Order~~ the Final Order on ASC, and submit to the Department for review and approval. [PRE-FW-02; Final Order on ASC]

The ~~Department recommends~~ Council imposes the following two additional conditions requiring that the Noxious Weed Control Plan, as finalized per the ~~recommended~~ condition above, be implemented and adhered to during construction, as applicable, and during operations.

~~Recommended~~ **Fish and Wildlife Habitat Condition 5 [CON]:** During construction, the certificate holder shall implement and adhere to the Noxious Weed Control Plan, as applicable, and include measures taken during construction in reporting in the 6-month semi-annual construction report under CON-OE-01. The Noxious Weed Plan may be amended, as needed, to ensure that treatment and monitoring activities and schedule are effective at the site. [CON-FW-02; Final Order on ASC]

~~Recommended~~ **Fish and Wildlife Habitat Condition 6 [OPR]:** During operation, the certificate holder shall implement and adhere to the Noxious Weed Control Plan, as applicable. The Noxious Weed Plan may be amended, as needed, to ensure that treatment and monitoring activities and schedule are effective at the site. [OPR-FW-02; Final Order on ASC]

Based upon the ~~Department's Council's~~ review and the ~~recommended~~ conditions listed above, and implementation of the required plans, the ~~Department recommends that~~ Council find~~s~~ the applicant has adequately identified mitigation measures for temporary impacts to fish and wildlife habitat.

Mitigation of Permanent Impacts to Habitat

Proposed facility construction will result in an estimated 4,992 acres of permanent impacts. Permanent impacts are mitigated through a final approved Habitat Mitigation Plan (HMP) within an approved Habitat Mitigation Area (HMA), discussed further below. To meet the mitigation goals for each habitat category, the applicant proposed a ratio approach, ranging from 0.5 acres to up to 2 acres to be included in an HMA for every acre impacted. The applicant's proposed ratios are presented in Table 17 below.

Table 17: Estimated Habitat Impacts and ODFW Habitat Mitigation Ratios¹⁴⁹

Final Habitat Category ¹	Preliminary Habitat Category ²	Habitat Subtype	Impact (acres)	Mitigation Ratio	Mitigation Need (acres)
Permanent Impacts³					
2	2	Perennial Streams, Scrub-shrub wetlands	—	2:1	—
		Shrub-steppe	52.8	2:1	106
	3	Cliffs, Caves, Talus, Emergent Wetlands, Intermittent or Ephemeral Streams	0.3	2:1	0.6
		Eastside Grasslands	228	2:1	456
		Shrub-steppe	1,210	2:1	2,420
		Eastside Grasslands	1,123	1.5:1	1,685
	4	Intermittent or Ephemeral Streams	0.1	2:1	0.2
		Planted Grasslands	1,144	1.2:1	1,373
		Shrub-steppe	63.7	2:1	127
	5	Eastside Grasslands, Emergent Wetlands, Intermittent or Ephemeral Streams, Seasonal Ponds	848	0.5:1	424
6	6	Wheat Fields and Other Row Crops, Urban and Mixed Environs	322	None	—

¹⁴⁹ Source: Draft Habitat Mitigation Plan, Table 3: Compensatory Mitigation Calculation (See Attachment P-3 of this order).

Table 17: Estimated Habitat Impacts and ODFW Habitat Mitigation Ratios¹⁴⁹

Final Habitat Category ¹	Preliminary Habitat Category ²	Habitat Subtype	Impact (acres)	Mitigation Ratio	Mitigation Need (acres)
Temporal Impacts⁴					
2	2	Shrub-steppe	4.2	0.5:1	2.1
		Perennial Streams, Scrub-shrub wetlands	0.2	None	—
	3	Cliffs, Caves, Talus, Emergent Wetlands, Intermittent or Ephemeral Streams	3.8	None	—
		Eastside Grasslands	28.8	0.5:1	14.4
		Shrub-steppe	69.0	0.5:1	34.5
		Eastside Grasslands	48.2	0.5:1	24.1
	4	Intermittent or Ephemeral Streams	0.1	None	—
		Planted Grasslands	14.6	None	—
		Shrub-steppe	18.1	0.5:1	9.1
		Eastside Grasslands, Emergent Wetlands, Intermittent or Ephemeral Streams, Seasonal Ponds	11.1	None	—
6	6	Wheat Fields and Other Row Crops, Urban and Mixed Environs	28.3	None	—
Total			5,218		6,675
1. Final Category following application of ODFW Designated Mule Deer Winter Range overlay. 2. Current habitat condition and category as mapped by the Applicant prior to construction. 3. Permanent impact areas based on final design and include the Facility's footprint. No mitigation offered for Category 6 habitat. 4. Compensatory mitigation for temporal habitat loss to current Category 2, 3, or 4 Upland Grassland, Shrub-Steppe and Shrubland – Shrub-Steppe and Eastside grasslands habitat subtypes (see Table 1) due to sagebrush component. Other habitat types will be restored following the methods described in the Revegetation Plan.					

- 1
2 ODFW concurs with the mitigation ratios proposed by the applicant to establish the size of the
3 HMA, with the exception that temporary impacts be reassessed prior to and post construction
4 to determine whether the impacts are more appropriately considered a temporal/permanent
5 impact.^{150, 151}

¹⁵⁰ YRBAPPD029 pASC Reviewing Agency Comment ODFW 2025-07-18; YRBAPPD019-12 ASC Review Agency Comment ODFW 2025-09-29

¹⁵¹ YRBAPPD022 pASC Reviewing Agency Comment ODFW 2024-10-15; YRBAPPD029 pASC Reviewing Agency Comment ODFW 2025-07-18.

Based upon the mitigation ratios shown in the table above, and the acreage of impacts by habitat category and sub-type, and in consultation with ODFW, the HMA(s) must include a maximum of 6,675 acres.

The applicant prepared a draft HMP (see Attachment P-3 of this order) using two primary mitigation areas, developed in consultation with ODFW, to meet the HMA requirements in terms of acreage and suitable habitat with uplift potential. Tygh Ridge Ranch is the primary potential site for the HMA which is located near the town of Tygh Valley, approximately 15 miles northwest of the facility and consists of approximately 5,020 acres. All but the southernmost portion of Tygh Ridge Ranch is within ODFW Designated Elk and Mule Deer Winter Range and therefore most of the mitigation area is Category 2 habitat.¹⁵² [Tygh Ridge Ranch HMA is in similar \(in-kind\) habitat as the proposed facility; it is a high-density winter range location for mule deer and it represents a key piece of property that would help ensure that a connection between the Mt. Hood National Forest/White River Wildlife area and the Lower Deschutes Wildlife area would be preserved.](#)¹⁵³ Tygh Ridge Ranch extends into one ODFW-designated Priority Wildlife Connectivity Area (PWCA) Region and two Connectors. PWCA Regions are large, contiguous areas and represent the highest-value habitat for facilitating species movement throughout the state, while Connectors represent the best available habitat for facilitating movement from region to region.¹⁵⁴

In addition to the Tygh Ridge Ranch HMA, the applicant identifies 1,655 acres within the facility boundary located to the north and east as mitigation areas; these HMAs are within the facility site boundary but outside of the perimeter fenceline. Between the two proposed HMA areas, approximately 6,675 acres of suitable HMA have been identified for mitigation. They have been identified in consultation with ODFW as suitable mitigation areas for potential impacts of the facility.¹⁵⁵

The proposed HMA areas have been selected because they are available, have intact high-value habitat desirable for conservation, and suitable habitat in need of enhancement and other management actions to restore its potential as high-quality Category 2 big game habitat. The draft HMP includes enhancement and uplift actions that may be implemented on this property to achieve the net-benefit requirements of ODFW Category 2 habitat mitigation goals including:

- Shrub Planting
- Oregon White Oak Planting

¹⁵² The majority of the Tygh Ridge Ranch HMA is currently enrolled in year 2 of a 15-year contract with the Grassland Conservation Reserve Program (CRP). ODFW confirmed during a site visit on January 29, 2025, that the objectives of the Grassland CRP are compatible with joint use as a HMA as long as CRP funds are not used to implement enhancement actions described in the HMP.

¹⁵³ [YRBAPPD0c19-12 ASC Review Agency Comment ODFW 2025-09-29.](#)

¹⁵⁴ YRBAPP ASC Exhibit P. Fish and Wildlife Habitat 2025-09-05, Attachment P-2, Section 4.0, in response to YRBAPPD0c12 Applicant Response to DPO Comments_w Attchs 2025-11-07 and YRBAPPD0c9-8 DPO Public Comment Alexanderson 2025-11-02. See also YRBAPPD0c12 Applicant Response to DPO Comments_w Attchs 2025-11-07.

¹⁵⁵ YRBAPPD0c19-12 ASC Review Agency Comment ODFW 2025-09-29.

- Weed Control
- Fence Removal
- Fire Control
- Monitoring implementation measures

The HMP is in draft format because ~~the project has not yet been approved and the applicant has not eliminated the possibility for alternative mitigation options (i.e., using another potential HMA or payment to a mitigation bank)~~ should additional suitable options be identified and the final HMP must be based on final impacts from facility construction. The finalization of the draft HMP includes determining final estimated permanent habitat disturbance based on final facility design or phase, by habitat type and category; finalization of the management plan to be implemented at the HMA; and execution of the legal instrument required to secure the HMA. The legal mechanism must provide assurance of durability for the life of the proposed facility to ensure the mitigation property will remain habitat if the landowner ceases to own or manage the land prior to facility decommissioning. The legal instrument shall also contain an assurance that the land covered under the agreement will not be used to satisfy any other mitigation obligations other than those pertaining to this facility.

The ~~Department recommends~~ Council impose the following conditions requiring that, prior to construction, the applicant secure the HMA based on execution of a legal instrument approved by the Department; and finalize the HMP, subject to review and approval by the Department, in consultation with ODFW.

Recommended-Fish and Wildlife Condition 7 (PRE): Prior to construction of the facility, facility component or phase, as applicable, the certificate holder shall submit the draft legal agreement for review and approval by the Department, in consultation with ODFW. The legal agreement shall ensure that payment provided for long-term management and enhancement of the mitigation area is adequate to cover the permanent habitat loss from the facility.
[PRE-FW-03; Final Order on ASC]

Recommended-Fish and Wildlife Condition 8 (PRE): Prior to construction of the facility, facility component, or phase, as applicable, the certificate holder shall finalize the Habitat Mitigation Plan, as provided in Attachment P-3 of ~~this Order~~ the Final Order on ASC, ~~based on the impacts associated with the final facility design and the legal agreement, as approved by the Department demonstrating that the selected Habitat Mitigation Areas (HMAs) are consistent with the in-proximity definition in OAR 635-415-0005(13), as approved by the Department in consultation with ODFW, and based on:~~
1. The impacts associated with the final facility design,
2. The legal agreements required under Fish and Wildlife Condition 7, and
3. Mapping of the HMAs, watershed boundary and big game home range based on ODFW's available technical data.
[PRE-FW-04; Final Order on ASC]

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Recommended-Fish and Wildlife Condition 9 (OPR): During operation, the certificate holder shall provide reports ~~from the certificate holder~~ on the status of long-term management and enhancement of the habitat mitigation area, consistent with the Habitat Mitigation Plan.
[OPR-FW-03; Final Order on ASC]

While ODFW did not explicitly address the OAR 635-415-0005(13) definition of “In-proximity Habitat Mitigation” in its comments on the proposed facility, the fact that ODFW recommended Tygh Ridge Ranch HMA indicates it concluded that the potential HMA meets the ODFW habitat mitigation rules, including the definition of “in-proximity” habitat mitigation. Council does not rely on any of the documents submitted by ODOE or Alvin Alexanderson in their respective briefs addressing Mr. Alexanderson’s exceptions to the Hearing Officer’s PCCO that were not already in the record on the Department’s Proposed Order.

As described above, the draft HMP is in draft format. The applicant is not bound to utilize the Tygh Ridge Ranch as an HMA and may instead choose another location or locations to conduct habitat mitigation (or make payment to a mitigation bank). The question of whether (if an HMA is selected as part of the final HMP) the HMA is “in proximity” must ultimately be determined when the applicant finalizes the HMP and submits it to ODOE and ODFW for review, based on ODFW’s interpretation of OAR 635-415-0005(13). To ensure compliance with the in-proximity requirement, pursuant to ORS 469.402, Council adopts the following condition, requiring that, prior to construction, the applicant document that the HMAs (including Tygh Ridge Ranch, if chosen) meet the definition of “in-proximity” in OAR 635-415-0005(13).

Per OAR 635-415-0025(2)(b)(B) the mitigation goal for Category 2 habitat is “no net loss of either habitat quantity or quality and to provide a net benefit of either habitat quantity or quality.” The applicant has demonstrated there will be no net loss of Category 2 habitat quantity. While the proposed facility will permanently impact approximately 4,670 acres and temporally impact approximately 168 acres of BGWR Category 2 habitat, under the applicant’s Habitat Mitigation Plan (and subject to Fish and Wildlife Conditions 7, 8 and 9) the applicant will protect 6,675 acres of in-kind BGWR Category 2 habitat via a conservation easement or similar legal instrument.

Further, the proposed facility will not result in a net loss of BGWR Category 2 habitat; the proposed HMP will provide a net benefit for habitat quality through enhancement and uplift actions described in the HMP (including through planting shrubs and Oregon White Oak, controlling weeds, and removing fences and conducting long term monitoring).

Based on this evidence and the evaluation of habitat, habitat categorization and applicable mitigation goals, and compliance with the above ~~proposed-listed~~ conditions, the ~~Department recommends~~ Council finds that the applicant has demonstrated that permanent impacts to wildlife habitat will be mitigated in a manner consistent with ODFW’s fish and wildlife habitat mitigation policy.

Wildlife Impacts and Mitigation

Based on a current literature review, as presented in ASC Exhibit P, 24 special status wildlife species with the potential to occur, including 6 mammals, 3 reptiles, 12 birds, and 3 fish were identified within the analysis area.¹⁵⁶

The applicant worked with ODFW on developing the field survey strategy for the microsite corridor. During 2023 field surveys, biologists walked meandering transects within non-cultivated land in the field survey area, searching (scanning and listening) for wildlife species and recognizable signs of wildlife (e.g., scat, tracks, burrows, and nests).

Raptor nest surveys were conducted to document active and inactive raptor nests within the survey area plus a 0.5-mile buffer around them. The survey was performed in early June when most raptors in the region are typically engaged in mid-season reproductive activities (e.g., rearing young). Biologists systematically searched raptor nest habitat within the survey area by vehicle and on foot. Nesting substrate within the survey area was investigated from public and private roads and on foot when additional inspection was necessary.

Areas outside the survey area but within the 0.5-mile analysis area were searched by scanning suitable nesting habitat from public roads or from the edge of the Facility boundary. Periodic stops were made to scan suitable habitat (e.g., trees, utility towers, power poles, and rock outcrops) and examine nests with the aid of binoculars. To determine the status of a nest, biologists made observations on the behavior of adults, presence of young, signs of nest building, or whitewash. Due to the lack of publicly accessible areas within the 0.5-mile buffer, some areas were not visited in 2023 and will need to be surveyed prior to construction where possible. Following field surveys, the digitized data were downloaded and processed in a GIS program and were reviewed for quality control and assurance.

The analysis area contains suitable habitat for five state sensitive bat species, ten state sensitive birds, two protected eagle species and two state sensitive reptiles, and three state sensitive fish. Of these species, six state sensitive species and one ODFW species of concern (white tailed jackrabbit is not a state sensitive species but was identified by ODFW as a species to include in field surveys) were detected within the analysis area during 2023 surveys. Field surveys documented observed habitat use by each of these species is as follows:

- **Swainson's hawk:** This species was observed in four locations hunting primarily in open grasslands, and in one location nesting in a conifer tree.
- **Ferruginous hawk:** This species was observed in one location hunting in open grassland.
- **Brewer's sparrow:** This species was observed in two locations within grassland and shrub-steppe habitats.

¹⁵⁶ Although known to inhabit surrounding areas, Big Horned Sheep are not listed in Oregon as a special status or T&E species, therefore, species-specific field surveys were not requested by ODFW and not required. YRBAPPDoc9-11 DPO Public Comment Lee 2025-11-02.

- 1 • **Grasshopper sparrow:** This species was observed in eight locations, primarily in
2 grassland habitat.
- 3 • **Loggerhead shrike:** This species was observed in two locations perched on power lines
4 near developed areas.
- 5 • **Northern sagebrush lizard:** Individuals observed in three locations sunning on rocks in
6 grassland and shrub-steppe habitats.
- 7 • **White-tailed jackrabbit:** (Not state sensitive but field observations documented at
8 ODFW request) Characteristic scat observed in seven locations in grasslands and shrub-
9 steppe habitats. All scat found was assumed to be white-tailed jackrabbit scat.

10 No bat species were observed during surveys, although no acoustic surveys targeting bats were
11 performed. Based upon the raptor survey results, the applicant has identified one state
12 sensitive bird species: Swainson's hawk (*buteo swainsoni*) with active nests observed and
13 documented within the microsite area. The other state sensitive species were observed using
14 the area during field surveys (presumed habitat). Observations and field survey results were
15 included in the field report submitted for review and comment to ODFW and are summarized in
16 Table 18 below. ODFW has concurred with the methods and findings of the surveys conducted
17 and submitted as part of ASC Exhibit P.

Table 18: State Sensitive Species with Observed or Known to Occur within the Analysis Area

Common Name <i>Scientific Name</i>	Federal Status ^{1/}	ODFW Status in Columbia Plateau/ Columbia Basin ^{2/}	Habitat and Species Information	Sensitive Period(s) ³	Observed or Expected Occurrence within Analysis Area	Potential Use of Habitat within Analysis Area
Mammals						
white-tailed jackrabbit <i>Lepus townsendii</i> ⁴	–	–	Associated with open grasslands and desert sagebrush plains as well as open coniferous forest and alpine meadow habitats.	During reproductive periods which vary by climate, but generally occur in the spring.	Scat observed within grassland and shrub-steppe habitats.	Breeding, foraging, transient in shrub-steppe and grasslands.
Birds						
Brewer's sparrow <i>Spizella breweri</i>	BCC	S	Closely associated with sagebrush steppe, generally with a canopy height of more than 5 feet. Often associated with big sagebrush (<i>Artemisia tridentata</i>). Nest in thick crowns or low in brush, or in clumps of grass.	During the reproductive and nesting periods which occur mid-April through late July.	Observed in grassland and shrub-steppe habitat.	Breeding, foraging, migrating in shrub-steppe and grasslands.
ferruginous hawk <i>Buteo regalis</i>	BCC, SOC	SC	Open, grassy areas and shrub-steppe with scattered shrubs or trees for perching and nesting. Can nest in juniper or cottonwood trees near small streams, on rocky sites with an expansive view, on rimrock, or on undisturbed ground.	During the reproductive and nesting periods which occur mid-April through the spring.	Observed hunting in grassland habitat.	Hunting, migrating, breeding in all mapped habitats.
golden eagle <i>Aquila chrysaetos</i> ⁴	BCC, BGEPA	-	Usually nests on cliffs but also can nest in trees. Breeds in open and semi-open habitats at a variety of elevations, in tundra, shrublands, grasslands, woodland-brushlands, and coniferous forests, farmland and riparian areas. Typically forages in open habitats like grasslands, areas with steppe-like vegetation.	During the reproductive and nesting periods which occur February through mid-August.	Known nesting occurrences in Buck Hollow Canyon (ORBIC 2023a, Leal 2020)	Nests present along cliffs. The proposed alternate generation-tie line is approximately 1.2 miles from the nearest golden eagle nest, and the proposed micrositeing corridor boundary is approximately 0.3 miles from the nearest nest. Migrant occurrence likely.
grasshopper sparrow <i>Ammodramus savannarum</i>	-	S	Associated with medium height grassland and sagebrush-steppe, typically small vegetative clumps amongst bare ground. Often inhabits native grassland habitat with less than 35 percent shrub cover.	During the reproductive and nesting periods which occur April through September.	Observed within grassland and shrub-steppe habitat.	Breeding, foraging, migrating in shrub-steppe and grasslands.
loggerhead shrike <i>Lanius ludovicianus</i>	BCC	S	Associated with open areas containing occasional shrubs and trees for nesting, and elevated perch sites for hunting and singing. Commonly associated with sagebrush steppe, juniper woodlands, mountain shrublands, and open oak and pine woodlands.	During the reproductive and nesting periods which occur mid-March through mid-August.	Observed hunting on power lines.	Breeding, hunting, migrating in all mapped habitats.
Swainson's hawk <i>buteo swainsoni</i>	-	S	Associated with open sagebrush steppe, grassland, juniper woodlands, agricultural areas with trees, and large meadows in forested mountains. Tumbleweed and twig nests are built in trees of various sizes, most often willow or juniper trees. Forages over open grasslands and fertile irrigated agriculture fields for small mammals.	During the reproductive and nesting periods which occur mid-April to early August.	Observed nesting and hunting.	Breeding, hunting, migrating in all mapped habitats.

Table 18: State Sensitive Species with Observed or Known to Occur within the Analysis Area

Common Name <i>Scientific Name</i>	Federal Status ^{1/}	ODFW Status in Columbia Plateau/ Columbia Basin ^{2/}	Habitat and Species Information	Sensitive Period(s) ³	Observed or Expected Occurrence within Analysis Area	Potential Use of Habitat within Analysis Area
Reptiles						
northern sagebrush lizard <i>Sceloporus graciosus graciosus</i>	SOC	S	Highly associated with desert shrub-steppe habitat containing open, sun-exposed basking areas with loose sand soils between rocks, shrubs, or trees for nearby refuge. Little is known about winter hibernation sites, but it is expected that this species hibernates in rodent burrows, under rocks and in rock crevasses.	During the reproductive and nesting periods June through mid-August. During winter hibernation months if hibernacula is disturbed.	Observed sunning on rocks in grassland and shrub-steppe habitat.	Breeding, foraging in shrub-steppe and grasslands.
Sources: Bechard et al. 2010; Brigham et al. 2011; Buehler 2000; Csuti et al. 2001; Dugger and Dugger 2002; Gervais et al. 2009; Kochert et al. 2002; Marshal et al. 2006; Martin and Carlson 1998; NatureServe 2023; Ng et al. 2017; OCS 2016; ODFW 2021a; ODFW 2021b; ORBIC 2019; ORBIC 2023a; OWE 2023; Poulin et al. 2011; Rotenberry 1990; Rotenberry et al. 1999; StreamNet 2021; Sullivan et al. 2009; USFWS 2021; USFWS 2022; USFWS 2023a; USFWS 2023b; Vickery 1996; Vierling et al. 2013; Yosef 1996. ¹ Federal Status: T = Threatened, SOC = Species of Concern, BCC = Bird of Conservation Concern, BGEPA = Bald and Golden Eagle Protection Act. ² Oregon Department of Fish and Wildlife Status: SC = Sensitive-Critical Species, S = Sensitive Species. ³ Period in which species is most sensitive to disturbance, such as nesting, mating, migrating, or hibernating. ⁴ This species does not have a special status in the Columbia Plateau/Columbia Basin ecoregion as of October 2023 but is included in this table as recommended by ODFW.						

1 Potential Impacts to Wildlife

2 Potential impacts to state-sensitive species from proposed facility construction include injury to
3 or loss (fatality) due to collision with or crushing from construction equipment vehicles; and,
4 general disturbance (noise and visual), which can interrupt wildlife behavior. In addition, there
5 are risks to wildlife species during proposed facility operations from structure collision, vehicle
6 collisions, disturbance related to artificial lighting and introduction or spread of noxious weeds.
7

8 Wildlife Impact Minimization Measures

9 As noted above, the proposed micrositing of the facility would avoid the most sensitive habitat
10 in the site boundary and did so in consultation with ODFW. To minimize impacts to habitat of
11 state sensitive wildlife species, the applicant proposes numerous design measures which are
12 compiled into Attachment P-4 to this order, Design Features to Minimize Wildlife Impacts.
13 Minimization and avoidance measures include:

- 14 • Spiral markers will be installed on the ground wire of the alternate generation-tie line in
15 areas over canyons or within 2 miles of a known eagle nest.
- 16 • Use facility-specific measures that follow Avian Powerline Interaction Committee
17 (APLIC) guidelines for minimizing avian electrocutions (APLIC 2006). This is expected to
18 minimize the risk of electrocution to raptors generally, and to bald eagles, golden
19 eagles, Swainson's hawks, and ferruginous hawks in particular.
- 20 • Implement down-shield lighting for permanent lighting at the substation and O&M
21 building. Outdoor lighting will be sited, limited in intensity, shielded, and hooded in a
22 manner that prevents the lighting from projecting onto adjacent properties, roadways,
23 and waterways. This is expected to minimize the risk of avian collision with facility
24 infrastructure for all birds and bats in general, but to nocturnal migrant species
25 (including Brewer's sparrows, sagebrush sparrows, grasshopper sparrows) and to the
26 crepuscular, insectivorous common nighthawk in particular. Down-shield lighting will be
27 in place year-round, mitigating impacts to birds and bats both during migration and
28 while foraging for insects at any time of the year.
- 29 • Cap or otherwise modify vertical pipes and piles to prevent cavity-dwelling and nesting
30 birds from entering. This also prevents any perching bird from inadvertently falling into
31 pipes. These caps are expected to minimize the risk of fatalities to all birds (including the
32 cavity-nesting Lewis's woodpecker), as well as small mammals and lizards such as the
33 northern sagebrush lizard.
- 34 • Facility components will be fenced to exclude big game. The applicant has microsited
35 the facility layout to set back from Buck Hollow and Hauser canyons where feasible to
36 reduce impacts to Priority Wildlife Connectivity Areas and shrub-steppe Strategy
37 Habitats as well as the higher quality habitats mapped in these areas.
- 38 • Apply the buffers and seasonal restrictions during construction around raptor nests
39 identified during pre-construction surveys to avoid disturbance to nesting raptors as
40 practicable and consult with ODFW for prior approval for exceptions to nest buffers
41 during construction if needed.

- Use of fixed-knot (or a similar wildlife-friendly option) or chain-link perimeter fencing up to 8 feet in height that may be raised off the ground approximately 6 to 8 inches to accommodate small animal movement under the fence.

In addition to the above-listed facility design features, the ~~Department recommends~~ Council imposes the following conditions to minimize direct impacts to state-sensitive species and their habitat:

~~Recommended~~ **Fish and Wildlife Condition 10 (PRE):** Prior to construction of the facility, facility component, or phase, as applicable, streams, wetlands, and other sensitive habitat features (e.g., mature trees, intact sagebrush) that are not proposed to be impacted will be flagged for avoidance during construction. The certificate holder shall develop a map set showing these sensitive resources that will be kept on site during construction and updated if additional information on sensitive resources is obtained. These maps will show buffer zones and temporal restrictions of sensitive resources, as applicable.
[PRE-FW-05; Final Order on ASC]

~~Recommended~~ **Fish and Wildlife Condition 11 (PRE):** Prior to construction of the facility, facility component, or phase, as applicable, if construction is scheduled to overlap with the raptor nesting season (February 1 – August 31), the certificate holder shall conduct a raptor nest survey within 0.5 miles of the defined work area to identify the location of raptor nests, and eagle nests in particular, that could be affected by construction. The survey protocol will be approved by ODFW, and the surveys will occur no earlier than 2 years prior to construction and final reports submitted to ODFW for review and the Department for approval.
[PRE-FW-06; Final Order on ASC]

~~Recommended~~ **Fish and Wildlife Condition 12 (PRE):** Prior to construction of the facility, facility component or phase, the certificate holder shall submit to the Department the Design Features to Minimize Wildlife Impacts included in Attachment P-4 to the Final Order on ASC, updated based on final facility design.
[PRE-FW-07; Final Order on ASC]

~~Recommended~~ **Fish and Wildlife Condition 13 (CON):** During construction within the time periods listed below, the certificate holder shall implement buffer zones around active or previously identified active nest sites. No ground-disturbing activities within the buffer zone of active or previously identified active nest sites shall occur during the seasonal restrictions unless a qualified biologist determines the nest site is unoccupied for the season on the release date as shown in Table 19 below:

Table 19: ODFW Raptor Nest Buffers and Seasonal Restrictions

Species	Spatial Buffer	Seasonal Restriction	Release Date if Unoccupied
western burrowing owl	0.25 mile	April 1 to Aug 15	May 31
golden eagle	0.5 mile	Feb 1- Aug 15	May 15
red-tailed hawk	300-500 feet	Mar 1- Aug 15	May 31
ferruginous hawk	0.25 mile	Mar 15- Aug 15	May 31
Swainson's hawk	0.25 mile	April 1- Aug 15	May 31
prairie falcon	0.25 mile	Mar 15- Jul 1	May 15
peregrine falcon	0.25 mile	Jan 1- Jul 1	May 15
American kestrel	0.25 mile	Mar 1- Jul 31	May 15

[CON-FW-03; Final Order on ASC]

~~Recommended~~ Fish and Wildlife Condition 14 (CON): During construction, certificate holder shall limit construction activities outside the fenced area (i.e., at the overhead collection line, transmission line, and roads) between December 1 and April 1 to minimize disturbance to wildlife, and wintering deer in particular.

[CON-FW-04; Final Order on ASC]

~~Recommended~~ Fish and Wildlife Condition 15 (CON): During construction, vehicles will be limited to 20 miles per hour on all facility access roads (excluding public roads).

[CON-FW-05; Final Order on ASC]

~~Recommended~~ Fish and Wildlife Condition 16 (OPR): During operations, vehicles will be limited to 20 miles per hour on all facility access roads (excluding public roads).

[OPR-FW-04; Final Order on ASC]

The ~~Department Council~~ has reviewed the information submitted in ASC Exhibit P, consulted with ODFW on study findings, potential impacts and required and recommendations, and with compliance with the above ~~recommended~~ conditions, Council finds that impacts to state sensitive fish and wildlife will be minimized, avoided and mitigated to meet this Council standard.

IV.H.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 design, construction and operation of the proposed facility are consistent with the mitigation

goals and requirements of the Oregon Department of Fish and Wildlife’s Fish and Wildlife Habitat Mitigation Policy under OAR 635-415-0025.

IV.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.¹⁵⁷

IV.I.1. Findings of Fact

The analysis area for threatened or endangered (T&E) plant and wildlife species includes two distances; for literature review, the search area includes the area within and extending 5-miles from the proposed site boundary. For pedestrian survey requirements, the analysis area is equivalent to the 8,075 acre site boundary.¹⁵⁸

¹⁵⁷ Administrative Order EFSC 1-2007, effective May 15, 2007.

¹⁵⁸ Per OAR 345-001-0010(35)(a); YRBNOIDoc42 Project Order 2024-01-26, Table 12.

Literature review identified no state listed T&E wildlife and one state-listed T&E plant species, Tygh Valley milkvetch (*Astragalus tyghensis*),¹⁵⁹ with the potential to occur within the analysis area.¹⁶⁰

Wildlife and botanical field surveys were conducted on 7,026 acres in June 2023.^{161, 162} Surveys were conducted just after the typical period of flowering for sessile mousetail (March-May) because only one vernal pool wetland (the plant's habitat) was found within the survey area. This wetland and the surrounding area were surveyed closely for sessile mousetail individuals but there was no evidence of the plant. Moreover, no element occurrence was identified in the Oregon Biodiversity Information Center (ORBIC) database within 5 miles of the Micrositing Corridor.¹⁶³ There were no observations of Tygh Valley milkvetch (*Astragalus tyghensis*) during the June 2023 surveys. Surveys have not been conducted within the corridor associated with the proposed alternate POI due to access limitations, but this corridor contains potentially suitable habitat and must be surveyed, prior to construction, if the alternate POI is selected for final design.¹⁶⁴

To address this issue, the ~~Department recommends~~ Council impose the following condition requiring that, prior to construction, the applicant conduct botanical surveys in the unsurveyed portions of the alternate POI, if the alternate POI is selected as part of final design, and that if impacts cannot be avoided, that the applicant submit an Amendment Determination Request to allow the Department and Council the ability to evaluate impacts and mitigation and

¹⁵⁹ ORBIC. 2023. Element Occurrence Record Digital Data Set for rare, threatened or endangered species for the Yellow Rosebush Project in Wasco County. ORBIC, Institute for Natural Resources, Portland State University. Portland, OR. Report received May 2023.

Federally Listed, Proposed, Candidate, Delisted Species and Species of Concern under the Jurisdiction of the Fish and Wildlife Service which May Occur in Oregon. Available at:

<https://www.fws.gov/media/oregon-species-state-list.pdf> Accessed by the Department 2024-11-27.

Oregon Department of Fish and Wildlife (ODFW) 2021. Threatened, endangered and candidate fish and wildlife species. Available online at:

https://www.dfw.state.or.us/wildlife/diversity/species/threatened_endangered_candidate_list.asp Accessed by the Department 2024-11-27; ODFW Sensitive Species List.

https://www.dfw.state.or.us/wildlife/diversity/species/docs/Sensitive_Species_List.pdf Accessed by the Department 2024-11-27; US Fish and Wildlife Service (USFWS) 2023.

¹⁶⁰ YRBAPDoc22 pASC Reviewing Agency Comment ODFW 2024-10-15.

¹⁶¹ YRBAPDoc1-17 ASC Exhibit P Fish and Wildlife Habitat 2025-09-05. Attachment P-1 Biological Survey Reports.

The survey area did not include the entirety of the site boundary because areas within slopes exceeding 30 percent were omitted. These areas were omitted due to safety concerns.

¹⁶² On September 18, 2024, ODAg staff confirmed review of pASC Exhibit Q and stated that, "The methods are adequate for locating T&E plants, and it looks like the steps they took to develop their target plan list was also adequate. We don't have any further comments on their methods of findings." YRBAPDoc18-1 pASC Reviewing Agency Comments Bot Survey ODAg_Marshall 2024-09-17.

¹⁶³ YRBAPDoc12 Applicant Response to DPO Comments_w Attchs 2025-11-07, in response to YRBAPDoc9-11 DPO Public Comment Lee 2025-11-02.

¹⁶⁴ YRBAPDoc18 pASC Reviewing Agency Comments ODAg_Brown 2024-09-12; YRBAPDoc18-1 pASC Reviewing Agency Comments Bot Survey ODAg_Marshall 2024-09-17. In comments on the pASC, ODAg maintained their comments submitted on the NOI, requesting complete botanical surveys for any areas of potential disturbance given the potential presence of a state listed T&E plant species, Tygh Valley milkvetch (*Astragalus tyghensis*).

determine whether the changes must be reviewed through the Council's Site Certificate Amendment process.

~~Recommended~~Threatened and Endangered Species Condition 1 (PRE): Prior to construction activities associated with the alternate POI, if part of final facility design, the certificate holder shall:

~~a-b.~~ Complete a botanical field survey within unsurveyed areas in the transmission line corridor.

i. If any T&E plant species are identified and cannot be avoided, certificate holder must submit an Amendment Determination Request to the Department for a determination on whether the impacts and mitigation must be reviewed by Council through the site certificate amendment process.

ii. If the impacts and mitigation are determined by the Department not to require review through the Council's site certificate amendment process, certificate holder shall implement and adhere to the mitigation requirements approved by the Department.

[PRE-TE-01; Final Order on ASC]

IV.I.2. Conclusions of Law

Based on the foregoing analysis, the ~~Department recommends~~Council finds that with compliance with the above ~~listed, recommended~~ condition, ~~the Council find~~ that the design, construction and operation of the proposed facility is not likely to cause a significant reduction in the likelihood of survival or recovery of species listed as threatened or endangered by the Oregon Department of Agriculture or Oregon Fish and Wildlife Commission and, therefore meets Council's Threatened and Endangered Species standard in OAR 345-022-0070.

IV.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.

* * *

(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.

* * * 165

¹⁶⁵ Administrative Order EFSC 5-2022, effective December 19, 2022.

IV.J.1. Findings of Fact

In applying the standard set forth in OAR 345-022-0080(1), Council assesses the visual impacts of facility structures on significant or important scenic resources described in a current land use management plan adopted by a local, tribal, state, regional, or federal government agency. The analysis area for the Scenic Resources standard is the area within and extending 2 miles from the site boundary as established in the Project Order.¹⁶⁶ The analysis area includes area within two counties; Sherman and Wasco counties.

As summarized in Table 20 below, land management and other plans were evaluated to determine whether significant or important scenic resources are located within the analysis area.¹⁶⁷ The ~~Department's recommendations~~Council's findings for important or significant resources are reflected in Table 20, and discussed further in this section.

¹⁶⁶ YRBNOIDoc42 SIGNED Project Order w Attachments 2024-01-26.

¹⁶⁷ The evaluation for compliance under the Scenic Resources standard (OAR 345-022-0080) is informed by OAR 345-021-0010(1)(r), which establishes the information requirements for ASC Exhibit R. The terms "significant" and "important" (related to scenic resources) are not defined in Council rules or statutes, however, OAR 345-021-0010(1)(r) provides clarity including that scenic resources identified as "significant or important" in a land management plan should be 1) specifically identified as significant or important, with a description of the resource, and 2) have a portion of the management plan specific to the resource. These references are consistent with LCDC administrative rules that implement Statewide Planning Goal 5: Natural Resources, Scenic and Historic Areas, and Open Spaces. B2HAPPDoc631 SR-1 OAH_Ruling and Order on MSD_2021-07-14. If a there is a potential adverse impact to a Council protected Scenic resource, the management or development measures or criteria for protection of the resource as designated in the management plan would be applied to avoid, minimize or mitigate impacts to the resource.

Table 20: Management Plans Reviewed and Identified Scenic Resources

Jurisdiction	Applicable Management Plan	Scenic Resources Specified in Plan	Important or Significant Scenic Resources Identified in Analysis Area
Sherman County	Comprehensive Land Use Plan, Sherman County Oregon (2007)	Yes	No ¹
Wasco County	Wasco County 2040 Comprehensive Plan (Wasco County 2020)	Yes	No
City of Maupin	City of Maupin Comprehensive Land Use Plan	Yes	No
City of Shaniko	Shaniko Comprehensive Land Use Plan	Yes	No ¹
Oregon Department of Transportation	Journey Through Time Scenic Byway Tour Route Management Plan (1996); 2024 Scenic Byways Program	Yes	No
Bureau of Land Management	Two Rivers Resource Management Plan Record of Decision (1986); Amendments (2001)	Yes	No
	White River National Wild and Scenic River Management Plan (1994)	Yes	No
	Lower Deschutes River Management Plan Record of Decision (1997)	Yes	No
Confederated Tribes of the Grand	N/A	-	-

Table 20: Management Plans Reviewed and Identified Scenic Resources

Jurisdiction	Applicable Management Plan	Scenic Resources Specified in Plan	Important or Significant Scenic Resources Identified in Analysis Area
Ronde Community of Oregon. 2024 ²			
Confederated Tribes of Siletz Indians. 2024. ³	N/A	-	-
Confederated Tribes of the Umatilla Indian Reservation. 2024. ⁴	N/A	-	-
Confederate Tribes of Warm Springs. 2024. ⁵	N/A	-	-
Notes: 1. The Department's Council's review of the ODOT Scenic Byways Program and the Sherman County Comprehensive Land Use Plan (2007) confirmed that Oregon Hwy 216 is not a designated Scenic Byway, and as such does not have specific management criteria that supports its protection as scenic resource. Sources: 2. https://www.grandronde.org/services/natural-resources/ 3. https://ctsi.nsn.us/ 4. https://ctuir.org/departments/natural-resources/ 5. https://warmsprings-nsn.gov/tribal-programs/natural-resources/			

IV.J.1.1 Important or Significant Scenic Resources in the Analysis Area

The Department accessed and Council reviewed the applicable portions of the plans listed in Table 20 above, and consistent with the applicant's evaluation in ASC Exhibit R, ~~recommends~~ the Council finds that the facility will have no impact on any important or significant scenic resources within the analysis area.

IV.J.2. Conclusion of Law

Based on the foregoing findings of fact, ~~the Department recommends~~ the Council concludes that the design, construction, and operation of the proposed facility would not be likely to result in significant adverse impacts to any scenic resource identified as significant or important in a local, tribal, or federal land or resource management plan, in compliance with Council's Scenic Resources standard.

IV.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 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.

IV.K.1. Findings of Fact

Resources protected under the Historic, Cultural, and Archaeological Resources standard include archeological sites (ORS 358.905(1)(c)), archeological objects (ORS 358.905(1)(a)) and any historic,

1 cultural or archeological resource listed or likely eligible for listing in the National Register of
2 Historic Places (NRHP). Information concerning the location of archaeological sites or objects may
3 be exempt from public disclosure under ORS 192.355(4) or 192.345(11).¹⁶⁸

4
5 The project order defines the analysis area for direct impacts to archeologic sites and objects is
6 the area within the site boundary.¹⁶⁹ As discussed in Section III.B., of this order, the applicant
7 proposes a solar microsite area which is the location where surveys were conducted, and where
8 all facility components would be located; ASC Exhibit S refers to this area as the direct analysis
9 area. For indirect impacts to historic aboveground/built resources, including Traditional Cultural
10 Properties (TCPs) or Historic Properties of Religions and Cultural Significance to Indian Tribes
11 (HPRCSITs), the analysis area is the area within and extending 1 mile from the site boundary. The
12 entire area within the site boundary is located on private land.¹⁷⁰ The Legislative Commission on
13 Indian Services (LCIS) identified the Confederated Tribes of the Umatilla Indian Reservation
14 (CTUIR), Confederated Tribes of the Warm Springs Reservation of Oregon (CTWSRO), the Burns
15 Paiute Tribe, the Confederated Tribes of Grand Ronde (CTGR); and the Confederated Tribes of
16 Siletz Indians (Siletz), as Tribes that could be potentially affected by the construction and
17 operation of the proposed facility.

18 19 *Discovery Measures and Tribal Coordination*

20
21 The applicant contracted with Historic Research Associates, Inc. (HRA) to conduct the literature
22 review, archeological field surveys, above ground historic assessment, and prepare the associated
23 technical reports. Different discovery measures apply to the investigation of archeological sites,
24 archeological objects, aboveground/built historic resources and tribal resources. For all these
25 resource types, an initial inventory was completed through literature/database review. The
26 following databases and resources were reviewed to identify previous surveys and recorded
27 resources within the analysis area:¹⁷¹

- 28
- 29 • SHPO's Oregon Archeological Records Remote Access
- 30 • SHPO's Oregon Historic Sites Database
- 31 • Wasco County tax assessor's office maps and data
- 32 • Historic maps and aerial photographs
- 33

¹⁶⁸ On September 5, 2025, the applicant submitted the ASC with Exhibit S support materials identified under
confidential cover letter. On September 22, 2025, the Department sent a cover letter to the applicant confirming
receipt and handling of confidential materials. YRBAppDoc18 ASC Confidential Receipt Confirmation Letter 2025-09-
22

¹⁶⁹ YRBNOIDoc42 SIGNED Project Order w Attachments 2024-01-26.

¹⁷⁰ OAR 345-022-0090(1)(c) is not applicable to this facility.

¹⁷¹ Applicant's analysis evaluated architectural resources that are 45 years of age or older, applying a timeframe
buffer using the federal definition for archaeological sites (a resource 50 years or older), rather than Oregon
guidelines for such resources (abandoned for 75 years). The federal definition is more conservative and encompasses
sites that would meet the state definition.

On July 11, 2023 and August 28, 2023, the applicant initiated coordination with Tribes identified by LCIS. HRA applied and obtained an Archaeological Permit (AP)-3738 from SHPO to delineate archaeological resources with shovel probes. When SHPO reviews an AP, it sends the AP to affected Tribes to review, comment, and provide applicable conditions. On August 28, 2023, HRA notified CTGR, CTWSRO, CTUIR, Siletz, and Burns Paiute of the planned shovel probe fieldwork to be conducted under AP-3738 and offered to host a field visit and/or the opportunity to monitor HRA's work or provide a paid field technician position. On September 28, 2023, HRA emailed the Tribes to notify them the fieldwork surveys were complete and to seek feedback. The applicant received feedback from CTWSRO, CTGR, and CTUIR. In its comments on the NOI, the CTUIR states that the project is outside the CTUIR's area of interest and that they will defer to CTWSRO.¹⁷²

On July 12, 2023, HRA architectural historian used information gathered during the background and literature review to conduct a compliance level survey of the analysis area to document historic resources. In July 2023 qualified archaeologists from HRA conducted cultural resource field surveys for 7,010 acres within the direct analysis area only (the solar microsite area).¹⁷³ Archaeological surveys were conducted and recorded in accordance with SHPO's Guidelines for Conducting Field Archaeology in Oregon.¹⁷⁴ During the surveys, shovel probes were excavated to determine the boundaries of archaeological sites and isolated finds to also ensure that subsurface deposits did not extend farther horizontally than the surface artifacts. Delineation probes were dug at resources that appeared to have potential to contain subsurface deposits, such as lithic scatters and certain historical debris scatters; this included previously recorded sites and newly identified resources. Probes were not dug at the periphery of precontact rock features or historic period rock piles to avoid damage to resources, as is preferred by Tribes.¹⁷⁵

As discussed in Section III.B., the applicant proposes an 8,075-acre site boundary, which includes the 7,026 solar microsite area and the proposed 4.5-mile alternative transmission line corridor

¹⁷² YRBNOIDoc22 CTUIR Response to NOI 2023-10-13.

¹⁷³ The proposed alternative 4.5-mile transmission line corridor was not surveyed for cultural resources, Recommended Cultural and Archaeological Resources Condition 1, in this section addresses field surveys that would need to be conducted if the transmission line alternative is selected for construction.

¹⁷⁴ Guidelines for Conducting Field Archaeology in Oregon 2013 (Minor Revision January 2016), states, "In general terms, an Archaeological Site is defined as:

A) Ten or more artifacts (including debitage) likely to have been generated by patterned cultural activity within a surface area reasonable to that activity."

<https://www.oregon.gov/oprd/OH/Documents/FieldGuidelines.pdf> Page 9 of 153. Accessed by Department 10-18-2024. However, in 2023, SHPO added a "Updating the Archaeological Field Guidelines Placeholder," indicating their position that an area with two or more objects (artifacts), would be considered an archaeological site. As of the date of this order, SHPO has not formalized its Placeholder in the Guidelines, the applicant and its consultant nevertheless conducted their surveys and reporting consistent with the Placeholder interpretation.

¹⁷⁵ Probes were not dug at the periphery of other features (such as structural remains or fence jacks) where no other artifacts were visible, locations of farm equipment, or at resource locations where the project determined there would be no nearby project impacts/ground disturbances due to existing conditions that are not suitable for construction, such as along drainages or slopes greater than 10 percent. (Confidential) Cultural Resources Investigations for the Yellow Rosebush Energy Facility, Wasco County, Oregon SHPO AP-3738 SHPO Case Number 23-1821, December 2023. Arch Blt Rpt_3696_Yellow_Rosebush_2023_SHPO_Reduced

to connect to the alternative POI. The applicant anticipates using the primary POI/transmission line. The applicant may need to use the alternative transmission line corridor, but did not complete field surveys for cultural and archeological resources for that area. Therefore, if the applicant needs to construct and operate the alternative 4.5-mile transmission line, the applicant must conduct cultural and archeological resource surveys and generate applicable technical reports for that area and submit them to SHPO, Tribes and the Department prior to construction. To require this step and review, the ~~Department recommends~~Council imposes the following condition:

~~Recommended~~ **Historic, Cultural, and Archaeological Resources Condition 1 (PRE):** Prior to construction activities associated with the alternate POI, if part of final facility design, the certificate holder shall complete cultural and archeological field surveys within the direct analysis area. If any NRHP eligible or unevaluated resources are identified and cannot be avoided, certificate holder must submit an Amendment Determination Request to the Department for a determination on whether the impacts and mitigation must be reviewed by Council through the site certificate amendment process.
[PRE-HC-01; Final Order on ASC]

IV.K.1.1 Historic and Cultural Resources in the Analysis Area

Desktop and field surveys conducted within the micrositings area identified a total of 90 cultural resources, including 64 archaeological sites, two built environment resources, two sites with both archaeological and built environment components, and 22 isolates. Records review and site visits of the area within 1 mile of the site boundary identified 14 built environment and/or potential built environment resources. These resources are presented in Table 21 below. A total of 51 resources in the direct analysis area (27 archaeological sites, 1 archaeological/built environment resource, 2 built environment resources, and 21 isolates) have been recommended not eligible for listing in the NRHP. The remaining 39 resources in the direct analysis area (38 archaeological sites and 1 isolate) are unevaluated for NRHP-listing.

Table 21 includes the resource description, the applicant's recommendations and SHPO concurrence for eligibility and management recommendations and the Department review of the materials. Resources SHPO concurred that are not eligible for listing in the NRHP are highlighted in grey. A discussion of the SHPO, applicant and ~~Department~~Council's review, eligibility determinations, impact assessment, and management recommendations are provided below the table; however, Table 21 reflects the updated analysis and conclusions from the review of the pASC/ASC.

Table 21: Historic, Cultural and Archeological Resources within Analysis Area, NRHP Eligibility, and Management Recommendation

Resource ID	Description	NRHP Eligibility Recommendation (HRA)	Management Recommendation (HRA; SHPO; Department)	Impact Area	OAR 345-022-0090: (A)/(B)	Intersects Facility Design Footprint (Yes/No)?	Nearest Distance to Facility Design (meters)	Nearest Distance to Facility Design (feet)
Archaeological Sites								
35WS455	Pre-Contact Lithic Scatter	Unevaluated	Avoidance (10 meters)	Direct	A, B	No	105	344
35WS782	Historic Homestead	Unevaluated	Avoidance (10 meters)	Direct	A, B	No	32	105
3696-A1	Historic Rock Pile Complex	Not Eligible	No further work needed.	Direct	B	Yes	0	0
3696-A2	Historic Rock Pile Complex	Not Eligible	No further work needed.	Direct	B	Yes	0	0
3696-A3	Historic Rock Pile Complex	Not Eligible	No further work needed.	Direct	B	Yes	0	0
3696-A4	Historic Rock Pile Complex	Not Eligible	No further work needed.	Direct	B	Yes	0	0
3696-E100	Historic Homestead	Unevaluated	Avoidance (10 meters)	Direct	A, B	No	11	37
3696-E103	Historic Fence Jacks	Not Eligible	No further work needed.	Direct	B	No	57	188
3696-E110	Pre-Contact Lithic Scatter	Unevaluated	Avoidance (30 meters)	Direct	A, B	No	29	96
3696-E125	Historic Debris Scatter	Unevaluated	Avoidance (10 meters)	Direct	A, B	No	14	45
3696-E127	Historic Debris Scatter	Unevaluated	Avoidance (30 meters)	Direct	A, B	No	31	100
3696-E130	Pre-Contact Stacked Rock Feature	Unevaluated	Avoidance (10 meters)	Direct	A, B	No	16	52
3696-E18	Pre-Contact Lithic Scatter	Unevaluated	Avoidance (30 meters)	Direct	A, B	No	241	790
3696-E24	Pre-Contact Stacked Rock Feature	Unevaluated	Avoidance (10 meters)	Direct	A, B	No	17	54
3696-E27	Historic Fence Jacks	Not Eligible	No further work needed.	Direct	B	Yes	0	0
3696-E30	Historic Fence Jacks	Not Eligible	No further work needed.	Direct	B	No	36	119
3696-E32	Pre-Contact Lithic Scatter	Unevaluated	Avoidance (10 meters)	Direct	A, B	No	17	57
3696-E41	Historic Debris Scatter	Unevaluated	Avoidance (10 meters)	Direct	A, B	No	51	167
3696-E42	Historic Fence Jacks	Not Eligible	No further work needed.	Direct	B	Yes	0	0
3696-E5	Historic Collapsed Building Remains (likely an agricultural outbuilding)	Not Eligible	No further work needed.	Direct	B	Yes	0	0
3696-E7	Historic Debris Scatter	Unevaluated	Avoidance (10 meters)	Direct	A, B	No	47	153
3696-E73	Historic Fence Jacks	Not Eligible	No further work needed.	Direct	B	No	9	30
3696-E86	Pre-Contact Lithic Scatter	Unevaluated	Avoidance (30 meters)	Direct	A, B	No	309	1,014
3696-E87	Pre-Contact Lithic Scatter & Stacked Rock Feature	Unevaluated	Avoidance (30 meters)	Direct	A, B	No	523	1,715
3696-E89	Pre-Contact Lithic Scatter	Unevaluated	Avoidance (30 meters)	Direct	A, B	No	715	2,347

Table 21: Historic, Cultural and Archeological Resources within Analysis Area, NRHP Eligibility, and Management Recommendation

Resource ID	Description	NRHP Eligibility Recommendation (HRA)	Management Recommendation (HRA; SHPO; Department)	Impact Area	OAR 345-022-0090: (A)/(B)	Intersects Facility Design Footprint (Yes/No)?	Nearest Distance to Facility Design (meters)	Nearest Distance to Facility Design (feet)
3696-E90	Pre-Contact Lithic Scatter	Unevaluated	Avoidance (30 meters)	Direct	A, B	No	841	2,759
3696-E93	Historic Structural Remains & Debris Scatter	Unevaluated	Avoidance (30 meters)	Direct	A, B	No	306	1,005
3696-J112	Pre-Contact Stacked Rock Feature	Unevaluated	Avoidance (10 meters)	Direct	A, B	No	12	38
3696-J118	Pre-Contact Lithic Scatter	Unevaluated	Avoidance (10 meters)	Direct	A, B	No	564	1,850
3696-J129	Multicomponent Historic Debris Scatter & Pre-Contact Lithic Artifact	Unevaluated	Avoidance (10 meters)	Direct	A, B	No	10	34
3696-J13	Historic Debris Scatter	Not Eligible	No further work needed.	Direct	B	Yes	0	0
3696-J133	Historic Fence Jacks and Farm Equipment	Not Eligible	No further work needed.	Direct	B	Yes	0	0
3696-J66	Historic Debris Scatter	Unevaluated	Avoidance (10 meters)	Direct	A, B	No	13	43
3696-J76	Historic Fence Jacks	Not Eligible	No further work needed.	Direct	B	Yes	0	0
3696-J89	Historic Debris Scatter	Unevaluated	Avoidance (10 meters)	Direct	A, B	No	10	34
3696-J93	Historic Fence Jacks	Not Eligible	No further work needed.	Direct	B	No	34	111
3696-S113	Pre-Contact Stacked Rock Feature	Unevaluated	Avoidance (10 meters)	Direct	A, B	No	130	426
3696-S114	Historic Structural Remains	Unevaluated	Avoidance (30 meters)	Direct	A, B	No	103	337
3696-S123	Historic Fence Jacks	Not Eligible	No further work needed.	Direct	B	Yes	0	0
3696-S131	Pre-Contact Lithic Scatter	Unevaluated	Avoidance (10 meters)	Direct	A, B	No	40	133
3696-S148	Historic Debris Scatter	Unevaluated	Avoidance (10 meters)	Direct	A, B	No	11	35
3696-S15	Historic Debris Scatter	Unevaluated	Avoidance (10 meters)	Direct	A, B	No	197	646
3696-S159	Historic Fence Jacks	Not Eligible	No further work needed.	Direct	B	Yes	0	0
3696-S16	Historic Homestead	Unevaluated	Avoidance (10 meters)	Direct	A, B	No	43	140
3696-S168	Historic Farm Equipment	Not Eligible	No further work needed.	Direct	B	Yes	0	0
3696-S17	Historic Debris Scatter (5 artifacts)	Not Eligible	No further work needed.	Direct	B	No	139	455
3696-S170	Historic Fence Jacks	Not Eligible	No further work needed.	Direct	B	Yes	0	0
3696-S171	Historic Debris Scatter	Unevaluated	Avoidance (10 meters)	Direct	A, B	No	11	35
3696-S18	Historic Rock Wall	Not Eligible	No further work needed.	Direct	B	No	125	409
3696-S186	Historic Fence Jacks	Not Eligible	No further work needed.	Direct	B	No	70	228
3696-S3	Historic Well & Debris Scatter	Unevaluated	Avoidance (10 meters)	Direct	A, B	No	30	97

Table 21: Historic, Cultural and Archeological Resources within Analysis Area, NRHP Eligibility, and Management Recommendation

Resource ID	Description	NRHP Eligibility Recommendation (HRA)	Management Recommendation (HRA; SHPO; Department)	Impact Area	OAR 345-022-0090: (A)/(B)	Intersects Facility Design Footprint (Yes/No)?	Nearest Distance to Facility Design (meters)	Nearest Distance to Facility Design (feet)
3696-S40	Historic Fence Jacks	Not Eligible	No further work needed.	Direct	B	Yes	0	0
3696-S47	Historic Earthen Berms/Dams	Not Eligible	No further work needed.	Direct	B	No	38	124
3696-S55	Pre-Contact Stacked Rock Feature	Unevaluated	Avoidance (10 meters)	Direct	A, B	No	11	36
3696-S58	Historic Well	Not Eligible	No further work needed.	Direct	B	No	25	81
3696-S59	Historic Farm Equipment	Not Eligible	No further work needed.	Direct	B	Yes	0	0
3696-S67	Multicomponent Historic Debris Scatter & Pre-Contact Lithic Artifact	Unevaluated	Avoidance (10 meters)	Direct	A, B	No	38	124
3696-S68	Pre-Contact Stacked Rock Feature	Unevaluated	Avoidance (10 meters)	Direct	A, B	No	39	127
3696-S69	Pre-Contact Stacked Rock Feature	Unevaluated	Avoidance (10 meters)	Direct	A, B	No	63	206
3696-S70	Pre-Contact Stacked Rock Feature	Unevaluated	Avoidance (10 meters)	Direct	A, B	No	11	36
3696-S71	Pre-Contact Stacked Rock Feature	Unevaluated	Avoidance (10 meters)	Direct	A, B	No	14	45
3696-S83	Historic Structural Remains	Unevaluated	Avoidance (10 meters)	Direct	A, B	No	55	181
3696-S84	Historic Fence Jacks	Not Eligible	No further work needed.	Direct	B	Yes	0	0
3696-S86	Historic Fence Jacks	Not Eligible	No further work needed.	Direct	B	Yes	0	0
Built Environment Resources								
90800 Wilson Road (Parcel ID 05S16E000100000)	Historic Agricultural Complex	Not Eligible	No further work needed.	Direct	None	Yes	0	0
91171 Bakeoven Road (Parcel ID 05S16E000130000)	Historic Agricultural Complex	Not Eligible	No further work needed.	Direct	None	No	108	353
Ashe-Marion No. 2 Transmission Line	Transmission Line	Not Assessed	No further work needed.	Indirect	A	No	129	424
Buckley-Grizzly No. 1 Transmission Line	Transmission Line	Not Assessed	No further work needed.	Indirect	A	No	9	31

Table 21: Historic, Cultural and Archeological Resources within Analysis Area, NRHP Eligibility, and Management Recommendation

Resource ID	Description	NRHP Eligibility Recommendation (HRA)	Management Recommendation (HRA; SHPO; Department)	Impact Area	OAR 345-022-0090: (A)/(B)	Intersects Facility Design Footprint (Yes/No)?	Nearest Distance to Facility Design (meters)	Nearest Distance to Facility Design (feet)
Buckley-Marion No. 1 Transmission Line	Transmission Line	Not Assessed	No further work needed.	Indirect	A	No	142	465
John Day-Grizzly No. 1 Transmission Line	Historic Transmission Line	Eligible	No adverse impact. No further work needed.	Indirect	A	No	86	281
John Day-Grizzly No. 2 Transmission Line	Historic Transmission Line	Eligible	No adverse impact. No further work needed.	Indirect	A	No	40	131
Jones Canyon-Santiam No. 1 Transmission Line	Historic Transmission Line	Eligible	No further work needed.	Indirect	A	No	156	510
Slatt-Buckley No. 1 Transmission Line	Transmission Line	Unevaluated	No further work needed.	Indirect	A	No	98	321
Built Environment Resources								
89881 Bakeoven Road (Parcel ID 05S15E000010000)	Historic-period Building	Not Eligible	No further work needed.	Indirect	A	No	747	2,450
90380 Bakeoven Market Road (Parcel ID 05S15E01100)	Historic-period Building	Unevaluated/ potentially eligible under Criteria A and/or C	No further work needed.	Indirect	A	No	595	1,953
90440 Bakeoven Market Road (Parcel ID 05S15E01100)	Historic-period Building	Unevaluated/ potentially eligible under Criteria A and/or C	No further work needed.	Indirect	A	No	611	2,004
90530 Bakeoven Road (Parcel ID 05S16E000120100)	Historic-period Building	Not Eligible	No further work needed.	Indirect	A	No	626	2,053
90703-91443 Hinton Road (Parcel ID 05S16E03300)	Historic-period Building	Not Eligible	No further work needed.	Indirect	A	No	1,035	3,397
92775 Hinton Road (Parcel ID 05S16E00006000)	Historic-period Building	Unevaluated/ potentially eligible under Criteria A and/or C	No further work needed.	Indirect	A	No	1,225	4,019

Table 21: Historic, Cultural and Archeological Resources within Analysis Area, NRHP Eligibility, and Management Recommendation

Resource ID	Description	NRHP Eligibility Recommendation (HRA)	Management Recommendation (HRA; SHPO; Department)	Impact Area	OAR 345-022-0090: (A)/(B)	Intersects Facility Design Footprint (Yes/No)?	Nearest Distance to Facility Design (meters)	Nearest Distance to Facility Design (feet)
No address found	Historic-period Building	Unevaluated	No further work needed.	Indirect	A	No	909	2,983
Archaeological & Built Environment Resources								
3696-E31	Historic-period Homestead & Building	Unevaluated (Archaeological Component)/Not Eligible (Built Environment Component)	Avoidance (30 meters)	Direct	A, B	No	151	495
3696-S9	Historic-period Brick Structure and Debris	Not Eligible	No further work needed.	Direct	B	Yes	0	0
Isolates								
3696-E111i	Historic Farm Equipment	Not Eligible	No further work needed.	Direct	None	Yes	0	0
3696-E116i	Historic Farm Equipment	Not Eligible	No further work needed.	Direct	None	Yes	0	0
3696-E1i	Historic Farm Equipment	Not Eligible	No further work needed.	Direct	None	Yes	0	0
3696-E28i	Historic Farm Equipment	Not Eligible	No further work needed.	Direct	None	Yes	0	0
3696-E2i	Historic Farm Equipment	Not Eligible	No further work needed.	Direct	None	Yes	0	0
3696-E3i	Historic Farm Equipment	Not Eligible	No further work needed.	Direct	None	Yes	0	0
3696-E44i	Historic Glass Bottle	Not Eligible	No further work needed.	Direct	None	Yes	0	0
3696-E48i	Pre-Contact Flake	Not Eligible	No further work needed.	Direct	None	No	47	153
3696-E49i	Historic Metal Gear	Not Eligible	No further work needed.	Direct	None	No	54	178
3696-E64i	Historic Metal Can	Not Eligible	No further work needed.	Direct	None	Yes	0	0
3696-E88i	Pre-Contact Lithic Artifact	Unevaluated	Avoidance (30 meters)	Direct	A, B	No	662	2,170
3696-E8i	Historic Glass Bottle	Not Eligible	No further work needed.	Direct	None	Yes	0	0
3696-J110i	Historic Glass Liner	Not Eligible	No further work needed.	Direct	None	No	363	1,193
3696-J16i	Historic Glass Bottle	Not Eligible	No further work needed.	Direct	None	Yes	0	0
3696-J24i	Historic Glass Fragment	Not Eligible	No further work needed.	Direct	None	Yes	0	0
3696-J7i	Pre-Contact Flake	Not Eligible	No further work needed.	Direct	None	Yes	0	0
3696-J82i	Historic Glass Bottle	Not Eligible	No further work needed.	Direct	None	Yes	0	0
3696-S104i	Pre-Contact Flake	Not Eligible	No further work needed.	Direct	None	Yes	0	0
3696-S125i	Pre-Contact Flake	Not Eligible	No further work needed.	Direct	None	Yes	0	0
3696-S134i	Historic Metal Can	Not Eligible	No further work needed.	Direct	None	Yes	0	0
3696-S145i	Historic Farm Equipment	Not Eligible	No further work needed.	Direct	None	Yes	0	0

Table 21: Historic, Cultural and Archeological Resources within Analysis Area, NRHP Eligibility, and Management Recommendation

Resource ID	Description	NRHP Eligibility Recommendation (HRA)	Management Recommendation (HRA; SHPO; Department)	Impact Area	OAR 345-022-0090: (A)/(B)	Intersects Facility Design Footprint (Yes/No)?	Nearest Distance to Facility Design (meters)	Nearest Distance to Facility Design (feet)
3696-S180i	Historic Glass Bottle	Not Eligible	No further work needed.	Direct	None	No	331	1,085

NRHP Eligibility and Impact Assessment under OAR 345-022-0090(1)(a)

The applicant submitted the December 2023 Archaeological Technical Report to SHPO in advance of submitting the pASC to the Department and received the SHPO submission confirmation and case number.¹⁷⁶ In February 2025, the applicant indicated that the Architectural Survey (Above Ground Historic Assessment) was prepared and finalized. On February 26, 2025, the Department provided its review cover letter to HRA, for HRA to submit with the Above Ground Historic Assessment. In the cover letter the Department provided the contents in Table 21 above and requested SHPO review and concur or otherwise on resources that are recommended as not eligible (or not likely eligible), as these resources may be impacted by the facility. On March 31, 2025, SHPO provided a comment letter that:¹⁷⁷

- Concurred with the determination that 49 of the archaeological resources identified are not eligible for listing in the NRHP;
- Concurred that the 3 transmission lines (Grizzly Nos 1, and 2, and Jones Canyon-Santiam No. 1) are eligible for listing in the NRHP, and there will be no adverse effect to the three transmission lines from the facility.
- Concurred that five of the seven agricultural properties (89881 Bakeoven Rd, 90530 Bakeoven Rd, 91443 Hinton Rd, 90800 Wilson Road, and 91171 Bakeoven Road) are not eligible for listing in the NRHP and the undertaking will not have an effect to these resources.
- Did not concur that Parcel 05S15E01100 (90440 Bakeoven Market Road) and Parcel 05S16E00006000 (92775 Hinton Road) are not eligible for listing in the NRHP because there was not enough information to sufficiently evaluate the significance of these properties being eligible under Criterion A and/or Criterion C. SHPO indicated that both the parcels retain sufficient resources from the era of decline discussed in the local context and either could have significance as a historic district reflective of that period.
- Requested a visual effects assessment for all eligible built resources and the 39 archaeological unevaluated cultural resources within the project area.

On July 22, 2025, HRA provided a response memo that outlined the methods and limitations associated with providing a visual assessment for the two identified built properties (90440 Bakeoven Market Road, 92775 Hinton Road) and the 39 unevaluated archaeological resources.¹⁷⁸ A summary and the Department's assessment and Council's review of the regulatory nexus, methodologies and limitations of NRHP criteria evaluation are provided below.

Regulatory Nexus, Methods and Limitations:

Council's standard under OAR 345-022-0090 applies to historic, cultural or archaeological resources that have been listed on, or would likely be listed on the NRHP. The standard does

¹⁷⁶ SHPO Case No. 23-1821.

¹⁷⁷ YRBAPPDoc26 pASC Reviewing Agency Comment SHPO_Kemmerlin 2025-03-31.

¹⁷⁸ YRBAPP pASC HRA 3696 Visual Impacts Memo 2025-07-22. Confidential.

not describe which impacts are to be evaluated and it does not prescribe specific methodologies for an impact assessment. However, because sub (a) of the standard cites to listing or likelihood of listing (eligibility) on the NRHP, the Department, Council, consultants, and SHPO rely on the *National Register Bulletin: How to Apply the National Register Criteria for Evaluation* for the NRHP criteria and NRHP evaluation methodologies to evaluate eligibility of resources potentially impacted by the facility. To determine which resources are protected under the standard, the NRHP criteria and methodologies are applied to archaeological resources within the site boundary and to built resources within one mile of the site boundary.¹⁷⁹ The ~~Department Council~~ and historic and archeological consultants understand that SHPO requests and requires a full evaluation for each resource under each of the four NRHP criteria.

The following is a discussion of the limitations with the ability for applicants and their consultants to be able to provide a full evaluation for resources under each NRHP criteria.

For a property to qualify for the National Register it must meet one of the National Register Criteria by:

- Being associated with an important historic context and
- Retaining historic integrity of those features necessary to convey its significance.

The NRHP criteria are applied to resources and, assuming the resources meet one or more of the NRHP criteria, the properties are assessed for seven aspects of integrity (location, design, setting, materials, workmanship, feeling, and association)The aspects of integrity that are most important for any given resource depend on under which criteria the resource is significant. The steps in assessing integrity are:¹⁸⁰

- Define the essential physical features that must be present for a property to represent its significance.
- Determine whether the essential physical features are visible enough to convey their significance.
- Determine whether the property needs to be compared with similar properties. And,
- Determine, based on the significance and essential physical features, which aspects of integrity are particularly vital to the property being nominated and if they are present.

¹⁷⁹ NRHP Criteria for Evaluation: The quality of significance in American history, architecture, archeology, engineering, and culture is present in districts, sites, buildings, structures, and objects that possess integrity of location, design, setting, materials, workmanship, feeling, and association, and:

A. That are associated with events that have made a significant contribution to the broad patterns of our history; or

B. That are associated with the lives of persons significant in our past; or

C. That embody the distinctive characteristics of a type, period, or method of construction, or that represent the work of a master, or that possess high artistic values, or that represent a significant and distinguishable entity whose components may lack individual distinction; or

D. That have yielded or may be likely to yield, information important in prehistory or history.

https://www.nps.gov/subjects/nationalregister/upload/NRB-15_web508.pdf

¹⁸⁰ *Id.*

1
2 Because all properties change over time, it is not necessary for a property to retain all its
3 historic physical features or characteristics, however, the property must retain essential
4 physical features that enable it to convey its historic identity. For properties eligible under
5 Criterion D (properties that yielded or may be likely to yield, information important in
6 prehistory or history), including archeological sites and built resources studied for their
7 information potential, less attention is given to their overall condition, than if they were being
8 considered under Criteria A, B, or C. Archeological sites, in particular, do not exist today exactly
9 as they were formed. There are always cultural and natural processes that alter the deposited
10 materials and their spatial relationships. For properties eligible under Criterion D, integrity is
11 based upon the property's potential to yield specific data that addresses important research
12 questions.¹⁸¹

13
14 SHPO's 2016 guidelines for Conducting Field Archaeology in Oregon outline recommended field
15 methods for shovel probing and excavating archaeological sites to be able to gather sufficient
16 information to establish the criteria under which the resource is significant and its aspect(s) of
17 integrity.¹⁸² However, the ~~Department Council~~ is aware that it is the preference of potentially-
18 impacted Tribes that pre-contact sites are left intact, not excavated or disrupted with shovel
19 probes or excavations. It is also common for there to be information gaps for archaeological
20 resources or a TCP/ HPRCSIT, so that it is difficult to determine under which criteria a resource
21 is significant and if it retains integrity. In these scenarios, SHPO and Council have accepted a
22 resource-designation of "unevaluated." Unevaluated resources are treated as "eligible," and
23 direct impacts are either avoided or are assessed and mitigated. Unevaluated does not mean
24 that the resource has not been evaluated; rather, it means that there is not sufficient
25 information available to fully evaluate the resource under each of the NRHP criteria, usually
26 from lack of access, lack of available information, or preferences of Tribes to not excavate sites.
27 The ~~Department Council~~ emphasizes that the use of "unevaluated" is sufficient to make
28 assumptions for resource eligibility, avoidance, and/or mitigation where additional information
29 is not available. However, resources must still be evaluated under each NRHP criterion, which
30 includes a discussion of limitations and assumptions where information is lacking or not
31 available.¹⁸³

32
33 In its March 2025 comment letter, SHPO appears to rely upon 36 Code of Federal Regulations
34 (CFR)Part 800.5(a)(1) which described the assessment of adverse effects to listed or eligible
35 resources and defines an adverse effect as one that alters any characteristic of a historic
36 property in a manner that would diminish the integrity of the property's location, design,

¹⁸¹ https://www.nps.gov/subjects/nationalregister/upload/NRB-15_web508.pdf VIII. HOW TO EVALUATE THE
INTEGRITY OF A PROPERTY

¹⁸² <https://www.oregon.gov/oprd/OH/Documents/FieldGuidelines.pdf>

¹⁸³ The designation of "unevaluated" can apply to archeological resources for the reasons discussed above,
however, it is the position by historians and SHPO, that this designation is not applied to built resources.

1 setting, materials, workmanship, feeling, or association.¹⁸⁴ The subject properties and resources
2 are not listed as “historic properties,” nor is the proposed facility a federal undertaking, nor is it
3 located on federal land. Further, Council’s standard considers that taking into account
4 mitigation, it is not likely that the facility would result in significant adverse impacts to
5 resources protected under the standard.^{185,186} Therefore, because of the lack of federal nexus
6 and inapplicability of CFRs, and the existence of Council definitions, the Department-Council
7 relies upon Council’s definitions and standard rather than federal CFRs and updated NPS
8 National Bulletins to evaluate potential impacts of the facility and any necessary mitigation to
9 reduce a significant adverse impact to less than significant.

10
11 On August 25, 2025, the Department provided a cover letter to HRA for HRA to submit to SHPO
12 with its July response memo. The cover letter summarized the conclusions of HRA’s response
13 memo, mainly that the memo questioned the regulatory basis for the request for a visual
14 impact assessment but nevertheless provides a visual impact assessment based on an
15 expanded discussion of each of the criterion for Parcel 05S15E01100, Parcel 05S16E00006000,
16 and the 39 unevaluated archeological resources within the microsite area. HRA concluded
17 that there would not be significant adverse visual impacts to Parcel 05S15E01100 and Parcel
18 05S16E00006000 due to topography and (lack of) proximity of the facility to the built resources.
19 Of the 39 unevaluated archeological features nine are stacked rock features that may
20 experience a visual impact. HRA provided a discussion of the assumptions and limitations of
21 available information and recommended that the nine Precontact Stacked Rock Feature Sites
22 are eligible for listing in the NRHP under Criterion A, but not Criteria B, C, or D, because given
23 their very nature, the sites cannot specifically be associated with an important person in history
24 (Criterion B); their limited form(s) do not demonstrate distinctive characteristics of a method of
25 construction or type/period of construction (Criterion C) or, other than their location, and
26 because of the lack of available information, provide data or data potential (Criterion D). For

¹⁸⁴ In the March 2025 comment letter, SHPO does not cite applicable state or federal rules statutes, or codes. The Department and SHPO held calls on April 25 and August 22, 2025 to coordinate and better understand SHPOs comment letter and regulatory basis for its request. As of the date of this order, the Department did not receive any additional feedback.

¹⁸⁵ OAR 345-001-0010(22) “Mitigation” means taking one or more of the following actions listed in order of priority:

- (a) Avoiding the impact altogether by not taking a certain action or parts of an action;
- (b) Minimizing impacts by limiting the degree or magnitude of the action and its implementation;
- (c) Partially or completely rectifying the impact by repairing, rehabilitating or restoring the affected environment;
- (d) Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action by monitoring and taking appropriate corrective measures;
- (e) Partially or completely compensating for the impact by replacing or providing comparable substitute resources or environments; or
- (f) Implementing other measures approved by the Council.

¹⁸⁶ OAR 345-001-0010(29) “Significant” means having an important consequence, either alone or in combination with other factors, based upon the magnitude and likelihood of the impact on the affected human population or natural resources, or on the importance of the natural resource affected, considering the context of the action or impact, its intensity and the degree to which possible impacts are caused by the proposed action. Nothing in this definition is intended to require a statistical analysis of the magnitude or likelihood of a particular impact.

the remaining 30 archeological resources, HRA recommended a finding of no adverse visual impact.

The Department's cover letter to SHPO states that the proposal to avoid direct impacts to all unevaluated resources with a 10-30-meter buffer is consistent with the Council's definition of mitigation and OAR 345-022-0090. The resources would be protected and preserved within the gated fence line for the facility, which limits access from the public and potential future adverse impact and is consistent with SHPOs definitions of mitigation.¹⁸⁷ The Department and Council consider the recordation conducted for the evaluation of a facility (within technical reports and SHPO databases), when paired with avoidance for NRHP eligible or listed resources, as sufficient for resolving/mitigating any potential adverse impacts from a facility.

On September 2, 2025, the same cover letter and HRA response memo was submitted to CTWS. The Department and HRA followed up with CTWS after the information was submitted and have not received any comment.¹⁸⁸

To ensure that the unevaluated resources listed above in Table 21 are avoided and protected during construction and operation of the facility, the Department compiled the resources with avoidance buffers in Attachments S-2 to this order. The ~~Department recommends~~ Council imposes the following condition to ensure compliance with the avoidance areas during construction and operation of the facility:

~~Recommended~~ Historic, Cultural and Archeological Condition 2 (GEN): During construction and operation of the facility, the certificate holder shall design the facility and require all onsite employees and contractors to implement and adhere to the resource avoidance buffers identified in Attachment S-2 to the Final Order on ASC. [GEN-HC-01; Final Order on ASC]

Evaluation and Impact Assessment under OAR 345-022-0090(1)(b)

Under OAR 345-022-0090(1)(b), for a proposed facility located on private land, 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 archaeological objects, as defined in ORS 358.905(1)(a)¹⁸⁹, or archaeological sites, as defined in 358.905(1)(c).¹⁹⁰

¹⁸⁷ <https://www.oregon.gov/oprd/OH/Documents/FieldGuidelines.pdf>, page 58 of 153.

¹⁸⁸ YRBAPP pASC ODOE CTWS Cover Letter Applicant Response to SHPO Comments 2025-08-29, and YRBAPPDoc12-2 ASC HRA Response Memo and ODOE Cover Letter Sent to CTWS 2025-08-29.

¹⁸⁹ ORS 358.905(1)(a) states "'Archaeological object' means an object that: (A) Is at least 75 years old; (B) Is part of the physical record of an indigenous or other culture found in the state or waters of the state; and (C) Is material remains of past human life or activity that are of archaeological significance including, but not limited to, monuments, symbols, tools, facilities, technological by-products and dietary by-products."

¹⁹⁰ ORS 358.905(1)(c) states "(A) 'Archaeological site' means a geographic locality in Oregon, including but not limited to submerged and submersible lands and the bed of the sea within the state's jurisdiction, that contains

NRHP-ineligible archaeological sites and objects are not considered significant archaeological resources as they do not meet NRHP-eligibility criteria. Ineligible resources cannot be significantly associated with the prominent historic themes, persons, or events that have been identified for the area, nor are they representative of a unique type, period, or method of construction. The evaluation conducted for NRHP eligibility supports the evaluation and conclusions under the state's definition of a "site of archaeological significance" under ORS 358.905(1)(b).¹⁹¹ Because these resources are not eligible for listing in the NRHP and cannot provide significant information pertaining to national or local prehistory or history, beyond that already documented in the associated survey reports, the resources would not be considered of "archaeological significance," and thus not protected under Council's standard. The ~~Department recommends~~Council finds that, based on this reasoning, impacts in NRHP-ineligible archaeological sites and objects protected by OAR 345-022-0090(1)(b) would not be considered significant impacts, no mitigation of these nonsignificant resources would be necessary, and the resources may be impacted. Further, if a resource was determined to be ineligible for listing on the NRHP but would be protected under OAR 345-022-0090(1)(b), the recordation and evaluation of NRHP status is sufficient mitigation for potential impacts to resources under the Council's standard.

Inadvertent Discovery Plan

The applicant includes a Draft Inadvertent Discovery Plan (IDP) in ASC Exhibit S as Attachment S-2, which is also attached to this order as Attachment K. The IDP outlines the procedures for inadvertent discoveries during construction or operation. The ~~Department recommends~~Council imposes Historic, Cultural, and Archaeological Resources Condition 3 to require that, prior to construction, the applicant submit to the Department the final IDP with the most current agency and tribal government contacts at the time as well as using the most current version of the SHPO template at that time. Further, to ensure that the IDP is implemented during construction and during any ground disturbing operational activities, the ~~Department recommends~~Council also imposes Historic, Cultural, and Archaeological Resources Conditions 4 and 5.

~~Recommended~~Historic, Cultural and Archeological Condition 3 (PRE): Prior to construction, the certificate holder shall update the contact information provided in the Final Order on ASC Attachment S, Inadvertent Discovery Plan.

archaeological objects and the contextual associations of the archaeological objects with: (i) Each other; or (ii) Biotic or geological remains or deposits. (B) Examples of archaeological sites described in subparagraph (A) of this paragraph include but are not limited to shipwrecks, lithic quarries, house pit villages, camps, burials, lithic scatters, homesteads and townsites.

¹⁹¹ ORS 358.905(1)(b): Site of archaeological significance" means:

(A)Any archaeological site on, or eligible for inclusion on, the National Register of Historic Places as determined in writing by the State Historic Preservation Officer; or

(B)Any archaeological site that has been determined significant in writing by an Indian tribe.

[PRE-HC-02; Final Order on ASC]

~~Recommended~~ **Historic, Cultural and Archeological Condition 4 (CON):** During construction, the certificate holder shall require all onsite employees and contractors to implement and adhere to the requirements of the Inadvertent Discovery Plan, as submitted to the Department under Condition PRE-HC-02.

[CON-HC-01; Final Order on ASC]

~~Recommended~~ **Historic, Cultural and Archeological Condition 5 (OPR):** During operations, the certificate holder shall require all onsite employees and contractors to implement and adhere to the requirements of the Inadvertent Discovery Plan, as provided in Condition PRE-HC-02. The IDP shall be reviewed and updated annually for current contact information.

[OPR-HC-01; Final Order on ASC]

IV.K.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 construction and operation of the facility is 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.

IV.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;

(b) The degree of demand;

(c) Outstanding or unusual qualities;

(d) Availability or rareness;

(e) Irreplaceability or irretrievability of the opportunity.¹⁹²

IV.L.1. Findings of Fact

The Recreation standard requires the Council to find that the design, construction and operation of a facility are not likely to result in significant adverse impacts to ‘important’ recreational opportunities. Therefore, the Recreation standard applies to only those recreation areas that the Council finds “important” using the factors listed in the sub-paragraphs of section (2) of the standard. The assessment of potential impacts to important recreational opportunities from the construction or operation of the facility includes an evaluation of direct or indirect loss of recreational opportunities, noise, increased traffic; and visual impacts of facility structures including but not limited to, changes in landscape character or quality.¹⁹³

The analysis area for impacts to recreational opportunities, as established in the Project Order, is the area within and extending 2-miles from the site boundary.¹⁹⁴

IV.L.1.1 Recreational Opportunities within the Analysis Area

Recreational opportunities within the analysis area were evaluated by reviewing the following sources:

- Geographic information system files documenting recreational resources obtained from key recreation provider agencies, e.g., the Bureau of Land Management (BLM), Oregon Department of Fish and Wildlife (ODFW), U.S. Forest Service, U.S. Geological Survey, and Oregon Parks and Recreation Department (OPRD);
- Land management agency planning documents;
- Comprehensive plans, park and recreation plans, and individual park master plans prepared by OPRD and by counties and municipal governments within the analysis area (Sherman County, Wasco County);
- Internet sites maintained by recreation provider agencies, including OPRD, ODFW, Oregon Department of Transportation (ODOT), and county and city park departments; and
- Internet sites maintained by various commercial entities, including sites providing general recreation and tourism information and sites applicable to specific private-sector recreation opportunities (Google Earth 2023).

Based on review of these sources, one potential recreational opportunity was identified within the analysis area, the Sage Canyon Outfitters.

Importance Assessment

¹⁹² Administrative Order EFSC 5-2022, effective December 19, 2022.

¹⁹³ OAR 345-021-0010(1)(t)(B).

¹⁹⁴ YRBNOIDoc42 SIGNED Project Order w Attachments 2024-01-26.

Sage Canyon Outfitters

Sage Canyon Outfitters are an upland bird hunting company located on 8,000 acres of private land, consisting of four hunting preserves. The company offers fee-based guided and non-guided hunting trips and lodging. Sage Canyon Outfitters are not managed under a state or local plan, nor has a special designation. Demand for the recreational opportunity is low, and based on public hunting opportunities in the region, should not be considered rare and is replaceable.

Council previously evaluated the potential of Sage Country Outfitters and found that it did not meet the definition of an important recreational opportunity under this standard¹⁹⁵. The ~~Department recommends that the~~ Council continues to find that the recreational opportunity not be considered “important” under Council’s standard.

Impact Assessment

There are no important recreational opportunities within the analysis area. Therefore, the proposed facility will not have any impacts under this standard.

IV.L.2. Conclusions of Law

Based on the foregoing ~~recommended~~ findings of fact, the ~~Department recommends that the~~ Council finds that the design, construction and operation of the proposed facility would not be likely to result in a significant adverse impact to any important recreational opportunities in the analysis area and therefore the proposed facility would comply with the Council’s Recreation standard.

IV.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 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. ***¹⁹⁶*

¹⁹⁵ BSPAPDoc2 Final Order 2020-04-24

¹⁹⁶ Administrative Order EFSC 1-2002, effective April 3, 2002

1 **IV.M.2. Findings of Fact**

2
3 The Council's Public Services standard requires the Council to find that the proposed facility is
4 not likely to result in significant adverse impacts on the ability of public and private service
5 providers to supply sewer and sewage treatment, water, stormwater drainage, solid waste
6 management, housing, traffic safety, police and fire protection, health care, and schools.
7 Pursuant to OAR 345-022-0110(2), the Council may issue a site certificate for a facility that
8 would produce power from solar energy without making findings regarding the Public Services
9 standard; however, the Council may impose site certificate conditions based upon the
10 requirements of the standard.

11
12 The analysis area for the evaluation under the Public Services standard, as established in the
13 Project Order, is the area within and extending 10-miles from the site boundary.¹⁹⁷

14
15 *Impact Assessment Assumptions*

16
17 Construction Assumptions¹⁹⁸

- 18
19 • Construction is anticipated to occur in approximately two phases, with each expected
20 to take up to 36 months (three years) to complete, for a maximum construction
21 timeframe of 6 years.
22 • On average there would be 200-300 workers on site with a maximum of 400 workers
23 on site when multiple disciplines of contractors will be working simultaneously.
24 • Traffic estimates assume 70 percent of the workforce traffic will come from the north
25 along US-97 and 30 percent will come from the south along US-97 to Bakeoven Road.

26
27 Operation Assumptions

28
29 The operational life of the facility is estimated at 40 years.

- 30
31 • Approximately 10 to 15 full-time employees to work on-site for the life of the proposed
32 facility; (up to 15 full-time equivalent staff)
33 • Periodic solar panel washing
34 • 5,000 gallons/day or less discharge capacity for onsite sewer/septic at O&M building.

35
36 *IV.M.2.1 Sewers and Sewage Treatment*

37
38 During construction, sanitary waste will be collected on-site in portable toilets that will be
39 provided and maintained by a licensed subcontractor. During operation, sanitary waste will be

¹⁹⁷ YRBNOIDoc42 SIGNED Project Order w Attachments 2024-01-26.

¹⁹⁸ Applicant details assumptions about the labor force that includes its assessment under the Public Services standard. The Department notes that these assumptions do not guarantee the assumptions are correct.

limited to domestic wastewater from the O&M buildings, which will be discharged to licensed on-site septic systems located within the site boundary.

Because the proposed facility will not connect to a public sewer or sewage disposal system, the ~~Department recommends the~~ Council finds that the construction and operation of the facility are not likely to result in significant adverse impact to the ability of any public or private sewage providers to provide sewer and sewage treatment services.

IV.M.2.2 Water Service

No developed public water system serves the site. During construction, water will be used for dust suppression, road compaction, site preparation, mixing concrete for foundations, fire prevention, and on-site worker drinking and sanitation use. Facility construction is anticipated to require up to 54.5 million gallons (Mgal) of water if the entire facility is constructed under worst case dry conditions. Operational water use would include for the O&M building and potential solar panel washing. Table 22 below summarizes the maximum, worst case water use for the construction and operation of the facility.

Table 22: Estimated Maximum Water Use from Facility Construction and Operation

Water Use	Quantity
Construction	Gallons, Total
Dust control (average/worst case)	46.8 Mgal
Road Compaction	3.56 Mgal
Concrete Mixing	-
Battery pad foundations	653,250 gal
Solar array tracker post foundations ¹	311,715 gal
Transmission line support structure foundations	78,000 gal
Inverter/transformer pad foundations	283,530 gal
Collector substations/switchyard foundations	62,400 gal
O&M building foundation	7,800 gal
Drinking water/sanitation	280,000 gal
Total Estimated Construction Use	54.6 Mgal (worst- case)
Operation	Gallons/Year
O&M Building	12,500
Solar Panel Washing (once per year)	521,000
Average Annual Estimated Operational Use	533,500
Estimated Maximum Operational Use	1 Mgal
Notes:	
1. Approximately 10 percent of tracker piles are estimated to use concrete foundations.	
Source: YRBAPPDoc1-16 ASC Exhibit O. Water Requirements 2025-09-05, Table O-1 and Section 2.2.	

During construction, up to 54.5 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 use would be obtained from the Deschutes Valley Water District (DVWD)¹⁹⁹, the City of Maupin²⁰⁰ and the City of Wasco²⁰¹ under an existing municipal water right.²⁰² Two landowners (one participating, one adjacent) may provide water during construction using existing wells, and they'd obtain all necessary authorizations, such as a limited license (third party permit), from the Oregon Water Resources Department (OWRD).

As discussed in Section IV.S., *Water Rights*, the applicant does not propose a groundwater permit, surface water permit, or water right transfer, however, the applicant indicates that the sources for construction water would be obtained from a variety of potential sources, including municipal water providers. To ensure that impacts to public or private water sources are not impacted by construction of the facility, the ~~Department recommends~~Council imposes Public Services Condition 1, below. Public Services Condition 1 requires the applicant to confirm the final water demand based on final facility build out and that the applicant 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 1 (GEN):** Prior to and during facility construction, as applicable, the certificate holder shall:
- Identify all water-related needs and estimate daily and annual water demand for facility construction.
 - 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.
- [GEN-PS-01; Final Order on ASC]

During operation and maintenance, between 533,500 and 1 million gallons of water per year will be required for drinking, sanitation, and solar panel washing. Water would be supplied via an exempt onsite well or municipal source with existing water rights. . If the final facility includes an exempt onsite well, the daily usage is limited to 5,000 gallons per day.

¹⁹⁹ In February 2025, the DVWD General Manager confirmed that DVWD has the capacity to supply water for construction. ASC Exhibit O, Attachment O-4.

²⁰⁰ The City of Maupin indicates, that due to troubles with their water infrastructure, they are unable to provide bulk water sales at this time (2025), and that they are working on funding to make the necessary repairs. ASC Exhibit O, Attachment O-1.

²⁰¹ The City of Wasco states that it appears they would be able to provide water for facility construction, pending clarification of its water rights and confirmation of other potential projects within the area that may also need water from the City. ASC Exhibit O, Attachment O-5.

²⁰² Under OWRD rules, water use for the construction and operation for a proposed solar facility qualifies under OAR 690-300-0010(25) as "industrial water use", which qualifies as a municipal use under OWRD rules.

1 ~~Recommended~~ Water Rights Conditions 1 and 2 require tracking of exempt well water use
2 during facility operations to maintain permit exempt status; otherwise, a permit would be
3 required from OWRD.

4
5 To ensure that operational water obtained off-site is legally obtained by a water service
6 provider, the ~~Department recommends~~ Council imposes recommended Public Services
7 Condition 2, below:²⁰³

Commented [KT6]: This isn't evident in the condition, only in the set up

8
9 ~~Recommended~~ **Public Services Condition 2 (GEN):** During every year of operations, the
10 certificate holder shall:

- 11 a. Identify all water-related needs and estimate daily and annual water demand for
12 facility operations.
13 b. Provide evidence such as a contract or purchase agreement demonstrating that
14 adequate water supply to meet facility operational demand has been secured off-
15 site and that water for all operational activities will be legally obtained by service
16 providers or third-party permits.
17 [GEN-PS-02; Final Order on ASC]

18
19 Because the applicant ~~has demonstrated~~ that it can obtain adequate water supply for the
20 construction and operation of the proposed facility, and subject to the ~~recommended~~
21 conditions described above and applicable Water Rights Conditions described in this order, the
22 ~~Department recommends the~~ Council finds that the construction and operation of the
23 proposed facility are not likely to result in significant adverse impact to the ability of any public
24 or private water providers to provide services.

25
26 IV.M.2.3 *Stormwater Drainage*

27
28 No drainage district or developed stormwater drainage facilities serve the site except those
29 associated with public roads maintained by Wasco and Sherman Counties.²⁰⁴ As discussed in
30 Section IV.D, *Soil Protection*, ~~recommended~~ Soil Protection Conditions 2 and 3 would require all
31 construction activities to be conducted in compliance with a National Pollutant Discharge
32 Elimination System Construction Stormwater Discharge General Permit 1200-C which would
33 require the applicant to prevent discharges of stormwater runoff into waters of the state.
34 ~~Recommended~~ Soil Protection Condition 1, requires the implementation of a Fugitive Dust
35 Control Plan which would reduce fugitive dust emissions associated with construction-related
36 activities. ~~Recommended~~ Soil Protection Condition 7 would require the applicant to ensure that
37 water from panel washing does not include chemicals, soaps or detergents.

38
39 Because the proposed facility will not connect to any developed stormwater drainage system,
40 will not be located within the boundaries of a drainage district, and because no discharges of
41 stormwater or other wastewater to drainage facilities or waters of the state are expected to

²⁰³ Response to YRBAPPDoc9-14 DPO Public Comment VanEynde 2025-11-03.

²⁰⁴ YRBAPPDoc1-22 ASC Exhibit U. Public Services 2025-09-05, Section 3.3.2.3.

1 occur during construction or operations, the ~~Department recommends the~~ Council find^s that
2 the facility is not likely to result in adverse impacts on the ability of any community to provide
3 stormwater drainage services.

4
5 *IV.M.2.4 Solid Waste Management*
6

7 During construction, up to approximately 8,000 cubic yards of nonhazardous solid waste will be
8 generated; applicant estimates that approximately 4,000 cubic yards of solid waste would be
9 generated per phase of construction.²⁰⁵ Construction-related soil waste includes discarded
10 construction materials, packaging materials, wood forms from foundations, and spent erosion
11 control materials. Under ~~Recommended~~ Waste Minimization Condition 1 and 2, construction-
12 related solid waste would be recycled to the maximum extent practicable. The Dalles Disposal -
13 Waste Connections serves both Wasco and Sherman counties and indicates that they'd be able
14 to provide their services for facility construction.²⁰⁶
15

16 During operations, up to approximately 10-15 cubic yards of waste per month will be
17 generated. The Dalles Disposal - Waste Connections has sufficient capacity to accommodate the
18 facility's solid waste needs and has projected that 28 years are left in landfill's current footprint
19 and that they have cover soil property to expand to when the time comes.²⁰⁷
20

21 Because the applicant has identified an appropriate provider with adequate capacity to accept
22 solid waste and recyclable materials from the site, the ~~Department recommends the~~ Council
23 find^s that the construction and operation of the proposed facility are not likely to result in
24 significant adverse impact to the ability of any public or private solid waste providers to provide
25 services.
26

27 *IV.M.2.5 Traffic Safety*
28

29 Construction related traffic is estimated to include up to 70 heavy duty one-way truck trips and
30 up to 800 one-way light duty vehicle trips per day. Haul routes and roads used will include
31 Interstate 84 (I-84) to exit southbound on US-97 (Sherman Highway) at Biggs Junction,
32 southbound through the town of Shaniko, and continue west and north on Bakeoven Road to
33 the facility site. ASC Exhibit U, Attachment U-7 states that facility construction traffic will be
34 routed to minimize impacts on Maupin.²⁰⁸
35

36 Light duty vehicles will use I-84 to US 197 (the Dalles – California Highway), through Maupin to
37 Bakeoven Road and US-97 north/northeast to Bakeoven Road and then continue north to the
38 facility. Wilson Road is a County-maintained road that runs east to west at about the center of
39 the facility, and may also be impacted by facility construction. Bakeoven Road will experience

²⁰⁵ YRBAPPDoc1-24 ASC Exhibit W. Waste Minimization 2025-09-05, Section 2.1.1.

²⁰⁶ YRBAPPDoc1-22 ASC Exhibit U. Public Services 2025-09-05, Attachment U-2.

²⁰⁷ *Ibid.*

²⁰⁸ YRBAPPDoc1-22 ASC Exhibit U. Public Services 2025-09-05, Attachment U-7, Section 2.4.

the largest number of trips during proposed facility construction. Bakeoven Road is a two-lane County highway that runs parallel to and east of US 197 and is designated as a Major Collector road.²⁰⁹ The Wasco County Public Works Director states that there would be issues if large loads, material deliveries or construction vehicles from the North via Hwy 197 through Maupin plan to use the bridge over the Deschutes River in Maupin; it is a State-managed bridge and may be load limited.²¹⁰ Additionally, the Public Works Director indicates that the City of Maupin may have limits on large equipment trucks driving through portions of the City and to coordinate with the City. As described in Section 4.1 of the ~~draft~~ site certificate and under ~~Recommended~~ Public Services Condition 3, below, requires that haul trucks are precluded from accessing the site via Highway 197 through Maupin, unless approved by ODOT and/or City of Maupin.²¹¹

To minimize construction-related traffic impacts, the applicant includes a draft Construction Traffic Management Plan included in ASC Exhibit U, Attachment U-7 (Attached to this order as Attachment U-1) which includes the following measures:²¹²

- Establishing a haul route plan in coordination with the City, County and ODOT once vendors have been selected and construction schedule developed. The haul route plan will confirm source locations and routes to be used during construction, as well as anticipated loads and haul schedule.
- Ingress and egress points to the site will be located and improved (if needed) to meet adequate capacity for existing and projected traffic volumes and to provide efficient movement of traffic, including existing and anticipated agricultural traffic.
- When slow or oversized wide loads are being hauled, appropriate vehicle and roadside signing and warning devices will be deployed. Pilot cars will be used as ODOT dictates, depending on load size and weight.
- Notifying the landowners through mailing, informal meeting, open house or other similar methods, prior to the start of construction to minimize disruptions to landowners, ranching and farming operations.
- Traffic control requests will be coordinated through the ODOT traffic engineer, County Public Works, and City of Maupin abiding by seasonal County road restrictions.
- Utilize traffic control devices on county roads that follow the Manual on Uniform Traffic Control Devices (MUTCD).

²⁰⁹ 2009 Wasco County Wasco County Transportation System Plan

https://www.oregon.gov/ODOT/Planning/TPOD/tsp/county/county_of_wasco_tsp_2009.pdf Section 4.

²¹⁰ YRBAPPD09-14 ASC Reviewing Agency Comment Wasco County Roads Public Works 2025-09-30.

²¹¹ YRBAPPD09-14 DPO Public Comment VanEynde 2025-11-03; K. Carver YRBAPPD09-0 DPO Public Hearing Transcript_Oral DPO Comments 2025-10-23 at 01:45:30.689. In YRBAPPD12 Applicant Response to DPO Comments_w Attchs 2025-11-07 proposes that if a Construction Traffic Management Plan designated is not included in road use agreements executed with Wasco County, then they would submit a Construction Traffic Management Plan that includes, at a minimum, the measures identified in ASC Exhibit U, Attachment U-7.

²¹² ASC Exhibit U includes Attachment U-7 Draft Construction Traffic Management Plan. The substantive measures identified in the Construction Traffic Management Plan are implemented via necessary ODOT Permits and within the Road Use Agreement executed with the County.

- 1 • Install temporary signage, lighting, and traffic control devices on US-97 and Bakeoven
- 2 Road to indicate the presence of heavy vehicles and construction traffic.
- 3 • Flaggers will be used when necessary, on a temporary basis such as a lane or full road
- 4 closure, which would be coordinated with ODOT, the County and emergency services.
- 5 • The substantive measures identified in the Construction Traffic Management Plan are
- 6 typically implemented via necessary ODOT Permits and within the Road Use Agreement
- 7 executed with the County. ODOT permits will be submitted to the Department under
- 8 Organizational Expertise Condition 12. The applicant provides a Wasco County Road Use
- 9 Agreement template in ASC Exhibit U, Attachment U-12. Road Use Agreements are
- 10 legally enforceable mechanisms that include an inventory of County managed roads that
- 11 may be impacted by construction traffic, their current condition, measures to track
- 12 damage to roads and compensate and/or repair any damage to roads. Additionally, the
- 13 Road Use Agreement will include traffic control measures, dust suppression measures
- 14 applied to County roads, BMPs for inclement weather.²¹³
- 15

16 To ensure that the County Road Use Agreements are executed and implemented, the
17 ~~Department recommends the~~ Council impose^s Public Services Condition 3 and 4, as shown
18 below. Additionally, ~~Recommended~~ Public Services Condition 3 requires that a Construction
19 Traffic Management Plan substantially to the Plan attached as Attachment U-1 to this order, be
20 attached and included with executed Road Use Agreements.²¹⁴

21
22 ~~Recommended~~ **Public Services Condition 3 (PRE):** Prior to construction of the facility or
23 phase, as applicable, the certificate holder shall execute local and County Road Use
24 Agreement(s) which will include a Construction Traffic Management Plan substantially
25 similar to Final Order on ASC Attachment U-1. Copies of executed Road Use Agreements
26 and any modifications thereto shall be provided to the Department. Haul trucks are
27 precluded from accessing the site via Highway 197 through Maupin, unless approved by
28 ODOT and/or City of Maupin.

29 [PRE-PS-01; Final Order on ASC]

30
31 ~~Recommended~~ **Public Services Condition 4 (CON):** During construction, the certificate
32 holder shall adhere to the terms and conditions of Road Use Agreement(s) executed
33 under Condition PRE-PS-01.

34 [CON-PS-01; Final Order on ASC]

213 YRBAPPDoc1-22 ASC Exhibit U. Public Services 2025-09-05. Attachment U-13 includes an email from Sherman County which indicates that the County does not have a template Road Use Agreement, but outlines the important measures that would be included in a future-executed Road Use Agreement. Also, note that is the transmission line alternative is not selected for construction, a Road Use Agreement with Sherman County may not be necessary.

214 The ~~Department~~ Council acknowledges that there may be circular or duplicative requirements in the necessary third party ODOE Permits, County Road Use Agreement(s), and the Construction Traffic Management Plan. Applicant should ensure that BMPs in the Road Use Agreement and Construction Traffic Management Plan should be consistent with applicable ODOT permits.

1 The ~~Department recommends the~~ Council finds^s that subject to compliance with ~~recommended~~
2 Public Services Conditions 3 and 4, and other ~~recommended~~ site certificate conditions of
3 approval, proposed facility construction is not likely to have a significant adverse impact on
4 traffic safety or local transportation infrastructure.

5
6 The primary and alternate routes used to access the site during operations will be the same as
7 those used during construction. The approximately 15 operational personnel that would be on
8 site regularly and periodic maintenance may require larger maintenance trucks. These vehicles
9 and trips would use similar routes that are used for construction and would blend in with
10 exiting traffic and would not create an impact to roads.

11
12 Because operational traffic volumes would be minimal, with only temporary or intermittent
13 increases during significant maintenance activities or repairs, ~~the Department recommends the~~
14 Council finds^s that proposed facility operations are not likely to have a significant adverse impact
15 on traffic safety or local transportation infrastructure. to have a significant adverse impact on
16 traffic safety or local transportation infrastructure.

17
18 *IV.M.2.6 Air Traffic*
19

20 The tallest facility component would be the transmission poles for the proposed transmission
21 line and alternative transmission line route extending from 160 to 180 feet in height. The
22 airport nearest to the site is the Shaniko Ranch Airport, a private, operational airfield located
23 approximately 8 miles SE of the site boundary.²¹⁵

24
25 The proposed facility does not meet the first threshold for notice, which takes into account the
26 maximum height of facility structures. The proposed facility does not meet the notice criteria
27 based on FAA-identified impact areas, and therefore formal submission of a Form 7460-1 to the
28 FAA under Code of Federal Regulations Title 14 Part 77.9 (Safe, Efficient Use, and Preservation
29 of Navigable Airspace) is not anticipated. No public airports (or their adjoining runways) are
30 within 3.8 miles of the site boundary (per the second threshold for notice to the FAA, 14 Code
31 of Federal Regulations Subpart B Section 77.9).

32
33 The Department coordinated with the Oregon Department of Aviation and the Northwest
34 Military Training Center on the proposed facility and neither agency identified any concerns
35 with the location or height of proposed structures.²¹⁶

36
37 The ~~Department recommends the~~ Council finds^s that the construction and operation of the
38 proposed facility, is not likely to result in significant adverse impact to the ability of any public
39 or private air navigation providers within the analysis area to provide air traffic safety.
40

²¹⁵ https://tools.oregonexplorer.info/OE_HtmlViewer/index.html?viewer=renewable&efsc=Yellow%20Rosebush;
data layer – EFSC Energy Facilities and Airports.

²¹⁶ YRBNOIDoc28 Reviewing Agency Comment ODAv 2023-11-07; YRBNOIDoc30 DOD FAA Comment 2023-11-20;

IV.M.2.7 Police and Fire Protection

Proposed facility construction could result in impacts to police protection providers due to the increased possibility of theft at the proposed site, safety issues associated with the increased population from temporary workers, and increased traffic and potential traffic violations on roads traveling to and from the facility. The Wasco County Sheriff's Office is the primary law enforcement agency for the site. Sheriff's Office partners with the Dalles Police Department and Oregon State Police to provide law enforcement to the entirety of the County. The Sheriff's Office is supported by five district volunteer organizations: the Reserve Deputy Program, Search and Rescue, Mounted Posse, Emergency Management Volunteers, and Wasco Amateur Radio Service. The Sherman County Sheriff's Office confirmed that it provides law enforcement services for Sherman County, where a portion of the alternative transmission line would be located, and it would take approximately 25 minutes to arrive at the site.²¹⁷

To deter theft and public access to the site, the facility will be fenced, locked and gated. The perimeter fence will have 24-foot-wide security gates installed at various locations for ingress and egress. If first responders needed to access the site for any reason, a key will be available in a lock box or some other approved method. Sherman County's Sheriff's office indicates that installing cameras for remote surveillance may be the most effective way to catch people trespassing or stealing construction materials particularly at night when fewer deputies are available.²¹⁸ Additional security may be provided by closed-circuit video surveillance cameras and anti-intrusion systems, as required, for protection of the facility as well as for the safety of visitors.

The Wasco County Sheriff raised concerns of high volumes of workers on site and their ability to follow laws when they are on site and when leaving the site and within the community. The Sheriff documented issues with other energy facility construction like traffic crashes involving commercial motor vehicles to employees speeding on the roadway, causing dangerous situations for local residents.²¹⁹ To address the Sheriff's concerns, the ~~Department recommends~~ Council impose Public Services Condition 5, which requires the certificate holder to provide on-site security during construction. The condition also requires the certificate holder to establish and maintain communication with the Sheriff Office; requesting monthly data on public safety/law enforcement data related to facility construction and proposing enhanced safety policies and mitigation measures if the data indicates that facility personnel are contributing the legal infractions. If the enhanced measures are not sufficient, and there continues to be traffic and safety issues for construction-related personnel, the certificate holder would be required to go to Council to discuss further mitigation options.

~~Recommended~~ **Public Services Condition 5 (CON):** During construction of the facility or phase, as applicable, the certificate holder shall:

²¹⁷ YRBAPPDoc1-22 ASC Exhibit U. Public Services 2025-09-05, Attachment U-4.

²¹⁸ *ibid.*

²¹⁹ YRBAPPDoc19-7 ASC SAG Comment Wasco County Sheriff_Magill 2025-09-25.

- a. Provide onsite security through onsite security personnel and/or physical security system and maintain good communication between onsite security personnel and the Wasco County Sheriff's Office. Communication must include an evaluation of the adequacy of onsite security measures in minimizing impacts to law enforcement resources in responding to the site.
 - b. Monthly, request to the Sheriff's Office to obtain written public safety/law enforcement data related to facility construction. For any traffic or safety related incidents determined to be associated with facility construction, certificate holder shall report the incident to the Department within 72-hrs and shall include enhanced safety and security measures in the report.
 - c. Every 6-months, invite both the Sheriff's Department and the Department to the site to discuss traffic and public safety impacts. This meeting may also occur remotely. If the traffic, safety and security measures implemented by the certificate holder, or its contractor, are determined ineffective by the Department, certificate holder must propose new measures to be reviewed and approved by the Council.
- [CON-PS-02; Final Order on ASC]

The Sheriff also requests that a community complaint response protocol be developed and that consistent point of contacts for community complaints and the Sheriff be established and maintained.²²⁰ As discussed in Section IV.E., *Land Use*, the ~~Department recommends~~ Council requires that the applicant or its contractor finalize and submit a Construction Emergency Response Plan and adhere to the plan during construction of the facility. Under ~~recommended~~ Land Use Conditions 9 and 10, the certificate holder would also provide and adhere to a finalized Operational Emergency Response Plan used by the parent company.

As discussed in following subsection, Wasco County does not allow temporary ~~on-site~~ worker housing through a CUP or TUP and as discussed in the above subsection, the applicant would execute a Road Use Agreement which would include traffic and speed limit controls which may reduce worker traffic issues.

Most of the facility site is within the boundaries of the Bakeoven-Shaniko Rangeland Fire Protection Association (BS-RFPA), and South Sherman Fire & Rescue serves Sherman County. ASC Exhibit U, Attachment U-5 includes applicant correspondence with the BS-RFPA²²¹ that indicates that they are the wild-land fire agency within the area that would service the facility, however, the facility is on land owned by members of their association and fire prevention is the job of the individual landowners, and/or their guests (such as the applicant). In the event of a fire, BS-RFPA with their wildland fire partners would assist with wildland fire, if they are able to, however, they do not assume any liability from a fire incident. BS-RFPA indicates that they may request that the workers or the facility have fire extinguishers and that actions be limited during high fire risk events. The ~~Department-Council~~ highlights that both these measures, and additional fire prevention and mitigation measures, including restrictions during fire season, are

²²⁰ YRBAPPDoc19-7 ASC SAG Comment Wasco County Sheriff_Magill 2025-09-25.

²²¹ *Ibid.*, Attachment U-5.

outlined in the proposed facility construction and operational Wildfire Mitigation Plans (WMPs) discussed further in Section IV.N, *Wildfire Prevention and Risk Mitigation*.

The BS-RFPA also provided feedback that was included in the 2024 Wasco County Community Wildfire Protection Plan (CWPP). Specially, the BS-RFPA indicated that under *Training Needs and Goals to Become More Effective* they need to train new solar farm personnel and partners to prevent fires and effectively assist when a fire is started on solar farms.²²² The BS-RFPA also identifies that a major hurdle they experience is that they have not yet been able to build partnerships with the local solar farms and that they would like to see the local solar farms become partners with the RFPA and implement fire prevention measures.²²³ A requirement of both the construction and operational WMPs include the certificate holder providing annual on-site trainings that would provide advanced emergency response and fire training to local first responders including tailored to emergency and fire response at utility-scale solar and battery energy storage facilities and would be conducted by qualified instructors. As described further in Section IV.M.2.9., *Healthcare and Housing*, below, the BS-RFPA would be compensated for their attendance.²²⁴

As noted above and discussed in Section IV.N, *Wildfire Prevention and Risk Mitigation*, the facility would have multiple design measures that would reduce potential impacts to fire service providers from fires at the site. These include perimeter and service roads within the solar array which would be up to 20-feet wide with up to a 48-foot turning radius to be consistent with Oregon Fire Code requirements or other applicable county standards (i.e., access for first-responder apparatus).²²⁵ Fire protection best management practices BMPs designated in the construction and operational WMPs include having fire protection equipment on-site, and water truck(s) with a hose, nozzle, and pump on site at all times during construction and in fire season during operation. The WMPs also include emergency protocols to follow during Red Flag Warnings and in the event of an emergency. ~~Recommended~~ Wildfire Prevention and Risk Mitigation Conditions 1, 2, 3, and 4 would require the applicant to finalize the Wildfire Mitigation Plans for construction and operation, as presented in Attachments W-1 and W-2 of this order.

²²² <https://cms5.revize.com/revize/wascocounty/docs/Planning%20Reference/CWPP%20--%20FINAL%2004-17-2024%20w%20signature%20page.pdf>, Appendix C: Stakeholder and Public Engagement during CWPP Update Process.

²²³ *Ibid.*

²²⁴ Based on the applicant's representation that, if allowed by emergency response organization bylaws, the applicant will compensate attendees for their time at a rate to be agreed with the emergency response organization; the Department adds the following to both the WMP's: "Training will be provided at no cost to emergency service personnel. Certificate holder shall donate to Bakeoven-Shaniko Rural Fire Protection Association and Southern Wasco County Ambulance Service, Southern Wasco County Ambulance Service for their time and any necessary equipment for training." YRBAPPDoc12 Applicant Response to DPO Comments_w Atchhs 2025-11-07 in response to YRBAPPDoc9-10 DPO Public Comment Carr SWCAS 2025-11-02, YRBAPPDoc9-12 DPO Public Comment Miles 2025-11-02, YRBAPPDoc9-11 DPO Public Comment Lee 2025-11-02, YRBAPPDoc9-14 DPO Public Comment VanEynde 2025-11-03.

²²⁵ YRBAPPDoc1-3 ASC Exhibit B. Project Description 2025-09-05, Section 3.5; and YRBAPPDoc1-23 ASC Exhibit V. Wildfire Risk and Mitigation 2025-09-05, Attachment V-1 and V-2, Section 3.1.

1
2 Because the WMPs required under the standard address fire hazards associated with the facility
3 and outside the facility and that they were developed in coordination with the local fire
4 departments and County to address their concerns, the ~~Department recommends the~~ Council
5 ~~finds~~ that, subject to compliance with ~~recommended~~ conditions, the construction and
6 operation of the proposed facility is not likely to result in significant adverse impact to the
7 ability of any public or private policy or fire providers within the analysis area to provide fire or
8 emergency services.

9
10 *IV.M.2.8 Housing*

11
12 Temporary housing could be required for up to 400 workers during the peak construction
13 period and up to about 200 workers on average during each of the 36-month phases of facility
14 construction. Due to the rural nature of the facility site, the applicant anticipates that
15 construction workers will travel up to 50 miles to the facility and expanded the area study to
16 this distance. Therefore, for the purpose its analysis, the applicant defines a “commutable
17 distance” as communities within 50 miles of the facility site boundary. Since a portion of the
18 temporary workers will be hired locally, the applicant does not anticipate a significant impact
19 on housing within the analysis area. The housing analysis relied on Census and other online
20 data for three housing types: rental housing, hotel/motel lodging, and RV parks.²²⁶ Applicant
21 indicates that there would be approximately 731,000 rental units available within the
22 “commutable distance”, however, the available units within Wasco and Sherman counties
23 would be approximately 13,000 rental units. The ~~Department-Council~~ emphasizes that typical
24 construction working temporary housing is within RV parks or hotel/motels; which reduces the
25 availability of temporary housing. During its comments on the NOI, Wasco County raised
26 concerns about potential impacts of increased demand for housing generally, and RV parking
27 facilities in particular.²²⁷ However, the County later commented that Wasco County does not
28 allow for temporary on site worker housing through a CUP or TUP.²²⁸

29
30 To address concerns about the lack of available housing for construction workers identified by
31 the City of Maupin, the applicant represents that it would implement several measures to
32 minimize and mitigate potential impacts to local housing, by providing a housing plan which will
33 provide strategies to minimize impacts to the local housing supply based on an ongoing
34 evaluation of patterns of uses and potential shortages or changes in housing demand.²²⁹ Based

²²⁶ Includes Wasco, Sherman, Gilliam, Hood River, Jefferson, Crook, Clackamas, Marion, Morrow, Multnomah, Klickitat Counties in Oregon, and Skamania County in Washington. YRBAPPD0c1-22 ASC Exhibit U. Public Services 2025-09-05Section 3.3.4.

²²⁷ YRBNOIDoc21-1 Public Information Meeting Recording 2023-11-02.

²²⁸ Wasco County allows accessory labor housing in conjunction with farm or forest use and allows for a limited number of Temporary Use Permits (TUP) in Chapter 8 of the LUDO. Specific allowed temporary uses provided for within most zones include Medical Hardship Dwellings. YRBAPPD0c25 pASC Wasco County SAG Comments 2025-01-21.

²²⁹ YRBAPPD0c12 Applicant Response to DPO Comments_w Attchs 2025-11-07, pp. 5-6; YRBAPPD0c9-0 DPO Public Hearing Transcript_Oral DPO Comments 2025-10-23, Mayor Beatty begins at 01:50:25.939.

on the applicant's proposal, the ~~Department recommends~~ Council imposes Public Services Conditions 6 and 7, as shown below:

~~Recommended~~ Public Services Condition 6 (PRE): At least 90-days prior to construction of any phase of the facility, the certificate holder shall provide to the Department, City of Maupin, and Wasco County a Construction Workforce Housing Plan. The Construction Workforce Housing Plan must include:

- a. An evaluation of ongoing patterns of housing uses and potential shortages or changes in housing demand;
- b. Consideration of concerns and suggestions from the City of Maupin and the County; and
- c. Provide strategies to minimize impacts to the local housing supply.

[PRE-PS-02; Final Order on ASC]

~~Recommended~~ Public Services Condition 7 (CON): During construction the certificate holder shall report on the implementation of the Construction Workforce Housing Plan required under PRE-PS-02, including any outstanding issues associated with workforce housing and potential solutions.

[CON-PS-03; Final Order on ASC]

The applicant estimates that up to 15 workers would require permanent housing during operation of the proposed facility.²³⁰ The ~~Department recommends the~~ Council finds that this level of housing demand is not likely to have a significant impact on housing availability.

The ~~Department recommends the~~ Council finds that the construction and operation of the proposed facility is not likely to result in significant adverse impact on the ability of any public or private housing providers within the analysis area to provide adequate housing.

IV.M.2.9 Healthcare and Schools

Impacts on health care could occur if proposed facility construction activities or increases in temporary residents (during construction) and permanent residents (during operations) could result in an increase in the use of emergency and routine health care services. Potential impacts could include accidents on-site during construction or traffic-related incidents from the increased traffic.

The closest hospital with ~~24-hour~~24-hour emergency medical care is Adventist Health Columbia Gorge, located in the Dalles, approximately 40 miles from the facility site. Deschutes Rim Health Clinic is a primary care clinic located 15 miles from the facility in Maupin, Oregon and the Sherman County Medical Clinic is located 25 miles from the site and offers same-day appointments and injury care.

²³⁰ YRBAPPDoc1-22 ASC Exhibit U. Public Services 2025-09-05, Section 2.4.6.2.

1 The Wasco County Ambulance Service Area (ASA) Plan²³¹ outlines specific ambulance service
2 areas, often contracting with multiple agencies like Mid-Columbia Fire and Rescue, Hood River
3 Fire Department, Dufur Volunteer Fire and Rescue, and Southern Wasco County Ambulance
4 Service, Inc., to provide comprehensive prehospital care. Wasco County has seven ASAs with
5 different service organizations serving the ASAs. The facility site is located in ASA 4 which is
6 served by Southern Wasco County Ambulance Service (SWCA) for emergency services.²³²
7 Providers offer basic, intermediate, and advanced life support, emergency medical care, and
8 transportation. In the event of an emergency at the facility, ambulance services would
9 transport patients to Adventist Health Columbia Gorge. According to 2023 National Safety
10 Council data, the average fatality rate across the construction industry is 9.6 per 100,000
11 workers per year, while nonfatal slips, trips and falls averaged 151.9 per 10,000 workers. With
12 an anticipated maximum of 400 workers on-site during facility construction, it is highly unlikely
13 that any fatal injuries would occur (average of less than 0.04 per 400 workers), while less than 2
14 non-fatal slips, trips, and falls would be anticipated annually on average, the majority of which
15 would not require ambulance support.²³³

16
17 As discussed above and in Section IV.E., *Land Use*, under ~~recommended~~ Land Use Conditions 7
18 and 8, the applicant or its contractor would submit and adhere to its corporate Site-Specific
19 Safety Plan, which includes on-site protocols and training to prevent injuries in the first place,
20 while also providing on-site treatment capability to avoid or minimize the need for off-site
21 transfer and, if necessary, to stabilize an individual while waiting for emergency transport to
22 arrive. The applicants' Site-Specific Safety Plan also requires that First Aid is provided by trained
23 site personnel.

24
25 However, SWCA indicates that the organization is working to update, fully equip and staff two
26 ambulances to better meet the growing needs of the community, and that proposed facility
27 construction could increase their call volume, and as a volunteer agency, directly impact the
28 demand of their ability to respond effectively.²³⁴ As discussed in Section IV.N., *Wildfire*
29 *Prevention and Risk Mitigation*, and as ~~recommended~~ Wildfire Prevention and Risk Mitigation
30 Conditions 1 through 4 require, the applicant would submit and implement Wildfire Mitigation
31 Plans, during construction and operation. The WMPs include training, emergency preparation
32 and response procedures which would reduce emergency incidents related to construction and
33 operation of the proposed facility. The trainings provided prior to construction and operation
34 and during operation of the facility would be held on site with emergency service providers
35 including Bakeoven-Shaniko Rural Fire Protection Association and the Southern Wasco County
36 Ambulance Service, and would be tailored to emergency and fire response at utility-scale solar

²³¹ Mandated by Oregon Revised Statutes (ORS 682.062) and Oregon Administrative Rules (OAR 333-260).

https://www.wascocountyor.gov/departments/emergency_management/ambulance_service_area_plan.php

²³² SWCA is an all-volunteer emergency medical transport organization serving South Wasco County since 1952.

SWCA is a private, self-sustaining service, that does not receive financial support from Wasco County. YRBAPPDoc9-10 DPO Public Comment Carr SWCAS 2025-11-02.

²³³ YRBAPPDoc12 Applicant Response to DPO Comments_w Attchs 2025-11-07 in response to YRBAPPDoc9-10 DPO Public Comment Carr SWCAS 2025-11-02.

²³⁴ YRBAPPDoc9-10 DPO Public Comment Carr SWCAS 2025-11-02.

1 and battery energy storage facilities. The applicant represents that, if permissible by the
2 organizations, the applicant would compensate attendees for their time at a rate to be agreed
3 with the emergency response organization. Additionally, the applicant indicates that it is
4 committed to continuing to collaborate with SWCA (and other fire and emergency service
5 providers addressed in this order), and that it is amenable to contributing financially to SWCA
6 to ensure they can adequately support the facility through construction and operation.²³⁵ To
7 ensure that the Bakeoven-Shaniko Rural Fire Protection Association and Southern Wasco
8 County Ambulance Service are compensated in the form of a donation, the ~~Department~~
9 ~~recommends~~Council requires that the following language be added to both the construction
10 and operational WMP Section 2.1: Training, "Training will be provided at no cost to emergency
11 service personnel. Certificate holder shall donate to Bakeoven-Shaniko Rural Fire Protection
12 Association and Southern Wasco County Ambulance Service, Southern Wasco County
13 Ambulance Service for their time and any necessary equipment for training."
14

15 These measures would help avoid impacts to health care providers and responders. Due to the
16 relatively small number of new temporary residents and new permanent residents, the
17 ~~Department recommends that the~~ Council finds that the proposed facility is not likely to cause
18 significant adverse impact on the ability of communities to provide health care.
19

20 There are little to no anticipated construction-related impacts on schools because the proposed
21 facility construction will be short-term and peak construction will take place over the summer,
22 when typical schools are not in session. Due to the relatively small number of new temporary
23 residents and new permanent residents, as well as the dispersed area in which new residents
24 are likely to settle, significant new demands are not expected from schools that serve the area.
25 Therefore, the ~~Department recommends that~~ Council finds that the construction and operation
26 of the proposed facility are not likely to impact the ability of communities to provide school
27 services.
28

29 **IV.M.3. Conclusions of Law**

30

31 Based on the foregoing analysis, finding of facts, and ~~recommended~~-site certificate conditions,
32 ~~the Department recommends that~~ the Council finds that the construction and operation of the
33 proposed facility, taking into account mitigation, are not likely to result in significant adverse
34 impact to the ability of public and private providers within the analysis area to provide their
35 services, the facility will therefore be constructed and operated consistent with the Public
36 Services standard.
37

38 **IV.N. Wildfire Prevention and Risk Mitigation: OAR 345-022-0115**

39

40 *(1) To issue a site certificate, the Council must find that:*
41

²³⁵ YRBAPPDoc12 Applicant Response to DPO Comments_w Attchs 2025-11-07.

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

3
4 (A) Baseline wildfire risk, based on factors that are expected to remain
5 fixed for multiple years, including but not limited to topography,
6 vegetation, existing infrastructure, and climate;

7
8 (B) Seasonal wildfire risk, based on factors that are expected to remain
9 fixed for multiple months but may be dynamic throughout the year,
10 including but not limited to, cumulative precipitation and fuel moisture
11 content;

12
13 (C) Areas subject to a heightened risk of wildfire, based on the
14 information provided under paragraphs (A) and (B) of this subsection;

15
16 (D) High-fire consequence areas, including but not limited to areas
17 containing residences, critical infrastructure, recreation opportunities,
18 timber and agricultural resources, and fire-sensitive wildlife habitat; and

19
20 (E) All data sources and methods used to model and identify risks and
21 areas under paragraphs (A) through (D) of this subsection.

22
23 (b) That the proposed facility will be designed, constructed, and operated in
24 compliance with a Wildfire Mitigation Plan approved by the Council. The Wildfire
25 Mitigation Plan must, at a minimum:

26
27 (A) Identify areas within the site boundary that are subject to a
28 heightened risk of wildfire, using current data from reputable sources,
29 and discuss data and methods used in the analysis;

30
31 (B) Describe the procedures, standards, and time frames that the
32 applicant will use to inspect facility components and manage vegetation
33 in the areas identified under subsection (a) of this section;

34
35 (C) Identify preventative actions and programs that the applicant will
36 carry out to minimize the risk of facility components causing wildfire,
37 including procedures that will be used to adjust operations during periods
38 of heightened wildfire risk;

39
40 (D) Identify procedures to minimize risks to public health and safety, the
41 health and safety of responders, and damages to resources protected by
42 Council standards in the event that a wildfire occurs at the facility site,
43 regardless of ignition source; and
44

(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.

(3) This Standard does not apply 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 on or before the effective date of this rule.

IV.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. The analysis area to evaluate potential wildfire risks is the site boundary and one-half mile from the site boundary.²³⁷

Based on the ~~certificate holder~~applicant and ~~Department-Council's~~ assessment of wildfire risk at the site and within the analysis area, as described in the ASC 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.

IV.N.1.1 Wildfire Risk Analysis

Under OAR 345-022-0115(1)(a), an applicant 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 ~~recommended~~ conclusions. The data sources used to evaluate wildfire risk are listed in ASC Exhibit V and include but are not limited to:

- Community Wildfire Protection Plan Planning (CWPP), 2023 and 2025b Tool Oregon Explorer;
- 2018 USFS, Pacific Northwest Quantitative Wildfire Risk Assessment: Methods and Results;
- Conservation Biology Institute 2020 data;

²³⁶ Administrative Order EFSC 2-2022, effective July 29, 2022.

²³⁷ OAR 345-001-0010(35)(c) and YRBNOIDoc42 SIGNED Project Order w Attachments 2024-01-26.

- Wasco County 2024 Community Wildfire Protection Plan;²³⁸
- Oregon Department of Forestry 2024 Wildfire Risk Explorer.

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 ASC Exhibit V, Section 2.1, 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. The majority (97 percent) of the site boundary has slopes that range from 0 to 25 degrees. The site boundary borders and crosses Bronx Canyon where slopes increase in range from 25 to 50 degrees. The area within the site boundary is primarily composed of eastside grasslands, shrub-steppe, and planted grasslands which are best represented by Fuel Model 122 which makes up 65 percent of the site boundary area and is categorized as moderate load dry climate grass-shrub.²³⁹ The primary carrier of fire in FM 122 is grass and shrubs; which have an overall high spread rate.²⁴⁰ Thirty-three percent of the site boundary is represented by Fuel Model 102 described as low load, dry climate grasses. Ninety seven percent (7,810 acres) of the site boundary has an average flame length of 4-8 feet, which indicates a potentially quick rate of fire spread.

Based on NOAA climate data between 1991 to 2020 for Antelope, the driest months on average are July, August, and September, typical for this region.

Existing infrastructure within the site boundary includes Wilson Road which is a two-lane paved road that runs east to west approximately through the center of the facility site. Existing infrastructure within the site boundary includes the Buckley Substation, sub-transmission lines, 500-kilovolt Bonneville Power Administration John Day to Grizzly Transmission Line, farming operations, various businesses, residences, and paved roads.²⁴¹

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 includes Buckley Substation, transmission lines, the 500-kilovolt Bonneville Power Administration John Day to Grizzly

²³⁸ <https://cms5.revize.com/revize/wascocounty/docs/Planning%20Reference/CWPP%20--%20FINAL%2004-17-2024%20w%20signature%20page.pdf> and YRBAPPDoc1-23 ASC Exhibit V. Wildfire Risk and Mitigation 2025-09-05, Section 2.6.

²³⁹ YRBAPPDoc1-23 ASC Exhibit V. Wildfire Risk and Mitigation 2025-09-05, Section 2.1.2.

²⁴⁰ YRBAPPDoc1-23 ASC Exhibit V. Wildfire Risk and Mitigation 2025-09-05, Section 2.2.3.

²⁴¹ There are four homesites within the analysis area and one homesite within the site boundary, however, the homesite located within the site boundary would be removed prior to construction.

1 Transmission Line, farming operations, and various businesses such as a hunting preserve.
2 Three energy facilities are located outside the wildfire analysis area, but within 10 miles of the
3 site boundary: the Bakeoven Solar Project, Daybreak Solar Project, and Sunset Solar Project.
4 Paved roads within the wildfire analysis area include Bakeoven Road, Wilson Road, and Hinton
5 Road. Wilson Road, which is a two-lane paved road that runs east to west approximately
6 though the center of the facility site. There are several unnamed graveled roads within the
7 vicinity of the site boundary. ASC Exhibit V indicates that there are four homesites within the
8 analysis area and two homesites within the site boundary, with one homesite within the
9 proposed solar micrositing area that would be removed prior to construction.²⁴²

10
11 The 2018 CWPP Mapping tool provides Overall Fire Risk Ratings, which measures vulnerability
12 of assets by the presence of the assets within the fire’s path, and the likelihood of that asset
13 being harmed. This data layer maps highly valued resources and assets combined: critical
14 infrastructure, developed recreation, housing unit density, seed orchards, sawmills, historic
15 structures, timber, municipal watersheds, vegetation condition, and terrestrial and aquatic
16 wildlife habitat and is shown below in Figure 13.²⁴³ According to the 2018 CWPP data the
17 majority of the site boundary (97 percent) does not have any mapping data for this metric,
18 however, the areas that do have high overall risk are associated with locations. Overall Wildfire
19 Risk Rating from the 2025 Updated CWPP Planning Tool’s “Integrated Expected Wildfire Risk”
20 data is provided in Table 23 below. Based on the updated data, the majority (48 percent) of the
21 site boundary is mapped as moderate wildfire risk, 25 percent is mapped as low and eight
22 percent is mapped as high wildfire risk.²⁴⁴ Importantly, as stated at the beginning of this section,
23 the ~~Department recommends~~ Council finds that wildfire fire is moderate during winter
24 (seasonally wetter) months and high during the summer months, during fire season.
25

Table 23: Overall Wildfire Risk (2025)

Overall Fire Risk Rating	Acres of Analysis Area	Percent of Analysis Area	Acres in Site Boundary	Percent in Site Boundary
Very High	76	0%	28	0%
High	2,365	13%	623	8%
Moderate	8,040	44%	3,838	48%
Low	3,021	16%	1,994	25%
Neutral	344	2%	79	1%

²⁴² YRBAPPD0c1-26 ASC Exhibit Y. Noise Regulations 2025-09-05, Figure Y-3 and YRBAPPD0c1-23 ASC Exhibit V. Wildfire Risk and Mitigation 2025-09-05, Section 2.1.3. YRBAPPD0c11 DPO Applicant Comments on DPO 2025-10-22.

²⁴³ This data layer contains all the resources required under OAR 345-022-0115(1)(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.

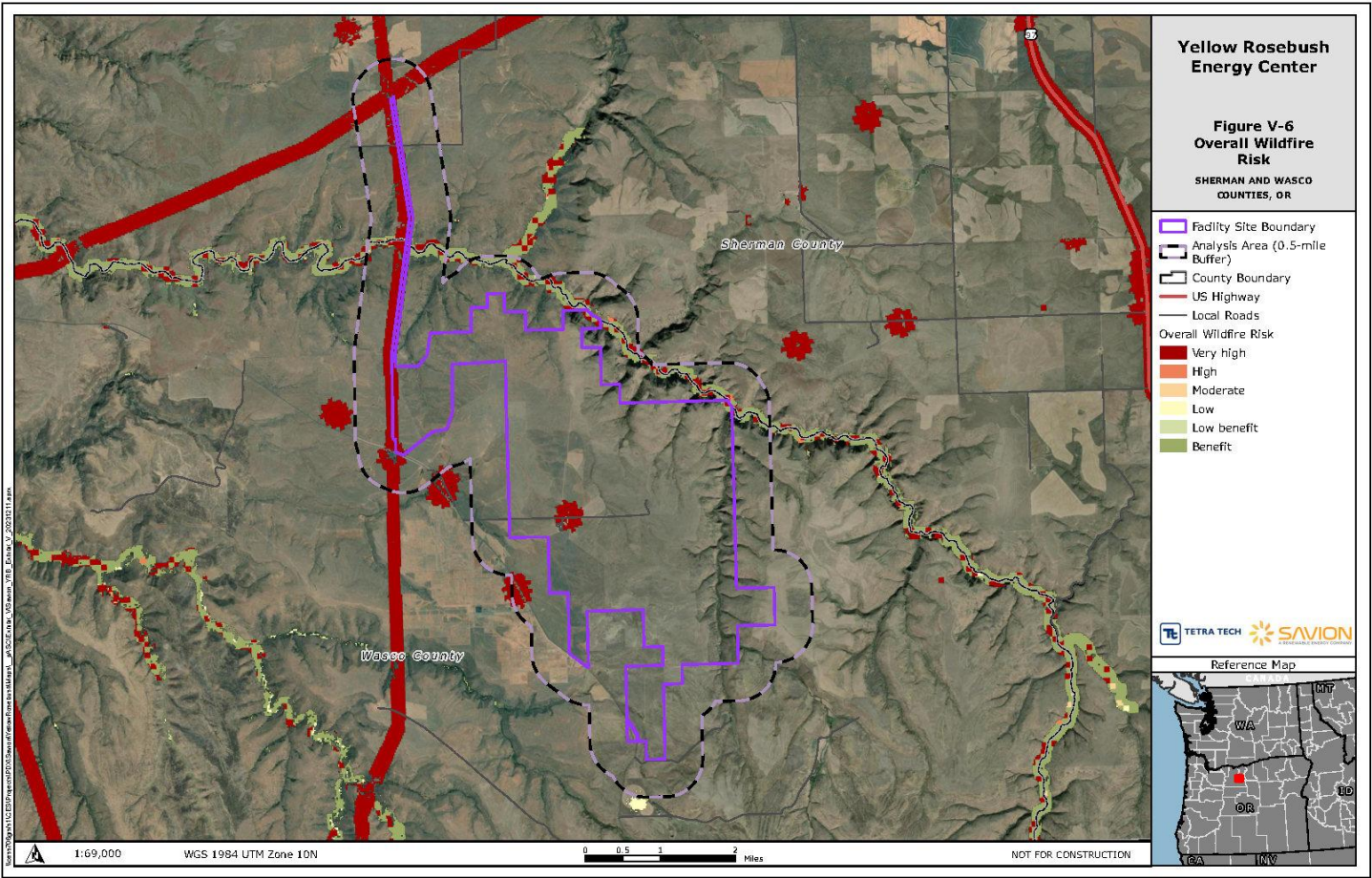
²⁴⁴ See YRBAPPD0c12 Applicant Response to DPO Comments_w Attchs 2025-11-07, in response to YRBAPPD0c9-14 DPO Public Comment VanEynde 2025-11-03; YRBAPPD0c9-11 DPO Public Comment Lee 2025-11-02.

Table 23: Overall Wildfire Risk (2025)

Overall Fire Risk Rating	Acres of Analysis Area	Percent of Analysis Area	Acres in Site Boundary	Percent in Site Boundary
Low Benefit	1,072	6%	733	9%
Moderate Benefit	835	5%	224	3%
High Benefit	166	1%	28	0%
	15,918	87%	7,547	93%
1. No data are available in the CWPP Planning Tool for overall fire risk rating for 13 percent of the analysis area and 7 percent of the Site Boundary. Therefore, the columns will not total 100 percent.				

1
2
3
4
5
6
7
8

Figure 13: Overall Wildfire Risk within Analysis Area (2018)



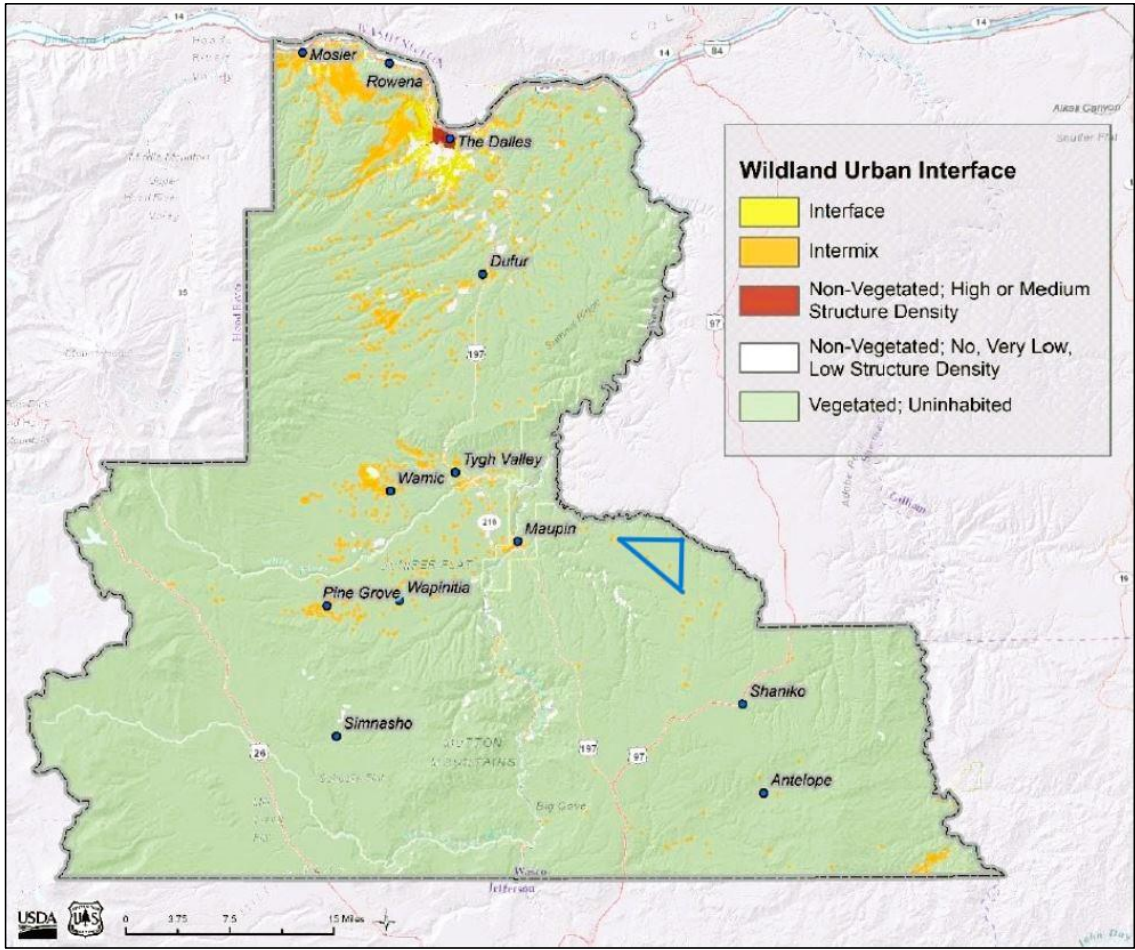
1 The Wasco County 2024 Community Wildfire Protection Plan (Wasco County CWPP) is a
2 planning tool for the fire and land managers of Wasco County, and provides a framework for
3 local agencies associated with wildfire suppression and protection services to assess the risks
4 and hazards associated with wildland urban interface areas (WUIs) and to identify strategies for
5 reducing those risks. The Wasco County CWPP defines WUIs as any area where the combination
6 of human development and vegetation have potential to result in negative impacts from
7 wildfire on the community.²⁴⁵ Figure 14 below shows WUIs in Wasco County with the
8 approximate facility location detailed in blue outline. Most of the facility site boundary and
9 analysis area are in the Vegetated/uninhabited designation with sparse areas in the orange
10 Intermix areas which are defined as areas with structure density > 0, and ≥ 50% cover of
11 wildland vegetation within a 40-acre radius. These are places where structures and wildland
12 vegetation are interspersed.

13
14 The Sherman County CWPP is a result of a county-wide effort initiated to identify and prioritize
15 wildfire hazards and to develop a strategy to reduce those hazards.²⁴⁶ There are no WUIs in the
16 south county near the proposed transmission line alternative.

²⁴⁵ <https://cms5.revize.com/revize/wascocounty/docs/Planning%20Reference/CWPP%20--%20FINAL%2004-17-2024%20w%20signature%20page.pdf>, Pp. 15-17.

²⁴⁶ <https://storage.googleapis.com/proudcity/shermandcountyor/2017/10/Sherman-County-CWPP-2024.pdf>

Figure 14: Wasco County 2024 CWPP WUI (Approx Facility Location in Blue)



1

IV.N.1.2 Wildfire Mitigation Plan

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. During the review of the pASC the Department provided the applicant with Council-reviewed Construction and Operational WMP templates which the applicant filled out with facility-specific information and are included in the ASC as ASC Attachments V-1 and V-2; attached to this order with the same names. The Council-reviewed templates are based on:

- Ongoing coordination with ODF, local fire departments and emergency managers;
- Council's feedback from other energy facilities, and review of the standard and WMP's during the September 2024 EFSC Meeting;
- Review of ODF Fire Season Requirements;
- Feedback from local fire Departments;
- Review of Oregon Emergency Response System (OERS) and utilization of county emergency notifications and incident response.

IV.N.1.3 Facility Design

As described in ASC Exhibit B, K, V and in Section III.A., *Description of the Proposed Facility* and in Section III.E.1.1, *Land Use; Local Applicable Substantive Criteria*, the below-listed facility fire-mitigation design features and maintenance protocols are added to the Construction and Operational WMP's as well as added to the facility description in the ~~draft~~-site certificate, Attachments W-1 and W-2 to this order. Under General Standard of Review Condition 1, the applicant is required to design, construct and operate the facility substantially as described in the site certificate, which includes the facility design feature descriptions.

The applicant-presented design features and maintenance standards that would avoid and reduce the wildfire risk at the facility site include:

- The separation distance between each solar array string is approximately 20 and 30 feet, which allows for adequate separation of solar blocks to provide first-responder access along interior roads as well as for operational inspections, equipment and vegetation maintenance.
- The solar array includes shielded electrical cabling, as required by applicable code, to prevent electrical fires.
- Inverters will be placed on concrete foundations approximately 10 feet by 20 feet; a gravel base will extend a minimum of four feet beyond the concrete foundation.
- The BESS will be contained within self-contained enclosures in accordance with applicable UL Solutions, National Electric Code, and National Fire Protection Association standards, and will be placed on concrete foundations. A gravel base will extend a minimum of four feet beyond the container concrete pads.
- The perimeter and service roads within the solar array will be up to 20 feet wide with up to a 48-foot turning radius.

- Vegetation will be cleared and maintained along perimeter service roads to provide vegetation clearance for fire safety.²⁴⁷
- The O&M building and battery storage system would be located on land flatter than a 40 percent slope (WCLUDO Section 10.110(A)).
- The O&M building and BESS would be set back at least 50 feet from any slopes greater than 30 percent (WCLUDO Section 10.110(B)).
- A 50-foot fire fuel break will be cleared and maintained around the O&M building and BESS (WCLUDO Section 10.120(A) and (B)). The BESS, substation and O&M building would be located within a separate fenceline and constructed on concrete slabs with gravel base extending from the structure; the fenced areas around the BESS, collector substation, and O&M building will be graveled with no vegetation present.²⁴⁸
- Vegetation in the transmission corridor, and particularly around related infrastructure (e.g., poles), would be maintained pursuant to the Minimum Vegetation Clearance Distances defined under North American Electric Reliability Corporation and National Electric Code standards.
- Facility components will meet National Electrical Code and Institute of Electrical and Electronics Engineers standards.
- The SCADA system provides remote operation, including shut off, and monitoring of the facility's solar array, BESS, and collector substation components.

During the review of the pASC, the Bakeoven-Shaniko Rangeland Fire Protection Association (RFPA) provided comments requesting that the facility should have a permanent fire barrier around it, preferably outside the perimeter fence that should be non-combustible and defensible to prevent the spread of wildfire.²⁴⁹ In response to the RFPA comments, the applicant commits to adopting WCLUDO Section 10.120 defensible space standards applicable to at least 50 feet from the interior of the fenceline to all facility electrical components.²⁵⁰ The standards for maintaining the minimum 50 foot fuel break area include:²⁵¹

- Ground cover maximum 4 inches tall;
- Trees limbed up approximately 8 feet from the ground,
- Trees kept free from dead, dry, or flammable material;
- Ladder fuels must be removed;
- No shrubs or tall plants under trees;
- Shrubs only in isolated groupings that maximize edges of ornamental beds to avoid continuous
- blocks of ground fuel;
- Keep shrubs and ornamental beds 15 feet away from edge of buildings and drip line of tree canopy; and

²⁴⁷ *Id.*

²⁴⁸ YRBAPPDoc1-3 ASC Exhibit B. Project Description 2025-09-05, Section 2.5.

²⁴⁹ YRBAPPDoc19 pASC Bakeoven-Shaniko RFPA Comments 2024-10-04.

²⁵⁰ YRBAPPDoc19 ASC Applicant Response to RFPA pASC Comments 2025-09-10.

²⁵¹ https://cms5.revize.com/revize/wascocounty/document_center/Planning/FullWCLUDO_3_2021.pdf, Chapter 10, Section 10.120, page 9.

- Use well irrigated or flame-resistant vegetation

Blaine Carver, the BS-RFPA chairperson, reviewed the applicant's responses and proposal for the ~~50-foot~~50-foot vegetation management area within the fenceline as well as the WMP's, discussed further below. Mr. Carver indicates that The 50-foot fuel break containing a 20' road on the perimeter would work on calm weather days, however, on windy days or under red flag warnings, the vegetation would slow the intensity of fires but not avoid them.²⁵² The ~~Department Council~~ highlights, as addressed below, that the Construction and Operational WMP's would be finalized prior to construction and operation, in conjunction with the RFPA, to further address site-specific fire reduction measures.

To ensure the above-described facility wildfire mitigation design features are described in the Construction and Operational WMP's, the ~~Department Council~~ adds these to the facility description (in redline) in both plans as well as to the facility description in the ~~draft~~ site certificate.

IV.N.1.4 Construction and Operational WMP Finalization, Wildfire Risk Minimization Preventative Actions, Programs, and Procedures

The following measures are the same for both the 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 ~~recommended~~ conditions. The Construction and Operational WMP are attached to this order as Attach~~ment~~-W-1 and Attach~~ment~~-W-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.²⁵³ Finalization of the WMPs includes receiving input from the Bakeoven-Shaniko Rural Fire Protection Agency, 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 ~~of~~ the Construction and Operational WMPs include pre-construction/pre-operational onsite trainings with contractors, local fire departments, the Department, emergency service professionals, and the ~~certificate holder~~applicant. Also designated in the WMPs, annual training would be held during construction and operation that will provide advanced emergency response and fire training to local first responders tailored to emergency and fire response at utility-scale solar and battery

²⁵² YRBAPPDoc19-15 ASC Reviewing Agency Comment RFPA w ODOE Response_Carver 2025-09-30.

²⁵³ 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.

energy storage facilities to be conducted by qualified instructors.²⁵⁴ As discussed in Section IV.M.2.9., *Public Services, Healthcare and Schools*, based on applicant representations to compensate/donate to emergency service providers, the ~~Department recommends~~Council requires the following language be added to both the construction and operational WMP Section 2.1: Training, "Training will be provided at no cost to emergency service personnel. ~~Certificate holder~~The applicant shall donate to Bakeoven-Shaniko Rural Fire Protection Association and Southern Wasco County Ambulance Service, Southern Wasco County Ambulance Service for their time and any necessary equipment for training."

The WMP's include emergency contact information for fire and emergency service providers as well as the certificate holder and its contractors. 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 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 outline 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 must 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.

²⁵⁴ As ~~recommended to be imposed as~~ a requirement in the WMPs, the applicant will compensate attendees for their time at a rate to be agreed to with the emergency response organization. YRBAPPDoc12 Applicant Response to DPO Comments_w Attchs 2025-11-07 in response to YRBAPPDoc9-10 DPO Public Comment Carr SWCAS 2025-11-02, YRBAPPDoc9-12 DPO Public Comment Miles 2025-11-02, YRBAPPDoc9-11 DPO Public Comment Lee 2025-11-02, YRBAPPDoc9-14 DPO Public Comment VanEynde 2025-11-03.

- 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 accordance to any fire restrictions.
- Vegetation buildup in the fence line(s), shall be removed.
- Personnel will be trained on 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-applicant~~ 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 4.0, 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 W-1 to the Final Order on ASC to the Department for review and approval.
[PRE-WF-01; Final Order on ASC]

~~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 ASC]

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

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

3
4 During operations, the ~~certificate holder~~applicant or its contractor will conduct vegetation
5 management inspections twice a year; once prior to the summer months when fire risk is
6 heightened. During these inspections, the technician will ensure vegetation setbacks from
7 installed equipment are adequate and will enact vegetation control measures if needed.
8 Vegetation control must be consistent with the WMP, Revegetation Plan, Soil Reclamation Plan
9 and Noxious Weed Plan and must:

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

17
18 Annually, vegetation beneath overhead electrical lines will be mowed to achieve clearance
19 requirements between conductor and ground.

20
21 Annual reporting requirements and amendments to the WMP are addressed in Section 4.0 of
22 the WMP. Reporting requirements listed above will be provided in the annual report submitted
23 to the Department. This information may be used by the Department and applicant to establish
24 the performance of the WMP. The applicant will also evaluate the WMP annually to determine
25 if updates to the WMP are necessary to address wildfire risk. To require that the Operational
26 WMP is finalized prior to operation and implemented during operation, the ~~Department~~
27 ~~recommends~~Council imposes the below conditions. WMP finalization is necessary to reflect
28 final facility design, any fire prevention measures determined in coordination with local fire
29 departments and updating the wildfire risk assessment based on available data at that time.

30
31 ~~Recommended~~**Wildfire Prevention and Risk Mitigation Condition 3 (PRO):** Prior to
32 facility operation, the certificate holder shall finalize and submit an Operational Wildfire
33 Mitigation Plan (WMP), Attachment W-2 to the Final Order on ASC to the Department
34 for review and approval.
35 [PRO-WF-01; Final Order on ASC]

36
37 ~~Recommended~~**Wildfire Prevention and Risk Mitigation Condition 4 (OPR):** During
38 facility operation, the certificate holder shall require onsite contractors and employees
39 to adhere to the Operational Wildfire Mitigation Plan (WMP) approved under PRO-WF-
40 01.
41 [OPR-WF-01; Final Order on ASC]

42
43 The ~~Department recommends~~Council finds that the Construction and Operational WMP shall
44 identify areas subject to heightened 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.

IV.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 applicant has adequately characterized wildfire risk within the analysis area using current data from reputable sources, and that, subject to Council approval, the facility will be designed, constructed, and operated in compliance with Wildfire Mitigation Plans.

IV.O. **Waste Minimization: OAR 345-022-0120**

(1) 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. ^{**255}*

IV.O.1. Findings of Fact

IV.O.1.1 *Construction*

Solid Waste

During construction, up to approximately 8,000 cubic yards of nonhazardous solid waste will be generated; applicant estimates that approximately 4,000 cubic yards of solid waste would be

²⁵⁵ Administrative Order EFSC 1-2007, effective May 15, 2007.

generated per phase of construction.²⁵⁶ Construction-related soil waste includes discarded construction materials, packaging materials, wood forms from foundations, and spent erosion control materials. Nonhazardous solid waste will be recycled, when feasible; or will be disposed of at the Dalles Disposal – Waste Connections, which operates in Wasco and Sherman counties and is anticipated to provide debris hauling and removal for the facility during both construction and operation. Much of the construction waste consists of recyclable materials, which will be collected and diverted from waste facilities by using one or more 30-cubic-yard recycling dumpsters regularly collected during the construction period.

As presented below, the ~~Department recommends~~ Council imposes Waste Minimization Conditions 1, 2 and 3 to ensure that construction-related waste is properly managed and minimized to the extent practicable.

Wastewater

Proposed facility construction would generate wastewater during washdown of concrete trucks after concrete loads have been emptied. Concrete truck chutes will be washed down at each foundation site to prevent the concrete from hardening within the chutes. Washdown methods will be determined by the contractor and may occur at contractor-owned batch plants or a designated concrete washout.²⁵⁷

Wastewater generated from facility construction will result from construction personnel using portable toilets, and from the washdown of concrete trucks. The construction contractor will provide an adequate number of portable toilets to accommodate construction staff on site and will be responsible for servicing the toilets at regular intervals and disposing of wastewater in accordance with local jurisdictional regulations.²⁵⁸

Wastewater associated with concrete truck washdown will either be emptied and washed down at each foundation site, or may occur at a contractor-owned batch plant, or a designated concrete washout.²⁵⁹ The applicant will implement erosion control measures required by its NPDES Construction Stormwater Discharge General Permit 1200-C and its associated ESCP to control stormwater runoff, to ensure that no water used for construction will be discharged into wetlands, streams, or other waterway.²⁶⁰

In addition, construction-related wastewater would be generated from portable toilets, which would be serviced by a local contractor for offsite disposal in accordance with applicable regulations.²⁶¹ The construction contractor will provide an adequate number of portable toilets

²⁵⁶ YRBAPPD0c1-24 ASC Exhibit W. Waste Minimization 2025-09-05, Section 2.1.1.

²⁵⁷ YRBAPPD0c1-24 ASC Exhibit W. Waste Minimization 2025-09-05

²⁵⁸ YRBAPPD0c1-24 ASC Exhibit W. Waste Minimization 2025-09-05

²⁵⁹ Id.

²⁶⁰ Id.

²⁶¹ YRBAPPD0c1-22 ASC Exhibit U. Public Services 2025-09-05

to accommodate construction staff on site. These would be serviced a minimum of once per week, and wastewater generated during construction would be transported via trucks by a local licensed subcontractor to a treatment facility. Portable handwashing stations would also be used during construction and would be hauled off site as well.

The ~~Department recommends~~ Council finds that construction waste and wastewater sources and management methods have been adequately addressed, emphasizing that recycling of materials during construction should be prioritized and well organized. The ~~Department recommends~~ Council imposes the following conditions to ensure the construction-related waste and wastewater impacts are minimized, via recycling and proper disposal:

- ~~Recommended~~ Waste Minimization Condition 1 (PRE):** Prior to construction of the facility, or phase, as applicable, the certificate holder or its contractor(s) shall develop and submit to the Department for review and approval, a Construction Waste Management Plan(s) that, at a minimum, includes the following:
- All sources and estimated quantities of construction waste and wastewater, including damaged or dysfunctional energy facility components, and where feasible, estimated quantities that can be recycled.
 - Process for disposal and recycling, including the use of licensed haulers and disposal/recycling facilities; names and locations of licensed recycling and disposal facilities; collection, and hauling requirements.
 - Identify how often employees will be trained on waste and recycling management protocols identified in this plan.
- [PRE-WM-01; Final Order on ASC]

~~Recommended~~ Waste Minimization Condition 2 (CON): During construction, the certificate holder shall require that its contractor(s) adhere to the requirements of the Construction Waste Management Plan(s) approved in PRE-WM-01, and maintain records of employee training made available upon Department request.

[CON-WM-01; Final Order on ASC]

IV.O.1.2 Operations

Solid Waste

During operations, up to approximately 10-15 cubic yards of waste per month will be generated. Waste may include equipment and components that are replaced, packing materials for replacement components, and waste associated with personnel at the O&M building. Repair or replacement of the solar array and associated electrical equipment would generate incidental solid waste because the panels typically last more than 30 years without significant degradation in function and will be replaced infrequently. Battery components would be replaced on a 20-year cycle. The replacement of lithium-ion (Li-ion) batteries (if selected) during operation, will follow the handling guidelines of 49 Code of Federal Regulations 173.185 – Department of Transportation Pipeline and Hazardous Material Administration related to the

shipment of Li-ion batteries. Licensed third-party battery suppliers will be responsible for transporting batteries to and from the facility in accordance with applicable regulations, as required through their licensure.

Batteries included in the BESS would also need to be replaced. Each battery included in the facility would need to be replaced twice during the 40-year expected operational lifetime, and the battery containers will require periodic replacement because the modules lose their effectiveness through repeated charge/discharge cycles.²⁶² Proposed facility operations and maintenance would generate nonhazardous solid wastes including solar modules and other general wastes, and potentially hazardous wastes such as spent lithium-ion batteries. The Department Council assumes that the routine replacement of solar modules will generate solid waste during operations over the life of the facility.

During operations, up to approximately 10-15 cubic yards of waste per month will be generated. The Dalles Disposal - Waste Connections has sufficient capacity to accommodate the facility's solid waste needs and has projected that 28 years are left in landfill's current footprint and that they have cover soil property to expand to when the time comes.²⁶³

To ensure the applicant establishes a plan or protocol that will minimize waste associated with replaced solar panels and BESS batteries and to support to the maximum extent practicable, recycling or reuse of solar panels based on available licensed facilities or programs at the time of replacement, the Department recommends Council impose the following conditions:

Recommended-Waste Minimization Condition 3 (PRO): Prior to operation, the certificate holder shall develop an Operational Recycling Plan or protocol requiring that damaged or nonfunctional solar panels and lithium-ion batteries be recycled to the extent practicable. The certificate holder shall report in its annual report to the Department the quantities of panels and lithium-ion batteries recycled, reused or disposed of in a landfill. Requirements for lithium-ion battery recycling do not apply if the BESS is not constructed.
[PRO-WM-01; Final Order on ASC]

Recommended-Waste Minimization Condition 4 (OPR): During operations, the certificate holder shall adhere to the requirements of the Operational Recycling Plan or protocol developed under Condition PRO-WM-01.
[OPR-WM-01; Final Order on ASC]

Wastewater

Facility operations will produce washwater from solar panel washing, if necessary. The water used for array cleaning is not anticipated to require off-site disposal due to the high

²⁶² YRBAPPDoc1-22 ASC Exhibit U. Public Services 2025-09-05

²⁶³ YRBAPPDoc1-22 ASC Exhibit U. Public Services 2025-09-05, Attachment U-2.

evaporation rate and expected infiltration at the site. No acids, bases or metal brighteners will be used; biodegradable, phosphate cleaners may be used sparingly.

IV.O.2. Conclusions of Law

Based on the foregoing analysis, and in compliance ~~with the recommended~~ site certificate conditions the ~~Department recommends that~~ Council finds that the facility will be constructed and operated consistent with solid waste and wastewater plans that will minimize generation of solid waste and wastewater, recycling materials will be used to the maximum extent available, and the construction and operation of the facility are not likely to result in minimal adverse impact on surrounding and adjacent areas, therefore the facility will be constructed and operated consistent with the Council's Waste Minimization Standard.

IV.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.²⁶⁴

IV.P.1. Findings of Fact

Transmission lines must comply with the electric field standard found in OAR 345-024-0090, which requires that the applicant design, construct, and operate a proposed transmission line so that AC electric fields do not exceed 9 kV/m at 1 meter above the ground surface in areas accessible to the public. There is no similar Oregon design standard for magnetic fields.

As described in Section III.A.2., the proposed facility includes an approximate 1,000 foot long, primary 500-kV transmission line that would connect the facility to the point of interconnect (POI) at a Bonneville Power Administration (BPA)-owned switchyard, located south of the facility collector substation. The alternate 500-kV transmission line POI would connect to BPA's Buckley Substation approximately 4.5 miles north of the facility. The transmission line routes would not be fenced and could be accessible to the public.

²⁶⁴ Administrative Order EFSC 1-2007, effective May 15, 2007

Both proposed 500-kV gen-tie lines would be located adjacent to existing and operating BPA 500-kV transmission lines and right-of-way (ROW). The applicant indicates that there are no occupied buildings or residences within 200 feet of the center line of the proposed gen-tie line, and that the areas within 200 feet of the primary segment of the proposed 500-kV gen-tie line are all associated with the facility.²⁶⁵ The ROW for the proposed 4.5 mile alternative would be 200 feet wide and would run parallel to the existing John Day to Grizzly transmission line, and would not necessitate a new ROW.

IV.P.1.1 Electric and Magnetic Fields

The presence of an electric charge on an energized conductor produces an electric field. The strength of the electric field is measured in kilovolts per meter (kV/m). Electric field strength is directly proportional to the line's voltage; increased voltage produces a stronger electric field. The strength of the electric field is inversely proportional to the distance from the conductors; the electric field declines as the distance from the conductor increases.

Bonneville Power Administration Corona and Fields Effect Program, Version 3 (CAFE) model was used to estimate the electric fields that would be generated within a 200-ft right of way by the transmission lines at 1 meter above ground level. Assumptions inputted into the modeling include environmental parameters – 1 inch of precipitation per hour, 2.0 miles per hour wind speed and elevation; overhead pole height, line amperage and voltage, and conductor type.²⁶⁶

The results of the modeling for electrical fields are summarized in the table below and represent that both transmission line routes can be operated such that the AC electric field will not exceed 9 kV/m at 1 meter above the ground surface.

Table 24: Electrical Field Modeling Results for the Proposed 500 kV Transmission Line

Line Description	Electric Field (kV/m)		
	200 feet Left	Peak Value	200 feet Right
Primary Transmission Line	0.155 (west)	3.796, 20 feet right (east) of centerline	0.086 (east)
Alternative 4.5 Mile Transmission Line	0.34 (west)	4.014, 186-192 feet right (east) of centerline	0.276 (east)

Source: YRBAPPD0c1-28 ASC Exhibit AA. EMF 2025-09-05, Table AA-3

²⁶⁵ YRBAPPD0c1-28 ASC Exhibit AA. EMF 2025-09-05, Section 2.1.

²⁶⁶ All assumptions used for modeling the primary 1,000 foot gen tie line and the 4.5 mile alternative gen tie line are provided in ASC Exhibit AA, Section 2.3.

The modeling results for magnetic fields generated by the 500-kV transmission line for each of the transmission line configurations are provided in the following table:

Table 25: Magnetic Field Modeling Results for the Proposed 500 kV Transmission Line

Line Description	Exh AA Figure	Magnetic Field (mG)		
		200 feet Left	Peak Value	200 feet Right
Northern Transmission Line	AA-3 AA-5	3.21 (west)	60.93, 4 feet right (east) of centerline	3.33 (east)
Southern Transmission Line	AA-3 AA-5	24.33 (west)	106.5, 60 feet right (east) of centerline	20.41 (east)

Source: YRBAPPDoc1-28 ASC Exhibit AA. EMF 2025-09-05, Table AA-4

Modeling results showed that peak (maximum) electric field strength on a 500-kV line, in the rights-of-way would be approximately 3.8 kV/m for the primary transmission line, and 4.0 kV/m for the 4.5 mile alternative transmission line. All of these measurements fall below the 9 kV/m threshold. Therefore, the ~~Department recommends that~~ Council find~~s~~ that the applicant can design, construct and operate the proposed transmission lines in accordance with OAR 345-024-0090(1).

IV.P.1.2 Induced Voltage and Current

Electric currents can be induced by electric and magnetic fields in conductive objects near transmission lines. In particular, the concern is for very long objects parallel and close to the line. The primary concern is the potential for small electric currents to be induced by electric fields in metallic objects close to transmission lines. Metallic roofs, farming equipment and large vehicles, vineyard trellises, and fences are examples of objects that can develop a small electric charge in proximity to high-voltage transmission lines. Object characteristics, degree of grounding, and electric field strength affects the amount of induced charge. An electric current can flow when an object has an induced charge and a path to ground is presented.

A current-carrying conductor will induce a current to flow in another conductor that is parallel to it. Induced currents result from the net alternating current magnetic field. In the common case of grounded fences, electrical loops can be created in which induced currents can flow. The value of the induced current will depend on the magnetic field strength; the size, shape, and location of the conducting object; and the object-to-ground resistance.

Based on the modeling results, the calculated maximum magnetic field for the primary transmission line is approximately 61 milligauss (mG), four feet from the centerline and approximately 107 mG 60 feet from the centerline, which are sufficiently low that induced current in a metallic object should not occur.

The Siting Standards for Transmission Lines requires the Council to find that the applicant “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.” ~~Recommended~~ Siting Standards for Transmission Lines Condition 1, below, requires, in part, the applicant to develop and implement a program that provides reasonable assurance that all fences, gates, cattle guards, trailers, 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. This includes both existing infrastructure as well as other facility components such as perimeter fencing. To ensure that induced currents are minimized based on applicant’s representations, consistent with Council’s Site-Specific Condition under OAR 345-025-0010(4), the Council imposes the following condition:

~~Recommended~~ **Siting Standards for Transmission Lines Condition 1 (GEN):** The certificate holder shall:

- a. Design, construct and operate the transmission lines in accordance with the requirements of the National Electrical Safety Code as approved by the American National Standards Institute; and
 - b. Develop and implement a program that provides reasonable assurance that all fences, gates, cattle guards, trailers, 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.
- [GEN-TL-01, Final Order on ASC]

IV.P.2. Conclusions of Law

Based on the foregoing analysis, and subject to compliance with the ~~proposed~~ site certificate condition described above, the ~~Department recommends the~~ Council finds that the applicant can design, construct, and operate the facility 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 the transmission line and related or supporting facilities will be as low as reasonably achievable.

Evaluation of Other Applicable Regulatory Requirements

Under ORS 469.503(3) and under the Council’s General Standard of Review (OAR 345-022-0000), the Council must determine whether the proposed facility complies with “all other Oregon statutes and administrative rules...as applicable to the issuance of a site certificate for the proposed facility.” This section addresses the applicable Oregon statutes and administrative rules that are not otherwise addressed in Council standards, including noise control regulations, regulations for removal or fill of material affecting waters of the state, and regulations for water rights.

IV.Q. Noise Control Regulations for Industry and Commerce: 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,²⁶⁷ including noise rules adopted by the Environmental Quality Commission and previously administered by the Department of Environmental Quality (DEQ).^{268, 269}

IV.Q.1. Findings of Fact

The analysis area for the Noise Control Regulation includes the area within and extending 1-mile from the proposed site boundary.

IV.Q.1.1 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.

Construction noise levels are predicted using a semi-qualitative approach based on equipment sound levels for common construction equipment used in the 2006 Federal Highway Administration Roadway Construction Noise Model.²⁷⁰ Table 26, 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 40.²⁷¹

Table 26: Estimated Construction Noise Levels

Construction Equipment	Expected Sound Level by Distance (dBA)			
	50 feet	1,000 feet	2,500 feet	5,000 feet
Bulldozer (250 to 700 horsepower [hp])	88	62	54	43

²⁶⁷ 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).

²⁶⁸ 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.

²⁶⁹ "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."

B2HAPDoc7 Supreme Court Decision Stop B2H Coalition v. Dept, of Energy 2023-03-09, pp 805-807.

²⁷⁰ Federal Highway Administration Roadway Construction Noise Model User's Guide, FHWA-HEP-05-054, January 2006.

²⁷¹ <https://www.osha.gov/noise>.

Table 26: Estimated Construction Noise Levels

Construction Equipment	Expected Sound Level by Distance (dBA)			
	50 feet	1,000 feet	2,500 feet	5,000 feet
Front-end loader (6 to 15 cubic yards)	88	62	54	43
Truck (200 to 400 hp)	86	60	52	41
Grader (13- to 16-foot blade)	85	59	51	40
Shovel (2 to 5 cubic yards)	84	58	50	39
Portable generators (50 to 200 kilowatts)	84	58	50	39
Mobile crane (11 to 20 tons)	83	57	49	38
Concrete pumps (30 to 150 cubic yards)	81	55	47	36
Tractor (0.75 to 2 cubic yards)	80	54	46	35
Source: Adapted from Beranek (1988); FHWA 2006. dBA = A-weighted decibel				

Construction noise would occur during daytime hours, would be temporary, and attenuates with distance from the facility. As discussed below, there are 12 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.

IV.Q.1.2 Operational Noise

The proposed 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). The standards prohibit noise generated from a new industrial or commercial source from exceeding the limits in Table 27 below, or from increasing the L₁₀ or L₅₀ ambient statistical noise levels by more than 10 dBA in any one hour.

Table 27: 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.²⁷² There are twelve (12) NSRs within the 1-mile analysis area. Two of the NSRs (NSR-8 and NSR-12) are located inside the site boundary and are participating landowners. 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.²⁷³ However, for solar energy facilities, an applicant may elect to use an assumed ambient noise level of 26 dBA or measure the actual ambient background level, the applicant assumed ambient noise level of 26 dBA for this noise analysis.

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 projected operational noise levels are based on applicant-supplied manufacturer sound power level data. 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 to the acoustic modeling analysis by the applicant and reviewed by the ~~Department~~Council, assumed the maximum number of noise-generating equipment, as listed below:

- 199 Solar Array inverter/inverter step-up transformers, 83 dBA per inverter
- 1,220 Battery energy storage system units, 92 dBA per unit
- Medium voltage transformers, 105 dBA per unit
- 4 Substation generator step-up transformers (240 megavolt ampere Transformer), 104 dBA per transformer
- Primary (less than 1000 feet) 500 kV gen-tie transmission line, 83.7 to 84.2 dBA at 50 feet²⁷⁴

The 2023 DataKustik GmbH's Computer-aided Noise Abatement (CadnaA) program and the Bonneville Power Administration's 1991 Corona and Field Effects Program v3 (Corona 3) were used to estimate expected noise levels during proposed facility operation. The assumed background sound level of 26 dBA is given as well as the sound contribution from the proposed facility.

In addition, the applicant modeled potential corona noise from both transmission line alternatives. Audible noise levels associated with the transmission line are dependent upon the

²⁷² "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."

²⁷³ As previously described, because DEQ does not fund, administer, or enforce the noise control requirements established in OAR 345-035-0035, yet they are applicable OARs to the facility, the Council assumes authority to review, interpret, and apply the rules. Therefore, the Council has authority to review and approve sound measurement procedures that differ from the Sound Measurement Procedures Manual (NPCS-1).

²⁷⁴ YRBAPP ASC Exhibit Y. Noise Regulations 2025-09-05, Figure Y-2

1 configuration of the transmission line. Corona noise was modeled using fair and foul weather.
2 Foul weather is when rain levels are enough to dampen the transmission line which increases
3 corona noise, but rain isn't heavy enough to be louder than the actual corona. Based on the
4 modeling results for operation noise, the applicant evaluated the potential impacts on the 12
5 Noise Sensitive Receptors within the analysis area.

6
7 Modeling results are provided in Table 28, below, and indicate that the facility can comply with
8 the 50 dBA L₅₀ nighttime maximum permissible noise level prescribed by ODEQ because the
9 loudest modeled noise level at a NSR is 46 dBA, less than the 50 dBA threshold. Therefore, the
10 ~~Department recommends~~ Council finds that because the maximum L50 sound levels would be
11 less than the "Table 8" maximum allowable sound level, the proposed facility would be in
12 compliance with the maximum allowable sound level standard identified in OAR 340-035-
13 0035(1)(b)(B)(i). As shown in Table 28, below, there are six predicted exceedances of the 10
14 dBA ambient degradation standard at NSR IDs 1, 2, 3, 4, 5, and 12
15
16

Table 28: Acoustic Modeling Results on Noise Sensitive Receptors

NSR ID		Ambient (Background dBA)	Facility Noise (Inverters, BESS Units, Transform ers) (dBA)	Facility Noise (Alternative Generation- tie Line) (dBA)	Combined Noise (Background + Facility) (dBA)	Change in Noise (dBA)	Compliance with OAR 340- 035-0035
1		26	21	39	39	14	No*
2		26	27	42	42	16	No*
3		26	23	38	39	13	No*
4		26	44	42	46	20	No*
5		26	36	31	37	11	No*
6		26	33	27	34	9	Yes
7		26	24	14	25	2	Yes
8		26	26	11	26	3	Yes
9		26	20	10	21	1	Yes
10		26	18	8	18	1	Yes
11		26	18	7	19	1	Yes
12		26	40	32	40	14	No*
* Compliance with OAR 340-035-0035 is met by a demonstration of no noise exceedances based on final noise assessment under Noise Control Condition 2, designing the facility to avoid exceedances, or a noise waiver required under Noise Control Condition 1.							

NSRs 1, 2, and 3 are within the one-mile analysis area for the alternative transmission line. If the primary gen-tie line is selected, which is significantly shorter than the 4.5 mile alternative, it would be routed within the confines of the onsite switchyard and collector substation areas. In this facility design scenario, the facility would comply with the DEQ noise regulations at these NSRs.

To ensure that final facility design would comply with OAR 340-035-0035 or to determine if micrositings changes or noise waivers (discussed below) are necessary, ~~the Department recommends~~ the Council impose^s Noise Control Condition 1 requiring that, prior to construction, the applicant provide an updated acoustic modeling analysis and associated maps based on final facility design, equipment specifications, and noise warranty data that demonstrates compliance with the anti-ambient degradation standard.

~~Recommended~~ **Noise Control Condition 1 (PRE):** Prior to construction of solar arrays, substation or battery energy storage system, the certificate holder shall demonstrate that the facility operational noise levels comply with OAR 345-035-0035(1)(b), based on an updated acoustic modeling analysis using final design/layout and equipment specifications.

[PRE-NC-01; Final Order on ASC]

-Under OAR 340-035-0035(1)(b)(B)(iii)(III), to demonstrate compliance with OAR 340-035-0035, the applicant may execute a legally effective easement or real covenant (or a “noise waiver”) with persons who own the noise sensitive property which benefits the property on which the wind or solar energy facility is located (benefits the applicant or facility).²⁷⁵ The easement or covenant must authorize the 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. The applicant does not have draft agreements in place at this time and to demonstrate that it can secure the appropriate noise waivers to demonstrate compliance with OAR 340-035-0035(1)(b), the ~~Department recommends~~ Council impose^s the following condition requiring the submission of the noise waivers prior to construction of the facility, if micrositings the facility to avoid exceedances and the noise assessment under ~~Recommended~~ Noise Control Condition 1 still result in expected noise exceedances at any NSRs within the 1-mile analysis area.²⁷⁶

~~Recommended~~ **Noise Control Condition 2 (PRE):** Prior to construction of the facility and based on outcomes of PRE-NC-01, the certificate holder must submit to the Department copies of executed legally effective easement(s) or real covenant(s) (noise waivers) for

²⁷⁵ In ASC Exhibit Y, the applicant differentiates between the applicability of noise waivers based on whether or not NSRs with exceedances are participating landowners or not. The ~~Department Council~~ emphasizes that if a wind or solar facility would increase the ambient noise levels by more than 10 dBA at an NSR property that is inside or outside the site boundary, for Council to find compliance with the DEQ noise rule, the facility would need to execute an easement or covenant per the rule.

²⁷⁶ YRBAPPDoc11 DPO Applicant Comments on DPO 2025-10-22.

each noise-sensitive property where the certificate holder relies on a noise waiver to demonstrate compliance with OAR 340-035-0035. The easement or covenant must authorize the 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.
[PRE-NC-02; OAR 340-035-0035(1)(b)(B)(iii)(III); Final Order on ASC]

IV.Q.2. Conclusions of Law

Based on the ~~recommended~~ findings of fact and compliance with the ~~recommended~~ conditions of approval, ~~the Department recommends~~ the Council finds that the design, construction, and operation of the proposed facility would comply with the requirements of OAR 340-035-0035.

IV.R. Removal-Fill Law: ORS chapter 196 and OAR chapter 141

Under ORS 196.795 through 196.990 and OAR chapter 141, division 085, no person may remove, fill, or alter 50 cubic yards or more of material within any state jurisdictional waters, or any amount of material within state-designated Essential Salmonid Habitat, State Scenic Waterways or compensatory mitigation sites, without a permit from the Department of State Lands (DSL).²⁷⁷ State jurisdictional waters include among other types of waterways, wetlands, rivers, and intermittent and perennial streams, lakes, and ponds.²⁷⁸

IV.R.1. Findings of Fact

The applicant has not identified that a removal fill permit is required for the facility, nor requested that if such permit were required, that it be governed by the site certificate.

To support the evaluation of whether a removal-fill permit is needed for facility construction, a wetland delineation study was completed on 7,026 acres in 2023. Field delineations were conducted utilizing techniques published in the 1987 United States Army Corps of Engineers Wetlands Manual 2008 Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Arid West Region, and OAR 141-090-0005 through 141-090-0055. DSL concurred with the applicant's wetland delineation (based on DSL requested revisions) on October 22, 2025;

²⁷⁷ ORS 196.800(15) defines "Waters of this state." The term includes wetlands and certain other waterbodies.

²⁷⁸ See definitions for "waters of this state" and the jurisdictional limits of the term under ORS 196.800 and OAR 141-085-0510, and 141-085-0515.

- 1 DSL concurrence on the wetland delineation (referred to as a jurisdictional determination)
2 expires within 5 years from the date of the letter, unless renewed.²⁷⁹
3
4 The results of the revised wetland delineation affirmed by DSL are as shown in Table 29 below:

Table 29: Wetlands and Water of the State within the Analysis Area

Wetland / WOS ID	(Subclass) Wetland Type	Cowardin	Acres
WT-122	Riverine (Flow-through)	PEM	0.003
WT-123	Riverine (Flow-through)	PEM	0.01
WT-124	Riverine (Flow-through)	PSS	0.16
WT-212	Riverine (Flow-through)	PEM	0.15
WT-499	Riverine (Flow-through)	PSS	0.45
* WT-500	Flats	PEM	0.26
* WT-502	Flats	PEM	0.19
* WT-503	Flats	PEM	0.01
Wetland Total			1.233
See DSL WD # 2024-0071, Table 6a (Streams)	Ephemeral Waterway	49	N/A
	Intermittent Waterway	2	N/A
	Livestock Ponds	4	N/A
Total WOS Features		55	N/A
* WT500, WT502, and WT503 are vernal pools that meet the state’s criteria for Aquatic Resources of Special Concern. Source: Approved October 22, 2025 DSL WD # 2024-0071. YRBAPPDoc9-1 DPO Reviewing Agency Comments DSL Concurrence 2025-10-22 and YRBAPPDoc1-11 ASC Exhibit J. Wetlands 2025-09-05, Table 5.			

- 5
6
7 The ~~Department-Council~~ confirmed that the facility site is designed to avoid wetlands or other
8 WOS by comparing the maps with locations of wetlands and WOS provided in the DSL wetland
9 delineation and ASC Exhibit C, Figures C-2.1, 2.2, and 2.3.²⁸⁰ In addition, as evaluated in Section
10 IV.E.1.1. Land Use, Wasco County Local Applicable Substantive Criteria, WCLUDO 3.216(A)(2)
11 requires that facility components with foundations be setback from non-fish bearing streams by
12 a minimum of 50-feet (see ~~recommended~~-Land Use Condition 1).
13
14 Based on DSL’s concurrence, and the applicant’s commitment to microsite the facility to avoid
15 any impacts to wetlands and WOS, the ~~Department recommends the~~ Council find~~s~~ that no
16 removal-fill permit is needed for the proposed facility. To ensure that a valid jurisdictional

²⁷⁹ YRBAPPDoc9-1 DPO Reviewing Agency Comments DSL Concurrence 2025-10-22.
²⁸⁰ See Figures 5.1 and 5.1 Wetland Delineation Detail Map and the subsequent wetland feature tax lot detail maps. YRBAPPDoc9-1 DPO Reviewing Agency Comments DSL Concurrence 2025-10-22.

determination²⁸¹ is in place before construction of the proposed facility so the applicant can ensure that final facility design avoids wetlands and WOS, the ~~Department recommends the~~ Council impose Removal-Fill Condition 1, as presented below.

~~Recommended~~ **Removal-Fill Condition 1 (PRE):** Prior to construction, the certificate holder must obtain a jurisdictional determination renewal for WD2024-0071 Wetland Delineation Report from DSL or a new DSL concurrence to ensure that the boundaries of state jurisdictional wetlands and waterways are accurately delineated for purposes of establishing the required setback and avoidance measures.
[PRE-WL-01; Final Order on ASC]

IV.R.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 proposed facility would not require a removal fill permit because of the avoidance of impacts to wetlands and WOS, therefore the facility complies with the applicable portions of the requirements of ORS 196.795 through 196.990 and OAR chapter 141, division 085.

IV.S. 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. As presented in the Project Order, Section III (E), OAR 345-021-0010(1)(o)(F) requires that if a proposed facility needs a groundwater permit, surface water permit, or water right transfer, ~~that a~~ decision on authorizing such a permit rests with the Council.

IV.S.1. Findings of Fact

Proposed facility construction and operations will not rely upon a groundwater permit, surface water permit, or water right transfer. During construction, a maximum of 54.5 million gallons (Mgal) of water would be used for dust suppression, road compaction, site preparation, mixing

²⁸¹ Jurisdictional determination may include letter of concurrence issued by DSL, see OAR 141-090-0020 (20) "Jurisdictional Determination" (JD) means a written decision by the Department that waters of this state subject to regulation and authorization requirements of OAR 141-085, 141-089, 141-0100 and 141-0102 are present or not present within a study area. The JD may include a delineation of the geographic boundaries of the area subject to state jurisdiction. For example, a JD may include the location of a wetland boundary or the location of the ordinary high water line (ordinary high water mark) of a waterway. A JD may, but does not necessarily, include a determination that a particular activity in a water of this state is subject to authorization requirements. The decision record includes the basis of the jurisdictional determination and is a final order subject to reconsideration according to the provisions in 141-090-0050.

concrete for foundations, fire prevention, and on-site worker drinking and sanitation use. Construction-related water is expected to be obtained from the Deschutes Valley Water District (DVWD), the City of Maupin and the City of Wasco²⁸² under an existing municipal water right.²⁸³

Alternatively, construction related water may also be obtained through a limited water use license, from the Oregon Water Resources Department (OWRD) from one or both underlying landowners with existing wells. As discussed in Section IV.M.2.2, *Water Service*, under the Public Services standard, ~~Recommended~~-Public Services Condition 1, ~~recommends~~ Council requires that prior to construction, the applicant confirm the final water demand based on final facility build out, and 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 581,000 gallons per year: 521,000 gallons would be used for periodic solar module washing and an additional 60,000 gallons for sanitary uses at the facility O&M building. Water necessary for operations would be obtained from one or more of the municipal water providers that are expected to be used for construction related water, or from an onsite, permit-exempt well located at the O&M building. Operational water provided by the municipal water providers would be obtained through a bulk water agreement. Further discussed below, ~~Recommended~~-Water Rights Conditions 1 and 2, would require the use of onsite wells during operation to be maintained in compliance with OWRD rules.

Under OAR 690-340-0010(1)(d), a commercial or industrial operation (in this case the operation of a solar facility) shall be allowed only one well system and exemption under the exemptions defined in ORS 537.545(1)(f) on each ownership or tax lot, whichever is larger. The proposed facility would be located on separate tax lots, with land under ownership of different landowners. Under ORS 537.545(1)(f), an exempt use of ground water includes any single industrial or commercial purpose in an amount not exceeding 5,000 gallons a day. The “purpose” is the construction and operation of the proposed solar facility; therefore, the proposed facility may not exceed 5,000 gallons per day from the well system. In the ASC, the applicant states that water use at the O&M building would be less than 5,000 gal/day. The applicant’s proposal for use of groundwater from groundwater wells qualifies for an exemption under ORS 537.545(1)(f), therefore no registration, certificate of registration, application for a permit, permit, certificate of completion or ground water right certificate is required.

²⁸² Applicant has provided letters from the Deschutes Valley Water District, City of Wasco and City of Maupin.

²⁸³ 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 proposed solar facility, as an industrial or commercial use, qualifies as a municipal use under OWRD rules.

Under 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.²⁸⁴ The provisions of ORS 537.765 outline water log requirements and apply to any person who constructs, alters, abandons or converts a well, which would apply to bonded contractors installing the wells, and not the applicant. 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.²⁸⁵ 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.

To verify that applicant's ongoing qualification for exempt use of groundwater during operations, the ~~Department recommends~~ Council imposes the following conditions:

Recommended-Water Rights Condition 1 [PRO]: Prior to operation, the certificate holder shall provide the Department a copy of the map, well log and all other information it provided to OWRD pursuant to ORS 537.545 and ORS 537.765 to qualify for an exempt ground water use for any onsite exempt wells.

[PRO-WR-01; Final Order on ASC]

Recommended-Water Rights Condition 2 [OPR]: During operation, the certificate holder shall verify that any onsite exempt wells do not use more than 5,000 gallons of ground water a day, collectively, and shall monitor the volume of groundwater used on a daily basis, maintain a record of such use and make the monitoring records available to the Department upon request.

[OPR-WR-01; Final Order on ASC]

The ~~Department recommends~~ Council finds that because the applicant has estimated maximum water use during facility construction and operation, and demonstrated that with conditions, it has an ability to obtain an adequate supply of water, that neither the applicant nor a third-party contractor will require a groundwater permit, surface water permit, or water right transfer for construction or operation of the facility.

IV.S.2. Conclusions of Law

Based on the foregoing findings of facts and ~~recommended~~ conditions, ~~the Department recommends that~~ the Council concludes that the proposed facility does not need a groundwater permit, surface water permit, or water right transfer.

²⁸⁴ See OAR 690-190-0005 for exempt groundwater use recording requirements in rule.

²⁸⁵ ORS 537.545(1)(f).

V. **PROPOSED-FINAL CONCLUSIONS AND ORDER OF THE COUNCIL**

The applicant, Yellow Rosebush Energy Center, LLC, a subsidiary of Savion, LLC, submitted an application for site certificate (ASC) to the Energy Facility Siting Council (Council) requesting authorization to construct and operate a solar photovoltaic energy generation facility including, related or supporting facilities, within Wasco and Sherman counties. Subject to compliance with the ~~recommended~~ site certificate conditions and based on the preponderance of evidence on the record, the ~~Department recommends~~ Council find~~s~~ that:

1. The ~~proposed~~ Yellow Rosebush Energy Center complies with the requirements of the Oregon Energy Facility Siting Statutes, ORS 469.300 to 469.520.
2. The ~~proposed~~ Yellow Rosebush Energy Center complies with the standards adopted by the Council pursuant to ORS 469.501.
3. The ~~proposed~~ Yellow Rosebush Energy Center complies with all other Oregon statutes and administrative rules identified in the Project Order as applicable to the issuance of a site certificate for the facility.

Based on the ~~recommended~~ findings of fact, reasoning, ~~recommended~~ conditions and conclusions of law in this Proposed-Final Order, the ~~Department recommends that~~ Council conclude~~s~~ that the applicant has satisfied the requirements for issuance of a site certificate for the Yellow Rosebush Energy Center. ~~The Department further recommends that, pursuant to~~ ORS 469.401, the Chairperson execute~~d~~ the site certificate authorizing the applicant to construct, operate and retire the facility subject to the conditions set forth in the site certificate.

Approved on DATE XX 2026; executed on DATE 2026

The ENERGY FACILITY SITING COUNCIL

By: _____

**Cynthia Condon, Chair
Oregon Energy Facility Siting Council**

1 **VI. NOTICE OF RIGHT TO APPEAL**

2
3 Judicial review of this Energy Facility Siting Council Final Order approving the application for site
4 certificate is described in ORS 469.403.

5
6 This Order is subject to applications for rehearing and/or appeal under ORS 469.403.

7
8 Per ORS 469.403(1) and (3), the date of service is the date a copy of this Order was delivered or
9 mailed - August 31, 2023 - not the date you received it.

10
11 Per ORS 469.403(1), any party to the contested case proceeding may apply to the Council for a
12 rehearing within 30 days from the date this Order is served. Any application for rehearing shall
13 set forth specifically the ground upon which the application is based. Unless the Council acts
14 upon the application for rehearing within 30 days after the application is filed, the application
15 shall be considered denied.

16
17 Per ORS 469.403(2), any party to the contested case proceeding may appeal the Council's
18 decision on the site certificate application set forth in this Order. Per ORS 469.403(3),
19 jurisdiction for judicial review of the Council's approval or rejection of an application for a site
20 certificate or amended site certificate is conferred upon the Oregon Supreme Court.
21 Proceedings for review shall be instituted by filing a petition in the Oregon Supreme Court. It is
22 not required to apply to Council for a rehearing before appealing to the Oregon Supreme Court.
23 A petition for review by the Oregon Supreme Court shall be filed within 60 days after the date
24 of service of the Council's final order, listed above, or within 30 days after the date any
25 application for rehearing is denied or deemed denied. Issues on appeal shall be limited to those
26 raised by the parties to the contested case proceeding before the Council. If you do not file a
27 petition for judicial review within the aforementioned time period, you lose your right to
28 appeal.
29

Attachments:

- Attachment 1: Contested Case Order
- Attachment 2: Final Order Service List
- Attachment A: Site Certificate
- Attachment C: Draft Proposed Order Index/Comments
- Attachment I: Draft Fugitive Dust Control Plan
- Attachment K-1: Farm Forest Easement
- Attachment K-2: Mediation Ordinance
- Attachment P-1: Draft Revegetation and Reclamation Plan
- Attachment P-2: Draft Noxious Weed Control Plan
- Attachment P-3: Draft Habitat Mitigation Plan
- Attachment P-4: Design Features to Minimize Wildlife Impacts
- Attachment S-1: Draft Inadvertent Discovery Plan
- Attachment S-2: Protected Historic, Cultural and Archeological Resources and Avoidance Measures
- Attachment U-1: Draft Construction Traffic Management Plan
- Attachment W-1: Draft Construction Wildfire Mitigation Plan
- Attachment W-2: Draft Operational Wildfire Mitigation Plan
- Attachment X-1: Retirement Unit Cost and Assumptions

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