EASTERN OREGON SOLAR SITING RULEMAKING ADVISORY COMMITTEE

MEETING PACKET #12

March 26, 2025

TO: Solar Siting Rulemaking Advisory Committee Members
FROM: Adam Tate, Renewable Energy Planner
SUBJECT: Rulemaking Advisory Committee (RAC) Meeting Packet #12

Dear Solar Siting Rulemaking Advisory Committee Members,

Thank you for bringing your experience and expertise to this rulemaking process over the last year. We are grateful for the time and energy you have dedicated to helping us and we are nearing the light at the end of the tunnel. We now turn our attention to our final scheduled RAC meeting. In this packet you will find a Meeting Summary from our February RAC meeting, as well as updated rule drafts for Divisions 4, 6, 23 and 33, and some supplementary materials related to agricultural mitigation. These new drafts are an update on the simplified drafts we reviewed at the February RAC meeting, inspired by a mix of feedback from the RAC, LCDC, the Geographic Hearing in Prineville, and public comments we have received over the last month.

Following this RAC meeting, the public comment period for the rulemaking will close at 11:59 pm on April 11th. The rules will come before LCDC at the Commissions June meeting for adoption.

The RAC meeting will be on Wednesday, April 2nd from 9:00 am to 4:00 pm PT, held virtually over Zoom for all participants.

RAC Meeting Packet Contents:

1. Cover Memo
2. Meeting Agenda
3. Summary from 11th RAC Meeting
4. Updated draft rule language for Divisions 4, 6, 23 & 33
5. Supplementary Materials for Agricultural Mitigation

To attend the all-virtual meeting please use the following Zoom link for the meeting:
Topic: DLCD: Eastern Oregon Solar Siting RAC Meeting
Time: April 2, 2025 09:00 AM Pacific Time (US and Canada)
Join Zoom Meeting
https://kearnswest.zoom.us/j/81071558834?pwd=asrDpMVXcP3WquXosMLCTwhSKgPpMB.1&from=addon
Meeting ID: 810 7155 8834
Passcode: 767593

Casaria Taylor will be providing support for the Zoom meeting.
Casaria.taylor@dlcd.oregon.gov 971-600-7699.

Members of the public can livestream the meeting on the DLCD YouTube Channel
Oregon DLCD - YouTube

For reference all statewide planning land use planning goals may be found here. Information for this committee, including background information and meeting materials may be found on the Eastern Oregon Solar Siting project page Department of Land Conservation and Development : Eastern Oregon Solar Siting Possibilities : Laws and Rules : State of Oregon.

Thank you,

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AGENDA

Oregon Department of Land Conservation and Development (DLCD) - Solar Siting Rules Advisory Committee (RAC) Meeting

Date and Time

April 2, 2025, from 9:00 am – 4:00 pm PT

- The meeting will be held virtually via Zoom.
- Members of the public can livestream the meeting at https://www.youtube.com/@OregonDLCD.

Desired Outcomes and Purpose

- Discuss and solicit feedback on the Draft RAC Report
- Discuss and resolve outstanding sections of the rule.
- Vote on rule package.

Note that if revisions end early, the vote would occur earlier.

Agenda

Time (PT)	Topic	Lead
9:00 – 9:10 am (10 min)	**Welcome and Roll Call**	Jamie Damon, Kearns & West Facilitator
9:10 – 9:50 am (40 min)	**Staff Updates** • Geographic & LCDC Hearings • Meetings with counties • RAC Report • Clarifying Q&A	DLCD
9:50 – 10:30 am (40 min)	**Rule Revisions**	All
10:30 – 10:40 am (10 min)	*Break*	All
10:40 am – 12:00 pm (80 min)	**Rule Revisions**	All

12:00 – 12:30 pm (30 min)	*Lunch Break*	All
12:30 – 2:00 pm (90 min)	**Rule Revisions Continued**	All
2:00 – 2:10 pm (10 min)	*Break*	All
2:10 – 3:40 pm (90 min)	**Round Robin Vote**	All
3:40 – 4:00 pm (20 min)	**Next Steps and Closing** • Timeline • Closing Reflections	Jamie Damon, Kearns & West Facilitator

Eastern Oregon Solar Opportunities Rulemaking Advisory Committee (RAC) Meeting Summary

February 20, 2025, RAC Meeting #11
9 am – 4 pm
Location: Virtual (Zoom)

This meeting was livestreamed, recorded, and available for viewing at https://www.youtube.com/Oregondlcd.

The following is a high-level summary and meeting overview. Please review the recording and archived meeting packet for details and presentation slides.

Meeting Attendees

RAC Member Attendees:

- Councilor Les Anderson, The Klamath Tribes
- Commissioner James Williams, Lake County
- Andrea Kreiner, Oregon Association of Conservation Districts
- Ken Yates, Oregon Water Resources Congress
- Bill Richardson, Rocky Mountain Elk Foundation
- Brandon McMullen, Harney County Planning Director
- Damien Hall, Oregon Solar+Storage Industries
- Dan Orzech, Oregon Clear Power
- Elaine Albrich, Davis Wright Tremain
- Diane Brandt, Renewable Northwest
- Jack Southworth, Oregon Cattlemen's Association
- Jim Johnson, 1000 Friends of Oregon
- John Eisler, Crook County Community Development Director
- Garth Fuller, Lauren Link, The Nature Conservancy
- Max Yoklic, New Sun Energy
- Mike Totey, Oregon Hunters Association
- Mike W. McArthur, Community Renewable Energy Association

Ex-Officio Attendees:

- Brian Cochran, Oregon Department of State Lands
- Chad Higgins, Oregon State University
- Jeremy Thompson, Oregon Department of Fish and Wildlife
- Todd Farmer, Oregon Military Department
- Tom Jackman, Oregon Department of Energy

DLCD Staff Attendees:

- Adam Tate, Oregon Department of Land Conservation and Development
- Alyssa Bonini, Oregon Department of Land Conservation and Development
- Angie Brewer, Oregon Department of Land Conservation and Development
- Amanda Punton, Oregon Department of Land Conservation and Development

- Casaria Taylor, Oregon Department of Land Conservation and Development
- Dawn Hert, Oregon Department of Land Conservation and Development
- Gordon Howard, Oregon Department of Land Conservation and Development
- Jon Jinings, Oregon Department of Land Conservation and Development
- Kirstin Greene, Oregon Department of Land Conservation and Development

Welcome, Opening Remarks, and Agenda Review

Jamie Damon, Kearns & West, introduced herself as a neutral third-party facilitator and facilitated introductions between RAC members. Jamie provided an overview of the meeting agenda and objectives.

Kirstin Greene, Oregon Department of Land Conservation and Development (DLCD), shared that Diane Teeman, Burns Paiute Tribe, John Pouley, Oregon State Historic Preservation Office (SHPO), and Elissa Bullion, Oregon Legislative Commission on Indian Services (LCIS) were attending the meeting to provide their expertise.

Status of Rule Revisions

Gordon Howard, DLCD, shared that the public comment period has been extended until April 11, 2025. He reflected that the updated rule language incorporated feedback from the previous meeting and noted that the most significant changes were in formatting rather than substance. The format of the rules follows two pathways: Division 33 reflects the pathway for direct application by the counties and Division 23 reflects the Goal 5 pathway.

Kirstin shared that the general principle for Tribal, archeological, and cultural aspects of the rule is to promote early coordination to avoid and minimize risks. She shared that a 60-day notification timeline is currently proposed and that Tribes, including the Confederated Tribes of Warm Springs and the Confederated Tribes of the Umatilla Indian Reservation, have been interested in this process but were unable to participate. She confirmed that the State will be responsive to its Government-to-Government responsibilities, and there have been staff-level meetings during this process. Kirsten noted that the rules are aligned with the Energy Facility Siting Council (EFSC) and SHPO rules.

Rule Revisions

Division 23

The RAC reviewed the Division 23 language included in the meeting packet. Jamie facilitated a discussion among RAC members regarding Division 23.

- **Historic, Cultural, and Archeological Resources.** John suggested using the definition of "archaeological site" as defined in statute ORS 358.905. Diane T. suggested including a definition that includes Tribal values systems of heritage and culture and offered to share written feedback in coordination with Klamath Tribe Councilor Les Anderson. John offered

to share written feedback related to Section 5, “avoidance and adverse impacts to settings”. Elissa suggested updating the language to include “no known or identified” resource is present.

- **Workforce Housing**. A few RAC members wanted to clarify what situations would necessitate workforce housing requirements. One RAC member wanted to know what type of person would be qualified to provide a workforce housing report, and another member suggested having workforce housing be satisfied by an agreement between an applicant and a county. RAC members asked for these rules to align with how workforce housing is addressed in the wind rules as an accessory use.
- **Areas of Significance.** A RAC member asked if all elements need to be included in (3)(h)(A). RAC members responded that this has been a key discussion topic, and the RAC came to a consensus to include the listed factors to have a baseline of areas where solar is feasible. Counties can map places, but some areas are unmappable. Overall, the process would allow Counties to create a baseline from these factors, remove or add specific areas to account for their uniqueness, have a public hearing, and adopt into their comprehensive plan.
- **Term Clarity**. RAC members asked DLCD staff to ensure term accuracy and consistency throughout the rules. “Priority Wildlife Connectivity Areas” to replace “Priority Wildlife Conservation Areas,” “Photovoltaic solar power generation facility” to replace “solar sites,” and “converted” to replace “used.” DLCD staff will confirm with Marc Hudson if CAP RATE should be all capital letters.
- **High-Value Farmland**. A RAC member noted that it is difficult to classify soil as class VII or VIII and asked if the predominance test would be used. DLCD staff clarified that parcels would be classified by the majority soil class. A RAC member shared that additional data and mapping would be needed to know if the categories are correct, and asked for a guidance document to be created. RAC members shared that the Natural Resources Conservation Service (NRCS) has reliable and refined data to consider and is currently referenced in the rules.
- **Critical Groundwater**. RAC members discussed what the scope and impacts of designating areas as critical groundwater could mean. RAC members were not against the concept but wanted to ensure the language and thresholds were correct and asked for more time to think this through.
- **Appurtenant Water Right**. RAC members discussed what the scope and impacts of appurtenant water rights could mean and asked for additional time to look at and propose language. RAC members emphasized the importance of capturing nuances and considering unintended consequences. RAC members noted that county commissions should not discuss water rights in public meetings and that there should be a balance between protecting irrigated land and allowing for flexibility if landowners choose to diversify their land with solar. DLCD staff replied that they would think through this language more, coordinate with Oregon Water Resources Department, and welcomed written feedback from RAC members.

- **Community Benefits.** RAC members discussed the rate per megawatt nameplate an applicant would be required to commit to. Some RAC members expressed concern about additional developer costs from agricultural and habitat mitigation. Some RAC members suggested having a pricing scale for the nameplates, where larger projects would have a smaller per-nameplate cost and smaller projects would have a larger per-nameplate cost to ensure that smaller projects have a minimum threshold to provide some benefit Other members expressed concern about this proposed price scale and asked for the price scale to be relative to community impacts, as determined by the county, regardless of the size of the facility.
- **Study maps.** RAC members generally liked the idea of mapping from the boundaries and not the centroid.
- **Cumulative impacts.** Some RAC members expressed concern that a large cumulative impact analysis would be a duplicative process with the conditional use permit process
- **Review of Rule Effectiveness.** Some RAC members wondered if two years was enough time to learn about its effectiveness and suggested increasing the timeline. A RAC member noted that two years may not solicit enough information but could indicate how many counties have adopted a Goal 5 Area.

Division 33

The RAC reviewed the Division 33 language included in the meeting packet. Jamie facilitated a discussion among RAC members regarding Division 33.

- **One-time Cash Payment.** A RAC member asked if counties could consider an alternative pathway rather than a one-time payment. Another RAC member said it could be easier to have a directive to point towards, but having flexibility for counties to develop a collaborative approach could also be a benefit.

Division 4

The RAC reviewed the Division 4 language included in the meeting packet. Jamie facilitated a discussion among RAC members regarding Division 4.

- **Zone changes.** A RAC member recalled that the RAC previously proposed adding language that stated unless there was a concurrent zone change request, a Goal exemption would not change the zone. The RAC agreed with this recollection.

Division 6

The RAC reviewed the Division 6 language included in the meeting packet. The RAC had no comments.

Rule Package Vote & Final Considerations

Jamie facilitated a fist to five vote among RAC members. Each voting RAC member was called on in alphabetical order by first name to share their level of support for the package of rules using the fist to five voting method as the RAC had done in previous meetings and offering any additional suggestions, considerations, or comments. Fist to five is accomplished by raising hands as in voting, with the number of fingers raised indicating levels of support. RAC members can also choose not to vote by saying "I abstain".

- A fist means, “I vote NO, I don't support any of it. This should not move forward."
- 1 finger means, “I don’t like most of this but it's not a hard no." or, “I think there is lots more work to do to gain my support”
- 2 fingers means, “I don’t support a lot of this, but I am not going to block this moving forward”
- 3 fingers means, “I am in the middle somewhere. I like some of it and do not like some of it. But I support moving forward"
- 4 fingers means, “This is mostly fine, support moving this forward."
- 5 fingers means, “I like this a lot. I give my full support.”

Jamie shared that it is in the Land Conservation and Development Commission's (LCDC) interest to see the RAC member’s various levels of support on the different concepts being proposed, their concerns, and the alternatives or tradeoffs LCDC should consider rather than a simple “yes” “no” vote.

Bill Richardson: I am a 4 and look forward to reading the next draft.

Brandon McMullen: I am a 4 and have a clearer picture of how to relay this information to county commissioners.

Diane Brandt: I am a 3 and am encouraged by the flexibility being offered to the counties. I would like to hear more about the cumulative costs of the benefit agreements and mitigation. I am cognizant of the overall project costs that will have impacts on utility ratepayers. I want to ensure that communities have the correct compensatory agreements and that review processes are not duplicative.

Eliane Albrich: I am a 3 and think the RAC has made good progress. I would like to see an updated draft.

Jim Johnson: I am a 3 and want to see how cumulative impacts are being addressed. I am concerned about the removal of the farm impacts test as it relates to certain types of operations and want to ensure those issues are integrated elsewhere.

John Eisler: I abstain as this is my first meeting.

Ken Yates: I abstain as I am sitting in for April Snell.

Lauren Link: I am a 3. The Nature Conservancy is content with the mitigation pieces and would like to do more thinking around the water pieces. We want to ensure that the community benefit agreements would be appreciated.

Max Yoklic: I am a 3. I appreciate the streamlined rules and will look closer at the exclusion areas and share written comments. I am interested in further discussion on the thresholds for Goal 5 and the additional data needed for soil classifications. I am hopeful there will be a rules package for LCDC after the next meeting.

Mike Totey: I am a 4 assuming the topics and feedback shared today will be resolved.

Mike McArther: I am a 3.5. I appreciate the pathway options provided to counties and would like to hear if this would work from a county perspective.

Damein Hall: I am 3 or 3.5. I appreciate the streamlined language and focus on farmland and agricultural mitigation. I am still unsure about how many solar opportunities are created and do not understand the agricultural mitigation calculator.

Next Steps and Closing

Jamie shared that the next step will be for DLCD staff to reach out to RAC members who were unable to attend and solicit their feedback.

Gordon shared that DLCD will provide an updated draft for the LCDC meeting on March 20-21. He encouraged RAC members to submit any additional comments in writing and that the final RAC meeting would be on April 2, 2025. During the final RAC meeting, the group will strive for consensus, and if consensus cannot be reached, differing positions will be documented for LCDC to make their final decision at their June meeting.

Jamie and Gordon thanked everyone for participating.

Next steps include:

- RAC members to provide written feedback to DLCD.
- DLCD to update draft language to incorporate feedback.
- Next meeting: April 2, 2025, 9:00 am – 4:00 pm

Meeting Adjourn

The meeting adjourned at 3:30 pm.

660-004-0018
Planning and Zoning for Exception Areas

(1) Purpose. This rule explains the requirements for adoption of plan and zone designations for exceptions. Exceptions to one goal or a portion of one goal do not relieve a jurisdiction from remaining goal requirements and do not authorize uses, densities, public facilities and services, or activities other than those recognized or justified by the applicable exception. Physically developed or irrevocably committed exceptions under OAR 660-004-0025 and 660-004-0028 and 660-014-0030 are intended to recognize and allow continuation of existing types of development in the exception area. Adoption of plan and zoning provisions that would allow changes in existing types of uses, densities, or services requires the application of the standards outlined in this rule.

(2) For "physically developed" and "irrevocably committed" exceptions to goals, residential plan and zone designations shall authorize a single numeric minimum lot size and all plan and zone designations shall limit uses, density, and public facilities and services to those that satisfy (a) or (b) or (c) and, if applicable, (d):

(a) That are the same as the existing land uses on the exception site;

(b) That meet the following requirements:

(A) The rural uses, density, and public facilities and services will maintain the land as "Rural Land" as defined by the goals, and are consistent with all other applicable goal requirements;

(B) The rural uses, density, and public facilities and services will not commit adjacent or nearby resource land to uses not allowed by the applicable goal as described in OAR 660-004-0028; and

(C) The rural uses, density, and public facilities and services are compatible with adjacent or nearby resource uses;

(c) For uses in unincorporated communities, the uses are consistent with OAR 660-022-0030, "Planning and Zoning of Unincorporated Communities", if the county chooses to designate the community under the applicable provisions of OAR chapter 660, division 22;

(d) For industrial development uses and accessory uses subordinate to the industrial development, the industrial uses may occur in buildings of any size and type provided the exception area was planned and zoned for industrial use on January 1, 2004, subject to the territorial limits and other requirements of ORS 197.713 and 197.714.

(3) Uses, density, and public facilities and services not meeting section (2) of this rule may be approved on rural land only under provisions for a reasons exception as outlined in section

(4) of this rule and applicable requirements of OAR 660-004-0020 through 660-004-0022, 660-011-0060 with regard to sewer service on rural lands, OAR 660-012-0070 with regard to transportation improvements on rural land, or OAR 660-014-0030 or 660-014-0040 or 660-014-0090 with regard to urban development on rural land. (4) "Reasons" Exceptions: (a) When a local government takes an exception under the "Reasons" section of ORS 197.732(1)(c) and OAR 660-004-0020 through 660-004-0022, OAR 660-014-0040, or OAR 660-014-0090, plan and zone designations must limit the uses, density, public facilities and services, and activities to only those that are justified in the exception. (b) When a local government changes the types or intensities of uses or public facilities and services within an area approved as a "Reasons" exception, a new "Reasons" exception is required. (c) When a local government includes land within an unincorporated community for which an exception under the "Reasons" section of ORS 197.732(1)(c) and OAR 660-004-0020 through 660-004-0022 was previously adopted, plan and zone designations must limit the uses, density, public facilities and services, and activities to only those that were justified in the exception or OAR 660-022-0030, whichever is more stringent.	*This is the language that would be added, if the RAC agrees, not allowing rezones from the underlying farm or forest zoning district when a goal exception is approved.* *d) When a local government approves an exception for a photovoltaic solar power generation facility under OAR 660-004-0020 through OAR 660-004-0022 the subject property shall remain zoned for exclusive farm use, forest use or mixed farm and forest; whichever is applicable. The local government shall also continue to apply the relevant approval criteria included at OAR 660-033-0130(38), OAR 660-033-0130(45) or OAR 660-006-0025(4).*

1	**660-006-0025**	
2	**Uses Authorized in Forest Zones**	
3	(4) The following uses may be allowed on forest lands subject to the review	
4	standards in section (5) of this rule:	
5	**********	
6	(j) Commercial utility facilities for the purpose of generating power, not	
7	including photovoltaic solar power generation facilities in eastern Oregon. A	
8	power generation facility considered under this subsection shall not preclude	
9	more than 10 acres from use as a commercial forest operation unless an	
10	exception is taken pursuant to OAR chapter 660, division 4;	*On forest land in Eastern*
11	**(k) Commercial utility facilities for the purpose of generating power as a**	*Oregon, the maximum size of*
12	**photovoltaic solar power generation facility in eastern Oregon, under**	*a project that does not require*
13	**the following standards:**	*an exception to Goal 4 would*
14	**(A) A power generation facility considered under this subsection**	*go from 10 acres to 240*
15	**shall not preclude more than 240 acres from use as a commercial**	*acres.*
16	**forest operation unless an exception is taken pursuant to OAR**	
17	**chapter 660, division 4.**	*This would require the*
18	**(B) An application for a facility under this subsection shall comply**	*proposal to meet the basic*
19	**with the requirements of ORS 215.446(3).**	*standards the legislature has*
20	(5) A use authorized by section (4) of this rule may be allowed provided the	*set forth in ORS 215.446*
21	following requirements or their equivalent are met. These requirements are	
22	designed to make the use compatible with forest operations and agriculture and to	
23	conserve values found on forest lands:	
24	(a) The proposed use will not force a significant change in, or significantly	
25	increase the cost of, accepted farming or forest practices on agriculture or forest	
26	lands;	
27	(b) The proposed use will not significantly increase fire hazard or significantly	
28	increase fire suppression costs or significantly increase risks to fire suppression	
29	personnel; and	
30	(c) A written statement recorded with the deed or written contract with the county	
31	or its equivalent is obtained from the land owner that recognizes the rights of	
32	adjacent and nearby land owners to conduct forest operations consistent with the	
33	Forest Practices Act and Rules for uses authorized in subsections (4)(e), (m), (s),	
34	(t) and (w) of this rule.	
35	(6) Nothing in this rule relieves governing bodies from complying with other	
36	requirement contained in the comprehensive plan or implementing ordinances	
37	such as the requirements addressing other resource values (e.g., Goal 5) that	
38	exist on forest lands.	
39	**********	
40	**********	
41		
42	**660-006-0050**	
43	Uses Authorized in Agriculture/Forest Zones	
44	(1) Governing bodies may establish agriculture/forest zones in accordance with	
45	both Goals 3 and 4, and OAR chapter 660, divisions 6 and 33.	
46	(2) Uses authorized in Exclusive Farm Use Zones in ORS Chapter 215, and in	
47	OAR 660-006-0025 and 660-006-0027, subject to the requirements of the	
48	applicable section, may be allowed in any agricultural/forest zone. The county	
49	shall apply either OAR chapter 660, division 6 or 33 standards for siting a dwelling	
50	in an agriculture/forest zone based on the predominant use of the tract on	
51	January 1, 1993.	
52	(3) Dwellings and related structures authorized under section (2), where the	
53	predominant use is forestry, shall be subject to the requirements of OAR 660-006-	*This copies language in*
54	0029 and 660-006-0035.	*Division 33 for mixed farm-*
55	**(4) A county in Eastern Oregon shall apply either OAR chapter 660,**	*forest lands.*
56	**division 6 or 33 standards for siting a photovoltaic solar power generation**	

1 2	**facility in an agriculture/forest zone based on the predominant use of the subject lot or parcel on January 1, 2024.**	*Relies on lot or parcel, rather than "tract" to determine predominant use.*

660-023-0190

Energy Sources

(1) For purposes of this rule:

(a) “Energy source” includes naturally occurring locations, accumulations, or deposits of one or more of the following resources used for the generation of energy: natural gas, surface water (i.e., dam sites), geothermal, solar, and wind areas. Energy sources applied for or approved through the Oregon Energy Facility Siting Council (EFSC) or the Federal Energy Regulatory Commission (FERC) may be deemed significant energy sources for purposes of Goal 5.

(b) “Protect,” for energy sources, means to adopt plan and land use regulations for a significant energy source that limit new conflicting uses within the impact area of the site and authorize the present or future development or use of the energy source at the site.

(2) Local governments may amend their acknowledged comprehensive plans to address energy sources using the standards and procedures in OAR 660-023-0030 through 660-023-0050, and, if applicable OAR 660-023-0195. Except for photovoltaic solar power generation facilities, where EFSC or FERC regulate a local site or an energy facility that relies on a site specific energy source, that source shall be considered a significant energy source under OAR 660-023-0030. Alternatively, local governments may adopt a program to evaluate conflicts and develop a protection program on a case-by-case basis, i.e., upon application to develop an individual energy source, as follows:

(a) For proposals involving energy sources under the jurisdiction of EFSC or FERC that are not relied on for a photovoltaic solar power generation facility, the local government may comply with Goal 5 by amending its comprehensive plan and land use regulations to implement the EFSC or FERC decision on the proposal as per ORS 469.504; and

(b) For proposals involving energy sources not under the jurisdiction of EFSC or FERC, the local government may follow the standards and procedures of OAR 660-023-0030 through 660-023-0050, or OAR 660-023-0195, whichever is applicable.

(3) Local governments shall coordinate planning activities for energy sources with the Oregon Department of Energy.

660-023-0195

Photovoltaic Solar Resources in eastern Oregon

(1) Introduction and Intent. This rule is designed to assist counties in eastern Oregon to identify opportunities and reduce conflicts for the development of photovoltaic solar power energy generation facilities. Projects proposed to be sited in significant photovoltaic solar resource areas are eligible for responsible levels of regulatory relief, subject to the standards and requirements herein.. Local programs designating photovoltaic solar resource areas are presumed to comply with Goal 3 when in compliance with this rule. Finally, this rule is intended to help achieve the successful development of photovoltaic solar energy generation in eastern Oregon that:

(a) Makes meaningful contributions to the state's clean energy goals;

(b) Increases potential for local governments and local residents to share the benefits of solar development; and

(c) Suitably account for potential conflicts with the values and resources identified under Section 35(2) of HB 3409 (2023) and this rule.

(2) **Definitions.** For purposes of this rule the definitions in ORS 197.015, OAR 660-006-0005, OAR 660-023-0010, OAR 660-033-0020, and OAR 660-033-0130(38) apply. In addition, the following definitions apply:

(a) "Annual solar utility scale capacity factor" means the amount of energy produced in a typical year, as a fraction of maximum possible energy for 100% of the hours of the year.

(b) "Archaeological Resources" is a term that is synonymous with and has the same meaning as "archaeological site" as defined in OAR 660-023-0210(1)(a), which means a geographic locality in Oregon, including but not limited to submerged and submersible lands but not the bed of the sea within the state's jurisdiction, that contains archaeological objects as defined in ORS 358.905(1)(a) and the contextual associations of the objects with:

(A) Each other; or

(B) Biotic or geological remains or deposits. Examples of archaeological sites include but are not limited to shipwrecks, lithic quarries, house pit villages, camps, burials, lithic scatters, homesteads and townsites.

(c) "Cultural Resources" is a term that is synonymous with and has the same meaning as "cultural areas" defined in OAR 660-023-0210(1)(b), which means archaeological sites, culturally significant landscape features, and sites where both are present. Also referred to as "cultural resource site."

(d) "Eastern Oregon" means that portion of the State of Oregon lying east of a line beginning at the intersection of the northern boundary of the state and the western boundary of Wasco County, thence southerly along the western boundaries of the counties of Wasco, Jefferson, Deschutes and Klamath to the southern boundary of the state.

(e) "Historic Resources" are those buildings, structures, objects, sites, or districts that potentially have a significant relationship to events or conditions of the human past.

(f) "Microgrid" means a local electric grid with discrete electrical boundaries, acting as a single and controllable entity and able to operate in grid-connected or island mode.

(g) “Military Special Use Airspace” is airspace of defined dimensions identified by an area on the surface of the earth wherein activities must be confined because of their nature, or wherein limitations may be imposed upon aircraft operations that are not a part of those activities Limitations may be imposed upon aircraft operations that are not a part of the airspace activities. Military special use airspace includes any associated underlying surface and subsurface training areas.

(h) “Military Training Route” means airspace of defined vertical and lateral dimensions established for the conduct of military flight training at indicated airspeeds in excess of 250 knots.

(i) “Oregon Renewable Energy Siting Assessment (ORESA)” is a renewable energy mapping tool housed on Oregon Explorer.

(j) “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, including but not limited to on-site and off-site facilities for temporary workforce housing for workers constructing a photovoltaic solar power generation facility. 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.

(k) “Significant Photovoltaic solar resource area” is an area consisting of lands that are particularly well suited for the siting of photovoltaic solar power generation facilities because they have been determined to be significant pursuant to section (4) of this rule. Multiple photovoltaic solar power generation facilities may be located within a photovoltaic solar resource area.

(l) “Transmission Line” is a linear utility facility by which a utility provider transmits or transfers electricity from a point of origin or generation or between transfer stations.

(m) "Tribe" as defined in ORS 182.162(2), means a federally recognized Indian tribe in Oregon, except where the definition in ORS 97.740 applies by statute.

(3) Standard Process. Counties may amend their acknowledged comprehensive plans to address photovoltaic solar resources using the standards and procedures in OAR 660-023-0030 through 660-023-0050.

(4) Significant Photovoltaic Solar Resource Areas. Rather than using the standard process described at subsection (3) above, counties in eastern Oregon may instead choose the following process to establish significant photovoltaic solar resource areas.

(a) Counties may establish significant photovoltaic solar resource areas through the adoption of a local program that includes a map, comprehensive plan policies and inventory, and implementing land use regulations found to be consistent with the provisions of this rule.

(b) To implement this rule for the purpose of establishing significant photovoltaic solar resource areas a county shall follow the post-acknowledgment plan amendment process pursuant to OAR chapter 660, division18.

(c) Prior to conducting a hearing to consider establishing a significant photovoltaic solar resource area or areas a county will hold one or more public meetings to solicit input from county residents.

(A) The public meeting(s) must occur in areas of the county that include lands likely to be determined significant photovoltaic solar resources.

(B) The county must provide mailed notice of the meeting(s) to property owners of lands likely to be determined significant photovoltaic solar resources and within a two-mile radius of such areas. The county must also provide mailed notice to any physical address assigned to property located within the lands requiring notice as shown in county assessor records that are not the same as the property owner's address.

(C) Public meetings conducted pursuant to this section should use best practices for community engagement identified in documents such as "Putting the People in Planning A guide for local governmental agencies in Oregon June 30, 2019."

(D) The county should carefully take note of possible local benefits and local concerns regarding photovoltaic solar power generation facility development raised in the public meeting(s), as well as consideration of areas the county may particularly wish to include or exclude, if any.

(E) Local program elements prepared for an eventual public hearing should be drafted in accordance with input received at the public meeting(s) and consistent with the provisions of this rule.(d) In addition to submitting the notice of the proposed amendment to the Director of the Department of Land Conservation and Development required by ORS 197.610(1), the county shall provide notice of the Post-Acknowledgement Plan Amendment to:

(A) The State Department of Fish and Wildlife;

(B) The State Department of Energy;

(C) The State Historic Preservation Officer;

(D) The Oregon Department of Agriculture.

(E) The Oregon Department of Aviation;

(F) The United States Department of Defense;

(G) The Oregon Legislative Commission on Indian Services (LCIS); and

(H) Federally recognized Indian tribes that may be affected by the application. Each county shall obtain a list of tribes with an ancestral connection to land within their jurisdiction from the Oregon Legislative Commission on Indian Affairs and shall send notice to all tribes in the commission's response.

(e) When designating a significant photovoltaic solar resource area, a county may choose not to identify conflicting uses as would otherwise be required by OAR 660-023-0030 through 660-023-0050. In the alternative, a county may choose to conduct a more detailed analysis that may lead to the identification of conflicting uses.

(f) If a county chooses to identify conflicting uses under subsection (4)(e) of this rule, a county may choose not to limit or prohibit conflicting uses on nearby or surrounding lands. In the alternative, a county may choose to conduct a more detailed analysis of economic, social, environmental and energy (ESEE) consequences that could lead to a decision to limit or prohibit conflicting uses within a significant photovoltaic solar resource area.

(g) If a county chooses to conduct an additional analysis of economic, social, environmental and energy (ESEE) consequences as described in subsection (4)(f) of this rule, it must follow the provisions of OAR 660-023-0040.

(h)(A) Unless otherwise indicated, to qualify as a significant photovoltaic solar resource area, an area must be comprised of lands which have the following characteristics:

(i) Topography with a slope that is predominantly 15% or less;

(ii) An estimated Annual Solar Utility-Scale Capacity Factor of 19 percent or greater; and.

(iii) Location within 10 miles of a transmission line with a rating of 69 KV or above.

(B) A county may determine, based on facts and evidence in the record, that additional lands t lacking one or more of the characteristics identified by subsection (4)(h)(A) of this rule, are suitable for designation as significant photovoltaic solar resource areas;

(C) A county may determine that lands t including the characteristics identified by subsection (4)(h)(A) of this rule are not necessary to designate as significant photovoltaic solar resource areas.

(D) It is not necessary for a county to consider resources or features beyond those described in subsections (5)(h)(A)-(C) when adopting significant photovoltaic solar resource areas. Instead, final project eligibility, including the determination of any necessary mitigation requirements, shall be based on information provided by an applicant pursuing approval of a photovoltaic solar energy generation facility and considered in conjunction with subsections (5)(I), (j) and (k) below.

(I) No mitigation is required for a the following features photovoltaic solar power generation facility within an acknowledged significant photovoltaic solar resource area when located on:

(A) Agricultural lands protected under Goal 3 that are:

(i) comprised of soils as classified by the U.S. Natural Resources Conservation Service (NRCS) with an agricultural capability class VII and VIII; or

(ii) comprised of soils as classified by the U.S. Natural Resources Conservation Service (NRCS with an agricultural capability class VI and do not have the ability to produce 300 pounds of herbaceous biomass per acre per year. The ability to produce herbaceous biomass is determined from data available on the Rangeland Analysis Platform and is calculated by averaging the amounts of per acre herbaceous biomass attributed to each year for all of the years for which data is provided

(B) Lands characterized by ODFW as Category 5 or 6, or other areas of poor to no value as wildlife habitat or with little or no restoration potential based on field data provided by the applicant and developed in consultation with ODFW. The exact location or categorization of wildlife habitat may be refined during consideration of a photovoltaic solar power generation facility but must be done in consultation with ODFW.

(C) Lands where the construction and operation of the photovoltaic solar power generation facility will not result in significant adverse impacts to Historic, Cultural or Archaeological Resources because no such resources are present, or if resources are present, they will be avoided through project design to the extent that no additional mitigation is necessary, as provided in section (5) of this rule.

(D) Notwithstanding subsections (4)(i)(A) through (C) of this rule, a county may find that lands within solar photovoltaic resource areas described in subsections (4)(i)(a) through (4)(c) of this rule require additional mitigation measures as specified by the county;

(j) Mitigation is required for a photovoltaic solar power generation facility within an acknowledged significant photovoltaic solar resource area when located on lands that include one or more of the following features :

(A) Agricultural lands protected under Goal 3 that are:

(i) comprised of soils with an agricultural capability class VI as classified by the U.S. Natural Resources Conservation Service (NRCS) and have the ability to produce greater than 300 pounds of herbaceous biomass per acre per year if the subject property consists of at least 640 acres. herbaceous biomass per acre per year. The ability to produce herbaceous biomass is determined from data available on the Rangeland Analysis Platform and is calculated by averaging the amounts of herbaceous biomass per acre attributed to each year for all of the years for which data is provided(ii) comprised of soils with an agricultural capability class III, IV, or V as classified by the U.S. Natural Resources Conservation Service (NRCS), without an appurtenant water right on January 1, 2024;

(iii) Mitigation for agricultural lands described in this subsection must be consistent with the requirements of section (5) of this rule.

(B) Wildlife habitat characterized by ODFW as Category 2 that is not otherwise limited by section (4)(k) and wildlife habitat characterized by ODFW as Category 3 or 4 based on field data provided by the applicant and developed in consultation with ODFW. The exact location or categorization of Category 2, 3, or 4 wildlife habitat may be refined during consideration of a photovoltaic solar power generation facility but must be done in consultation with ODFW. Mitigation for wildlife habitat described in this paragraph shall be consistent with the requirements of ORS 215.446(3)(a).

(C) Wildlife Habitat: Eastern Oregon Deer Winter Range, Eastern Oregon Elk Winter Range, Big Horn Sheep Habitat, and Pronghorn Essential and Limited Habitat as identified by Oregon Renewable Energy Siting Assessment (ORESA). The exact location of wildlife habitat identified by this subsection may be refined during consideration of a photovoltaic solar power generation facility but in consultation with ODFW. Mitigation for wildlife habitat described in this paragraph shall be consistent with the requirements of ORS 215.446(3)(a).

(D) Priority Wildlife Conservation Areas where the ODFW makes a finding, based on site specific conditions, that mitigation for wildlife habitat consistent with the requirements of ORS 215.446(3)(a) reduces impacts from the photovoltaic solar power generation facility to a level acceptable to ODFW.

(E) Landss where the construction and operation of the photovoltaic solar power generation facility may result in significant adverse impacts to Historic, Cultural or Archaeological Resources as defined in Section (2) but the project incorporates necessary mitigation measures pursuant to section (5 of this rule.

(F) Notwithstanding subsections (4)(j)(A) through (E) of this rule, a county may find that individual locations within solar photovoltaic resource areas described in subsections (4)(j)(A) through (E) of this rule have impacts that are too significant to be mitigated and thus are not eligible for approval under the provisions of this section.

(k) Lands with any of the following features are not eligible for photovoltaic solar power generation facility development under the provisions of this rule:

(A) Significant Sage-Grouse Habitat described at OAR 660-023-0115(6)(a) and (b). The exact location of Significant Sage-Grouse Habitat may be refined during consideration of a specific project but must be done in consultation with the Oregon Department of Fish and Wildlife (ODFW).

(B) Priority Wildlife Connectivity Areas (PWCA's) as designated by the ODFW that do not qualify under subsection (4)(j)(D) of this rule.

(C) High Use and Very High Use Wildlife Migration Corridors designated by ODFW. The exact location of high use and very high use wildlife mitigation corridors may be refined during consideration of a photovoltaic solar energy facility but must be done in consultation with ODFW.

(D) Wildlife habitat characterized by ODFW as Category 1 based on field data provided by the applicant and developed in consultation with ODFW. The exact location and characterization of Category 1 wildlife habitat may be refined during consideration of a photovoltaic solar energy facility but must be done in consultation with ODFW.

(E) Soils that are irrigated or not irrigated and classified prime, unique, Class I or Class II as classified by the U.S. Natural Resources Conservation Service (NRCS), unless such soils make up no more than five percent of a proposed Photovoltaic Solar Site and are present in an irregular configuration or configurations that prevent them from being independently managed for farm use.

(F) High-Value Farmland as defined at ORS 195.300(10)(c) through (f) that does not qualify for an exemption pursuant to the provisions of subsection (4)(k)(G) and that is not otherwise limited by the provisions of subsection (4)(k)(E).

(G) Agricultural lands protected under Goal 3 with an appurtenant water right on January 1, 2024. This subsection does not apply if the ability to use the appurtenant water right to irrigate subject property becomes limited or prohibited due to a situation that is beyond the control of the water right holder including but not limited to: prolonged drought, critical groundwater designations or other state regulatory action, reduced federal contract allocations, and other similar regulatory circumstances. If retained, the appurtenant water right has been transferred to another portion of the subject property, tract or another property and maintained for agricultural purposes.

(H) Lands where the construction and operation of the photovoltaic solar power generation facility will result in significant adverse impacts to Historic, Cultural or Archaeological Resources that cannot be mitigated pursuant to the provisions of section 5 of this rule.

(I) Lands included within Urban Reserve Areas acknowledged pursuant to OAR chapter 660, division 21.

(5)() Agricultural Mitigation:

(a) For the purposes of this subsection, "compensatory mitigation" means the replacement or enhancement of the impacted resource in equal or greater amounts than predicted to be impacted by a development.

(b) Compensatory mitigation for agricultural land may be accomplished in one of the following ways:

(A) A county may approve a method, or methods proposed by the applicant when substantial evidence in the record demonstrates that the proposed compensatory mitigation will:

(i) Be suitably durable to last until the impact has been removed or no longer exists;

(ii) Proximate by being located in the same county or an adjacent county or counties as the proposed impact; and either

(iii) Result in no net loss of the agricultural productivity of the local agricultural community; or

(iv) Provide an uplift to the relevant agricultural economy.

(B) As an alternative to mitigation provided under subsection (5)(a)(A) necessary compensatory mitigation for agricultural lands protected under Goal 3 may be accomplished by use of a one-time compensatory mitigation payment made for the purpose of replacing economic value that is lost by the local community when agricultural land is used for photovoltaic solar development. The compensatory mitigation payment is to be established pursuant to the methodology included as Attachment A. An applicant providing the established compensatory mitigation payment will be considered in all instances to comply with the requirements of this section.:

(C) The compensatory mitigation payment established under subsection (5)(a)(B) may be received by the county, a unit of county government, a 501-c-3 not for profit organization operating in the county, a local Soil and Water Conservation District, or similar entity capable of utilizing the funds to provide uplift opportunities for the applicable agricultural sector.

(6) Historic, Cultural, and Archaeological Resources: The proposed photovoltaic solar power generation facility shall mitigate potential impacts to historic, cultural, and archeological resources pursuant to the requirements of ORS 215.446(3)(b) and OAR 660-023-0210.

(a) Prior to submittal of an application for development of a photovoltaic solar power generation facility within a renewable photovoltaic solar energy area, an applicant shall compile information on the subject location that includes, among other things a records review, field survey, site inventory and cultural resources survey completed by a professional archaeologist as defined in ORS 97.740.

(b) The applicant shall transmit the information compiled to the State Historic Preservation Office (SHPO), any Tribe that may be affected by the application, and applicable county at least 60 days prior to submitting the application to the county.

(c) The information compiled, including the location of any cultural resources shall be kept confidential and not included in the local record.

(d) Based upon the information compiled and submitted and comments received, if any, from SHPO and any Tribe that may be affected by the application, a county shall make one of the following determinations in its decision regarding the application:

(A) No historical, archaeological, or cultural resources are known to be present;

(B) Historical, archaeological, or cultural resources are known to be present, and will be avoided through project design to the extent that no additional mitigation is necessary;

(C) Historical, archaeological, or cultural resources are known to be present, and mitigation measures will reduce impacts so that there are no significant adverse impacts to historical, archaeological, or cultural resources;

(D) Historical, archaeological, or cultural resources are known to be present, and development will result in significant adverse impacts which cannot be mitigated and an archaeological permit from SHPO may not be obtained.

(e) The county shall include any mitigation measures as conditions of approval in the final decision.

(f) An Archaeological and Human Remains Inadvertent Discovery Plan (IDP) shall be required in all instances.

(7) Community Benefits: All applications for a photovoltaic solar power generation facility within a photovoltaic solar resource area shall identify how the project will contribute to addressing community needs and benefits. Identified contributions, financial or otherwise, will be in addition to property tax revenues or payments in lieu of taxes.

(a) A county may approve a proposal submitted by the applicant when substantial evidence in the record demonstrates that the proposed contribution or contributions are:

(A) Meaningful and reasonable;

(B) Will serve to help improve a community's social health, well-being, and functioning;

(C) Have been informed through one or more public meetings conducted for the purpose of encouraging community members to express needs and interests. Public meetings conducted pursuant to this subsection should use best practices for community engagement identified in documents such as “Putting the People in Planning A guide for local governmental agencies in Oregon June 30, 2019”.

(D) If a monetary payment, the contribution(s) is received by an organization identified by the county decision makes that may include the county or a unit of county government, tribal government, a 501-c-3 not for profit organization operating in the county, a local Soil and Water Conservation District, or similar entity capable of utilizing the funds to provide uplift opportunities for the community or communities that stand to have the most direct relationship with the subject project.

(b) Rather than the standards provided in subsection (6)(a), a county may require one of the following options to address community needs and benefits, which demonstrate compliance with the requirements of this section:

(A) The applicant has conducted detailed public outreach activities in advance of submitting an application that include providing written notice to property owners within 750 feet of the exterior boundaries of the subject property, as well as any physical address assigned to lands within 750 feet of the exterior boundaries of the subject property as shown in county assessor records that are not the same as the property owner's address. Detailed public outreach activities shall also include at least one public open-house meeting conducted in person, or at least two public open-house meetings conducted from a virtual platform.

(B) The applicant commits to contributing a one-time payment in an amount representing $1,000 per nameplate MW prior to construction to be received by an organization identified by the county decision makes that may include the county or a unit of county government, tribal government, a 501-c-3 not for profit organization operating in the county, a local Soil and Water Conservation District, or similar entity capable of utilizing the funds to provide uplift opportunities for the community or communities that stand to have the most direct relationship with the subject project. ; or

(C) The applicant commits to ensuring that emergency service providers are guaranteed a source of electricity during a power outage event through providing battery storage or some other method; or

(D) The applicant creates a Microgrid addressing identified community needs.

(8) Maximum Size of Photovoltaic Solar Power Generation Facilities(a) On high-value farmland that qualifies for an exemption pursuant to the provisions of subsection (4)(k)(G) of this section and that is not otherwise limited by the provisions of subsection (4)(k)(E) of this section, the facility may not use, occupy, or cover more than 240 acres, not including lands devoted to temporary workforce housing.

(b) On arable land, the facility may not use, occupy or cover more than 2,560 acres, not including lands devoted to temporary workforce housing.

(c) On non-arable land, the size of the facility is not limited by this rule.

(9) Additional Review Standards and Criteria. A county may approve a photovoltaic solar power generation facility within a significant photovoltaic solar resource area by determining that the following items have been satisfied:

(a) An application shall identify whether the proposed photovoltaic solar power generation facility is within a Military Special Use Airspace or a Military Training Route, as may be shown by the ORESA mapping tool or equivalent map. Any application located beneath or within a Military Special Use Airspace or a Military Training Route with a proposed floor elevation of 500 feet above ground level (AGL) or less shall include a glint and glare analysis for the applicable utilized military airspace. Any measures necessary to avoid possible conflicts with low flying aircraft as identified in the glint and glare analysis will be developed in coordination with the United States Department of Defense or Oregon Military Department as applicable, described in the application materials, and attached as conditions of approval to the county decision.

(b) The applicant has contacted and sought comments from the entities listed in subsections (4)(d)(A), and (F)) of this rule at least 30 days prior to submitting a land use application. The requirements of this subsection do not apply when the county code requires a pre-application conference prior to submitting an application that includes at a minimum, those entities listed in subsections (4)(d)(A), (F), and (H) of this rule.

(c) For a proposed photovoltaic solar power generation facility on high-value farmland or arable land, a study area consisting of lands zoned for exclusive farm use located within two miles measured from the exterior boundary of the subject property shall be established and:

(A) If fewer than 320 acres of photovoltaic solar power generation facilities have been constructed or received land use approvals and obtained building permits wholly or partially within the study area, no further action is necessary.

(B) When at least 320 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 wholly of partially within the study area, the county 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 (d)(A) The application will ensure that considerations for the amount, type, and location of temporary workforce housing have been made. This provision may be satisfied by the submittal and county approval of a workforce housing plan prepared by an individual with qualifications determined to be acceptable by the county demonstrating that such temporary housing is reasonably likely to occur. The plan need not obligate the applicant to financially secure the temporary housing. The approved plan shall be attached to the decision as a condition of approval.

(B) On-site and off-site facilities for temporary workforce housing for workers constructing a photovoltaic solar power generation facility must be removed or converted to an allowed use under OAR 660-033-0130(19) or other statute or rule when project construction is complete.

(C) Temporary workforce housing facilities not included in the initial approval may be considered through a minor amendment request filed after a decision to approve a photovoltaic solar power generation facility. A minor amendment request shall be subject to OAR 660-033-0130(5) and shall not have no effect on the original approval of the project.

(f) The requirements of OAR 660-033-0130(38)(h)(A) through (D) have been satisfied for proposed photovoltaic solar power generation facilities on high-value farmland and arable land, and the requirements of OAR 660-033-0130(38)(h)(D) have been satisfied for proposed photovoltaic solar power generation facilities on nonarable land.

(g) A county may condition approval of a proposed photovoltaic solar power generation facility to address other issues, including but not limited to assuring that the design and operation of the facility will promote the prevention and mitigate the risk of wildfire.

(h) For a photovoltaic solar power generation facility located on arable or nonarable lands, the project is not located on arable soils unless it can be demonstrated that:

(A) Siting the project on nonarable soils present on the subject tract would significantly reduce the project's ability to operate successfully; or

(B) The proposed site is better suited to allow continuation of an existing commercial farm or ranching operation on the subject tract as compared to other possible sites also located on the subject tract, including sites that are comprised of nonarable soils;

(i) For a photovoltaic solar power generation facility located on nonarable lands no more than 2,560 acres of the project will be located on arable soils.

(j) Notwithstanding any other rule in Division 33, a county may determine that ORS 215.296 and OAR 660-033-0130(5) for a proposed photovoltaic solar power generation facility on agricultural land are met when the applicable provisions of this section are found to be satisfied

(k) The county has identified and attached as conditions of approval all mitigation required pursuant to this rule.

(l) The county shall require as a condition of approval for a photovoltaic solar power generation facility, that the project owner sign and record in the deed records for the county a document binding the project owner and the project owner's successors in interest, prohibiting them from pursuing a claim for relief or cause of action alleging injury from farming or forest practices as defined in ORS 30.930(2) and (4).

(m) Nothing in this rule shall prevent a county from requiring a bond or other security from a developer or otherwise imposing on a developer the responsibility for retiring the photovoltaic solar power generation facility.(n) Any applicable local provisions have been satisfied.

(10) Duration of Permit. A permit approved for a photovoltaic solar power generation facility shall be valid until commencement of construction or for six years, whichever is less. A county may grant up to two extensions for a period of up to 24 months each when an applicant makes a written request for an extension of the development approval period that is submitted to the county prior to the expiration of the approval period. Additional extensions may be considered in the manner identified at OAR 660-033-0130(45)(i)

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(11)) Use of ORESA: In addition to other sources, a county may rely on data from online mapping tools, such as that data included in the Oregon Renewable Energy Siting Assessment (ORESA), to inform determinations made under this rule.

(12) REVIEW OF RULE EFFECTIVENESS: On or before July 1, 2027, the department will provide a report to the Land Conservation and Development Commission that:

(a) Is informed by coordination with parties consistent with those interests represented on the Rules Advisory Committee established pursuant to Section 37 of HB 3409 (2023).

(b) Identifies those counties who have chosen to establish significant photovoltaic solar resource areas pursuant to section (4) of this rule and have not opted out of the provisions of OAR 660-033-0130(45)(a)(B).

(c) Identifies the number of counties that have chosen not to implement this rule for purposes of considering photovoltaic solar power generation facilities pursuant to section (4)(b) of this rule.

(d) Describes how well the intent of this rule as stated in section (1) is being accomplished.

(e) Includes recommended updates, if any, the department identifies as being necessary to better accomplish the intent of this rule as stated in section (1).

(f) Subsequent reports reviewing the effectiveness of this rule will be provided at four-year intervals beginning on or before September 30, 2031 and will follow the provisions of section (11)(a)-(e) as described above.

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(38) A proposal to site a photovoltaic solar power generation facility except for a photovoltaic solar power generation facility in Eastern Oregon subject to the provisions of subsections (45)(a)(B) and (C) shall be subject to the following definitions and provisions:

(45)(a) A county may review a proposed photovoltaic solar power generation facility on agricultural land in Eastern Oregon under one of the following three alternatives:

(A) A county may review a proposed photovoltaic solar power generation facility on agricultural land under the provisions of OAR 660-033-0130(38).

(B) If a county has not adopted a program under the provisions of OAR 660-023-0195, a county may review a proposed photovoltaic solar power generation facility on agricultural land located in Eastern Oregon under the provisions of subsections (b) through (l) of this section; or

(C) A county may review a proposed photovoltaic solar power generation facility on agricultural land located in Eastern Oregon under the provisions of OAR 660-023-0195.

(b) A proposal to site a photovoltaic solar power generation facility under OAR 660-038-0130(45)(a)(B) shall be subject to the following definitions and provisions:

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

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

(C) “Eastern Oregon” means that portion of the State of Oregon lying east of a line beginning at the intersection of the northern boundary of the state and the western boundary of Wasco County, thence southerly along the western boundaries of the counties of Wasco, Jefferson, Deschutes and Klamath to the southern boundary of the state.

(D) “High-value farmland means land described in ORS 195.300(10).

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

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

(G) “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, including but not limited to on-site and off-site facilities for temporary workforce housing for workers constructing a photovoltaic solar power generation facility. 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.

(c)(A) A county shall consider applications for a proposed photovoltaic solar power generation facility pursuant to OAR 660-033-0130(45)(a)(B) unless a county has either:

(i) Approved a program for significant solar photovoltaic resource areas under the provisions of OAR 660-023-0195; or

(ii) Taken action through the county elected body, either prior to, or after the effective date of this rule that declines to consider photovoltaic solar power generation facilities under OAR 660-033-0130(45)(a)(B).

(B) A county may choose to consider photovoltaic solar power generation facilities under OAR 660-033-0130(45)(a)(A) or (C).

(d) A county may approve a photovoltaic solar power generation facility under OAR 660-033-0130(45)(a)(B) as follows:

(A) On high-value farmland that qualifies for an exemption pursuant to the provisions of subsection (d)(D)(vii) of this section and that is not otherwise limited by the provisions of subsection (d)(D)(vi) of this section, the facility may not use, occupy, or cover more than 160 acres not including lands devoted to temporary workforce housing.

(B) On arable land, the photovoltaic solar power generation facility may not use, occupy, or cover more than 1,280 acres not including lands devoted to temporary workforce housing.

(C) On non-arable land, the photovoltaic solar power generation facility may not use, occupy, or cover more than 1,920 acres not including lands devoted to temporary workforce housing.

(D) Notwithstanding subsections (45)(d)(A) through (C) of this section, a county may not approve a photovoltaic solar power generation facility under OAR 660-033-0130(45)(a)(B) on land that is:

(i) Significant Sage-Grouse Habitat described at OAR 660-023-0115(6)(a) and (b). The exact location of Significant Sage-Grouse Habitat may be refined during consideration of a specific photovoltaic solar power generation facility but must be done in consultation with ODFW.

(ii) Priority Wildlife Connectivity Areas (PWCA's) as designated by the Oregon Department of Fish and Wildlife (ODFW) that do not qualify under section 660-023-0195(4)(d)(E).

(iii) High Use and Very High Use Wildlife Migration Corridors designated by ODFW. The exact location of high use and very high use wildlife mitigation corridors may be refined during consideration of a specific photovoltaic solar power generation facility but must be done in consultation with ODFW.

(iv) Wildlife habitat characterized by ODFW as Category 1 based on field data provided by the applicant and developed in consultation with ODFW. The exact location and characterization of Category 1 wildlife habitat may be refined during consideration of a specific photovoltaic solar power generation facility but must be done in consultation with ODFW.

(v) On lands included within Urban Reserve Areas acknowledged pursuant to OAR chapter 660, division 21.

(vi) Soils that are irrigated or not irrigated and classified prime, unique, Class I or Class II, as classified by the U.S. Natural Resources Conservation Service (NRCS), unless such soils make up no more than five percent of a proposed Photovoltaic Solar Site and are present in an irregular configuration or configurations that prevent them from being independently managed for farm use.

(vii) Agricultural lands protected under Goal 3 with an appurtenant water right on January 1, 2024. This subsection does not apply if the ability to use the appurtenant water right to irrigate subject property becomes prohibited due to a situation that is beyond the control of the water right holder including but not limited to: critical groundwater designations or other state regulatory action, reduced federal contract allocations, and other similar regulatory circumstances. If retained, the appurtenant water right has been transferred to another portion of the subject property, tract or another property and maintained for agricultural purposes.

(viii) Sites where the construction and operation of the photovoltaic solar power generation facility will result in significant adverse impacts to Historic, Cultural or Archaeological Resources that cannot be mitigated pursuant to the provisions of OAR 660-023-0195(6).

(e) Approval of a proposed photovoltaic solar power generation facility under OAR 660-033-0130(45)(a)(B) is subject to the following requirements:

(A) The proposed photovoltaic solar power generation facility islocated in an area with the following characteristics:

(i) Topography with a slope that is predominantly 15% or less;

(ii) An estimated Annual Solar Utility-Scale Capacity Factor of 19 percent or greater; and

(iii) Predominantly within 10 miles of a transmission line with a rating of 69 KV or above.

(B) For a proposed photovoltaic solar power generation facility on high-value farmland or arable land, a study area consisting of lands zoned for exclusive farm use located within two miles measured from the exterior boundary of the subject property shall be established and:

(i) If fewer than 320 acres of photovoltaic solar power generation facilities have been constructed or received land use approvals and obtained building permits wholly or partially within the study area, no further action is necessary.

(ii) When at least 320 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 wholly of partially within the study area, the county 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

.

(D) The proposed photovoltaic solar power generation facility shall take measures to mitigate agricultural impacts as set forth in OAR 660-023-0195(5)(b)(B) and (C).

(E) The proposed photovoltaic solar power generation facility shall take measures to provide community benefits as set forth in OAR 660-023-0195(7)(b).

(F) The proposed photovoltaic solar power generation facility shall mitigate potential impacts to fish and wildlife habitat pursuant to the requirements of ORS 215.446(3)(a).

(G) The proposed photovoltaic solar power generation facility shall mitigate potential impacts to historic, cultural, and archeological resources pursuant to the requirements of OAR 660-023-0195().

(H) (i) The application will ensure that considerations for the amount, type, and location of temporary workforce housing have been made. This provision may be satisfied by the submittal and county approval of a workforce housing plan prepared by an by an individual with qualifications determined to be acceptable by the county demonstrating that such temporary housing is reasonably likely to occur. The plan need not obligate the applicant to financially secure the temporary housing. The approved plan shall be attached to the decision as a condition of approval.

(ii) On-site and off-site facilities for temporary workforce housing for workers constructing a photovoltaic solar power generation facility must be removed or converted to an allowed use under OAR 660-033-0130(19) or other statute or rule when project construction is complete.

(iii) Temporary workforce housing facilities not included in the initial approval may be considered through a minor amendment request filed after a decision to approve a photovoltaic solar power generation facility. A minor amendment request shall be subject to OAR 660-033-0130(5) and shall have no effect on the original approval of the project.

(I) The requirements of OAR 660-033-0130(38)(h)(A) through (D) have been satisfied for proposed photovoltaic solar power generation facilities on high-value farmland and arable land, and the requirements of OAR 660-033-0130(38)(h)(D) have been satisfied for proposed photovoltaic solar power generation facilities on nonarable land.

(J) A county may condition approval of a proposed photovoltaic solar power generation facility to address other issues, including but not limited to assuring that the design and operation of the facility will promote the prevention and mitigate the risk of wildfire

(K) For a photovoltaic solar power generation facility located on arable or nonarable lands, the project is not located on arable soils unless it can be demonstrated that:

(i) Siting the facility on nonarable soils present on the subject tract would significantly reduce the project's ability to operate successfully; or

(ii) The proposed site is better suited to allow continuation of an existing commercial farm or ranching operation on the subject tract as compared to other possible sites also located on the subject tract, including sites that are comprised of nonarable soils;

(L) For a photovoltaic solar power generation facility located on nonarable lands no more than 1,280 acres of the facility will be located on arable soils.

(f) Notwithstanding any other rule in this division, a county may determine that ORS 215.296 and OAR 660-033-0130(5) for a proposed photovoltaic solar power generation facility are met when the applicable provisions of OAR 660-033-0130(45)(b) through (e) are found to be satisfied.

(g) A county shall satisfy the requirements of OAR 660-023-0195(9)(a) and (b).

(h) A permit approved for a photovoltaic solar power generation facility shall be valid until commencement of construction or for six years, whichever is less. A county may grant up to two extensions for a period of up to 24 months each when an applicant makes a written request for an extension of the development approval period that is submitted to the county prior to the expiration of the approval period.

(i) A county may grant a permit described in subsection (j) a third and final extension for period of up to 24 months if:

(A) An applicant makes a written request for an extension of the development approval period prior to the expiration of the second extension granted under subsection (f) of this section;

(B) The applicant states reasons that prevented the applicant from beginning or continuing development within the approval period; and

(C) The county determines that the applicant was unable to begin or continue development during the approval period for reasons for which the applicant was not responsible.

(j) In addition to other sources, a local government may rely on data from online mapping tools, such as that data included in the Oregon Renewable Energy Siting Assessment (ORESA), to inform determinations made under this rule.

(k) The county governing body or its designate shall require as a condition of approval for a photovoltaic solar power generation facility, that the project owner sign and record in the deed records for the county a document binding the project owner and the project owner's successors in interest, prohibiting them from pursuing a claim for relief or cause of action alleging injury from farming or forest practices as defined in ORS 30.930(2) and (4).

(l) Nothing in this section shall prevent a county from requiring a bond or other security from a developer or otherwise imposing on a developer the responsibility for retiring the photovoltaic solar power generation facility.

660-033-0145
Agriculture/Forest Zones

(1) Agriculture/forest zones may be established and uses allowed pursuant to OAR 660-006-0050;

(2) Land divisions in agriculture/forest zones may be allowed as provided for under OAR 660-006-0055; and

(3) Land may be replanned or rezoned to an agriculture/forest zone pursuant to OAR 660-006-0057.

(4) A county in Eastern Oregon shall apply either OAR chapter 660, division 6 or 33 standards for siting a photovoltaic solar power generation facility in an agriculture/forest zone based on the predominant use of the tract on January 1, 2024.

AGRICULTURAL MITIGATION

The purpose of this agricultural mitigation program is not to replace the lost economic value to the producer, who is being paid by the solar company, but the lost economic value to the community in the loss of agricultural production. Therefore, this methodology tries to make simple the process of calculating necessary mitigation for the lost community economic activity from using agricultural land for a photovoltaic solar power generation facility.

Directions

1.0 Getting Started.

1.1 Identify the subject project area.

1.2 Identify if the subject project area is comprised of lands used, or if not currently in use, best suited for - livestock grazing or cultivated agriculture.

1.3 Determine the various soils included within the subject project area and the number of acres in each soil class using data from the National Resource Conservation Service (NRCS). The NRCS On-Line Soil Survey is probably the best source of this information https://websoilsurvey.nrcs.usda.gov/app/.

2.0 Establish the Time Value of Money Adjusted Productivity Value (TVMAPV)[i]. This will include a series of steps.

2.1 For cultivated agriculture use the following:

a. Determine the most recent non-irrigated crop rent[1] from the National Agricultural Statistics Service (NASS). See Table 3. If there is no information available for your county use the "Other Counties" figures ($52 from 2023).

b. Multiply the crop rate figure by the General Economic Contribution per Farm[ii] percentage of 0.56, which provides the Economic Contribution amount.

Example: Crop Rent of $52 x General Economic Contribution per Farm percentage of 0.56 = Economic Contribution amount of $29.12. This is the amount of revenue expected to be returned to the local economy for each acre in farm production.

c. Identify the duration of the Lease Agreement in years and multiply by the Economic Contribution.

[1] Irrigated lands are not eligible for this opportunity.

Example: *Lease Agreement of 30 years x Economic Contribution of $29.12 = $873.60. This is the total amount of revenue expected not to be returned to the local economy for each acre included in the subject project area over the life of the Lease Agreement, in this example 30 years. Also described as Future Value (FV).*

d. Apply a CAP RATE of 3%[iii] to discount the amount established in c., back to the Present Value (PV) by multiplying that amount by the number shown in table 2. The resulting figure is the Time Value of Money Adjusted Productivity Value (TVMAPV).

Example: *$873.60* as shown above in 2.1.c. *x .6533 for a lease agreement of 30 years as shown in table 2 = $570.76*

2.2 For Livestock Grazing use the following:

a. Determine the most recent pasture rent from the National Agricultural Statistics Service (NASS). If there is no information available for your county use the "Oregon" figures ($11.50 from 2023).

b. Multiply the crop rate figure by the General Economic Contribution per Farm percentage of 0.79, which provides the Economic Contribution amount.

Example: *Pasture Rent of $11.50 x General Economic Contribution per Farm percentage of 0.79 = Economic Contribution of $9.085. This is the amount of revenue expected to be returned to the local economy for each acre in ranch production.*

c. Identify the duration of the Lease Agreement in years and multiply by the Economic Contribution amount.

Example: *Lease Agreement of 30 years x Economic Contribution of $9.085 = $272.55. This is the total amount of revenue not expected to be returned to the local economy for each acre included in the subject project area over the life of the Lease Agreement, in this example 30 years. Also described as Future Value (FV).*

d. Apply a CAP RATE of 3% to discount the amount established in c., back to the Present Value (PV) by multiplying that number by the factor shown in Table 1. The resulting figure is the Time Value of Money Adjusted Productivity Value (TVMAPV).

Table 1.

LEASE AGREEMENT DURATION	***NUMBER***
20 YEARS	***.7439***
25 YEARS	***.6965***
30 YEARS	***.6533***
35 YEARS	***.6017***

Example 1: $873.60 as shown above in 2.1.c. x .6533 for a lease agreement of 30 years as shown in table 2 = $570.76

Example: 2 $272.55 as shown above in 2.2.c. x .6533 for a lease agreement of 30 years as shown in Table 1 = $178.07

3.0 Calculate Mitigation Responsibility.

3.1 Multiply the TVMAPV by the appropriate efficiency factor[iv] identified in Table 2, below.

Table 2

Efficiency Factor	
Class 1 Soils	2.5
Class 2 Soils	2
Class 3 Soils	1.75
Class 4 Soils	1.5
Class 5 Soils	1.25
Class 6 Soils	1

Example 1: $570.76 as shown for cultivated agriculture in 2.1.d. above x 1.75 for class 3 soil = $998.83. This figure represents the base value for cultivated agriculture modified to account for different soil capabilities.

Example 2: $178.07 as shown for livestock grazing in 2.2.d. above x 1 for class 6 soil capable of producing 300 lbs of forage per acre when applicable = $178.07. This figure represents the base value for livestock grazing modified to account for different soil capabilities.

3.2 Multiply the dollar amounts identified at 3.1 above by an administrative cost of 1.2%. Do not include Class 7 and 8 soils, or class 6 soils when not applicable. This is the total per acre mitigation cost for the identified soil class.

Example: *$998.83 x 1.2 = 1,198.60.*

3.3 Calculate the total value for all soil classes identified at 3.2 rounding to the nearest whole dollar.

Example:

62.3 acres of class 2 soils @ $1,369.82 per acre = $85,340.

915.3 acres of class 3 soils @ $1,198.60 per acre = $1,097,079.

3.4 Add the total value of all soil classes identified at 3.4. This is the total agricultural mitigation responsibility.

Example: $85,340 + $1,097,079 = ***$1,182,418.00***

Table 1 Most Recent National Agricultural Statistics Service (NASS) Figures

Cash Rent Expense per Acre by County — Oregon: 2022 and 2023

County	Irrigated cropland		Non-irrigated cropland		Pasture	
	2022	2023	2022	2023	2022	2023
	(dollars)	(dollars)	(dollars)	(dollars)	(dollars)	(dollars)
Baker	114.00	134.00	(D)	81.50	9.70	8.70
Benton	137.00	145.00	111.00	116.00	29.00	30.00
Clackamas	231.00	274.00	156.00	130.00	52.50	59.50
Clatsop	(D)	(D)	(D)	73.50	(D)	(D)
Columbia	(D)	(D)	139.00	114.00	(D)	40.50
Coos	(D)	(D)	88.00	87.50	41.50	30.00
Crook	138.00	123.00	(D)	(D)	(D)	8.70
Curry	(D)	(D)	39.50	(D)	30.00	36.00
Deschutes	117.00	132.00	(D)	(D)	(D)	43.00
Douglas	(D)	(D)	38.00	46.00	15.00	20.00
Gilliam	(D)	(D)	51.00	(D)	2.30	2.70
Grant	82.00	62.00	(D)	(D)	3.90	4.90
Harney	(D)	(D)	33.00	27.50	6.00	4.80
Hood River	686.00	748.00	(D)	(D)	(D)	(D)
Jackson	(D)	123.00	41.00	57.00	30.00	(D)
Jefferson	144.00	162.00	(D)	(D)	43.50	41.50
Josephine	(D)	127.00	(D)	(D)	(D)	(D)
Klamath	(D)	273.00	(D)	(D)	36.00	25.50
Lake	133.00	155.00	(D)	(D)	7.40	12.50
Lane	186.00	166.00	83.00	89.50	45.50	(D)
Lincoln	(D)	(D)	51.00	46.50	(D)	(D)
Linn	187.00	197.00	138.00	155.00	67.50	62.50
Malheur	252.00	258.00	(D)	(D)	8.80	8.80
Marion	303.00	303.00	147.00	166.00	64.50	(D)
Morrow	(D)	473.00	37.00	(D)	5.90	7.80
Multnomah	(D)	276.00	135.00	155.00	(D)	(D)
Polk	237.00	217.00	134.00	144.00	(D)	50.50
Sherman	(D)	(D)	(D)	(D)	(D)	(D)
Tillamook	(D)	220.00	193.00	191.00	149.00	153.00
Umatilla	376.00	(D)	76.00	66.00	8.00	5.50
Union	179.00	209.00	97.00	96.00	(D)	9.20
Wallowa	107.00	105.00	(D)	50.50	6.00	5.60
Wasco	394.00	394.00	59.50	70.50	(D)	9.00
Washington	250.00	267.00	145.00	143.00	57.00	50.00
Wheeler	(D)	(D)	(D)	(D)	3.20	(D)
Yamhill	419.00	387.00	201.00	200.00	75.50	74.50
Other counties [1]	335.00	336.00	40.50	52.00	7.90	28.50
Oregon	261.00	259.00	101.00	107.00	11.50	11.50

(D) Withheld to avoid disclosing data for individual operations.
[1] Beginning in 2021, district level estimates have been discontinued. Other counties are a combination of counties that could not be published at the county level.

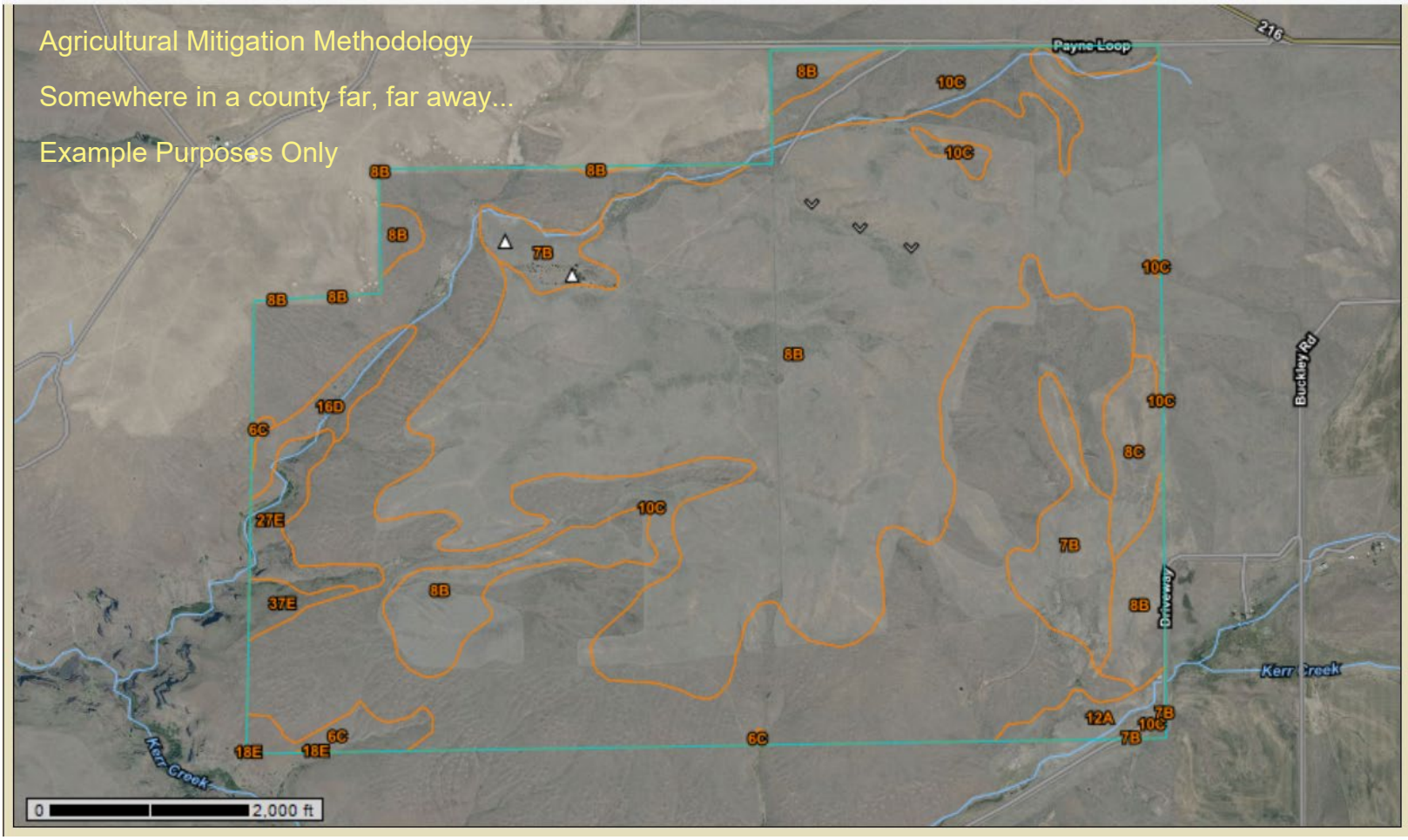
[i] The Time-Value of Money Adjusted Productivity of a Farm or Ranch is intended to capture the economic productivity of the agricultural land over the life of the solar lease in today's dollars. It is calculated by assessing the Present Value of the agricultural lands contribution by multiplying the Crop Rent as a function of its productivity, by the general economic contribution % to capture its baseline, annual economic contribution to the community. The Present Value is then further calculated off that number using the expected CAP RATE growth and the years of the lease agreement.

[ii] General Economic Contribution per Farm and Ranch is based on an average of the local and non-local farm/ranch contributions from a joint OSU/COIC study of Central Oregon which found that local and non-local farms contributed $.74 and $.36 for every $1 produce sold. Local and non-local ranches contributed $.79 and $.66 for every $1 sold. https://www.coic.org/wp-content/uploads/2020/01/economicimpact_localfoods_centraloregon.pdf

[iii] CAP RATE is based on Farm Credit portfolio standards and USDA Quickstats statistics about agriculture in Eastern Oregon. Farm Credit uses a portfolio CAP Rate of 2-6%, however, Quickfacts tell us many farms in the area make no-profit, and are assumedly not applying for financing. We split the difference in assuming a range of 0-6%, making for a 3% CAP RATE assumption. https://www.fcsamerica.com/resources/learning-center/2021/cap-rate-calculator-streamlined-for-ease-of-use

[iv] The Efficiency Factor is intended to represent a sliding scale of difficulty for replacing the productivity of certain soils, with high productivity soils being very hard to replace, and low productivity soils being only somewhat difficult to replace.

Ag Mitigation Example - Dry Land Farming



Mitigation Calculations

1.0 Getting Started.

1.1 Identify the subject project area.

The subject project area is comprised of 1,280 acres.

1.2 Identify if the subject project area includes lands used, or if not currently in use, best suited for livestock grazing or cultivated agriculture.

The subject project area is identified as being used for cultivated agriculture (dry land).

1.3 Determine the various soils included within the subject project area and the number of acres in each soil class using data from the National Resource Conservation Service (NRCS). The NRCS On-Line Soil Survey is probably the best source of this information
https://websoilsurvey.nrcs.usda.gov/app/

SOIL INFORMATION				
#	Soil Name	AC	%	Ag Capability Class
6C	Very stony loam 2-20% slopes	14.1	1.1%	Irrigated: No class given Non-Irrigated: 7
7B	Silt Loam 1-7% slopes	50.3	3.8%	Irrigated: Prime Non-Irrigated: 2
8B	Silt Loam 1-7% slopes	621.7	47.5%	Irrigated: Prime Non-Irrigated: 3
8C	Silt Loam 7-15% slopes	19.6	1.5%	Irrigated: No class given

				Non-Irrigated: 3
10C	Complex 2-20% slopes	548.8	41.8%	
	* First Soil 50%	274.4	20.9%	Irrigated: No class given Non-Irrigated: 3
	* Second Soil40%	219.5	16.7%	Irrigated: No class given Non-Irrigated: 7
	* ??? 10%	54.9	4.2%	???
12D	Complex 0-3% slopes	12	1.0%	
	* First Soil 50%	6		Irrigated: Prime Non-Irrigated: 2
	* Second Soil 40%	4.8		Irrigated: Prime Non-Irrigated: 2
	* ??? 10%	1.2		" " ???
16D	Very stony loam 7-40% south slopes	15.2	1.2%	Irrigated: Non specified Non-Irrigated: 7
18E	Rock outcrop complex 40-70% slopes	0.3	0%	7, 8
27E	Rock outcrop-Rubble land-complex	19.8	1.5%	8, 8, 7
37E	Rock outcrop complex north slopes	6.9	0.5%	7, 8

Total Class 2 Acres	Class 2 % of Project	Total Class 3 Acres	Class 3 % of Project	Total Class 7 Acres	Class 7% of Project
62.3 (7B & 12D)	4.9%	915.3 (8B, 8C, 10C)	71.5%	298.4 (6C, 10C)	23.3%

2.0 Establish the Time Value of Money Adjusted Productivity Value (TVMAPV). This will include a series of steps.

2.1 For <u>cultivated agriculture</u> use the following:

a. Determine the most recent non-irrigated crop rent from the National Agricultural Statistics Service (NASS). See Table 3. If there is no information available for your county use the "Other Counties" figures ($52 from 2023).

There is no crop rent information available for this county. Therefore, the "Other Counties" figure of $52 will be applied.

b. Multiply the crop rate figure by the General Economic Contribution per Farm percentage of 0.56, which provides the Economic Contribution amount.

$52 x 0.56 = $29.12

c. Identify the duration of the Lease Agreement in years and multiply by the Economic Contribution amount.

The duration of the Lease Agreement is 30 years.

30 x $29.12 = $873.60

d. Apply a CAP RATE of 3% to discount the amount established in c., back to the Present Value (PV) by multiplying that number by the factor shown in Table 2. The resulting figure is the Time Value of Money Adjusted Productivity Value (TVMAPV).

$873.60 x .6533 as identified in Table 2 for a 30-year Lease Agreement= $570.76
The TVMAPV is $570.76

3.0 Calculate Mitigation Responsibility.

3.1 Multiply the TVMAPV by the appropriate efficiency factor identified for each soil type in Table 2.

$570.76 x 2 for class 2 soil = $1,141.52
$570.76 x 1.75 for class 3 soil = $998.83

3.2 Multiply the dollar amounts identified at 3.1 above by an administrative cost of 1.2%. Do not include Class 7 and 8 soils, or class 6 soils when not applicable. This is the total per acre mitigation cost for the identified soil class.

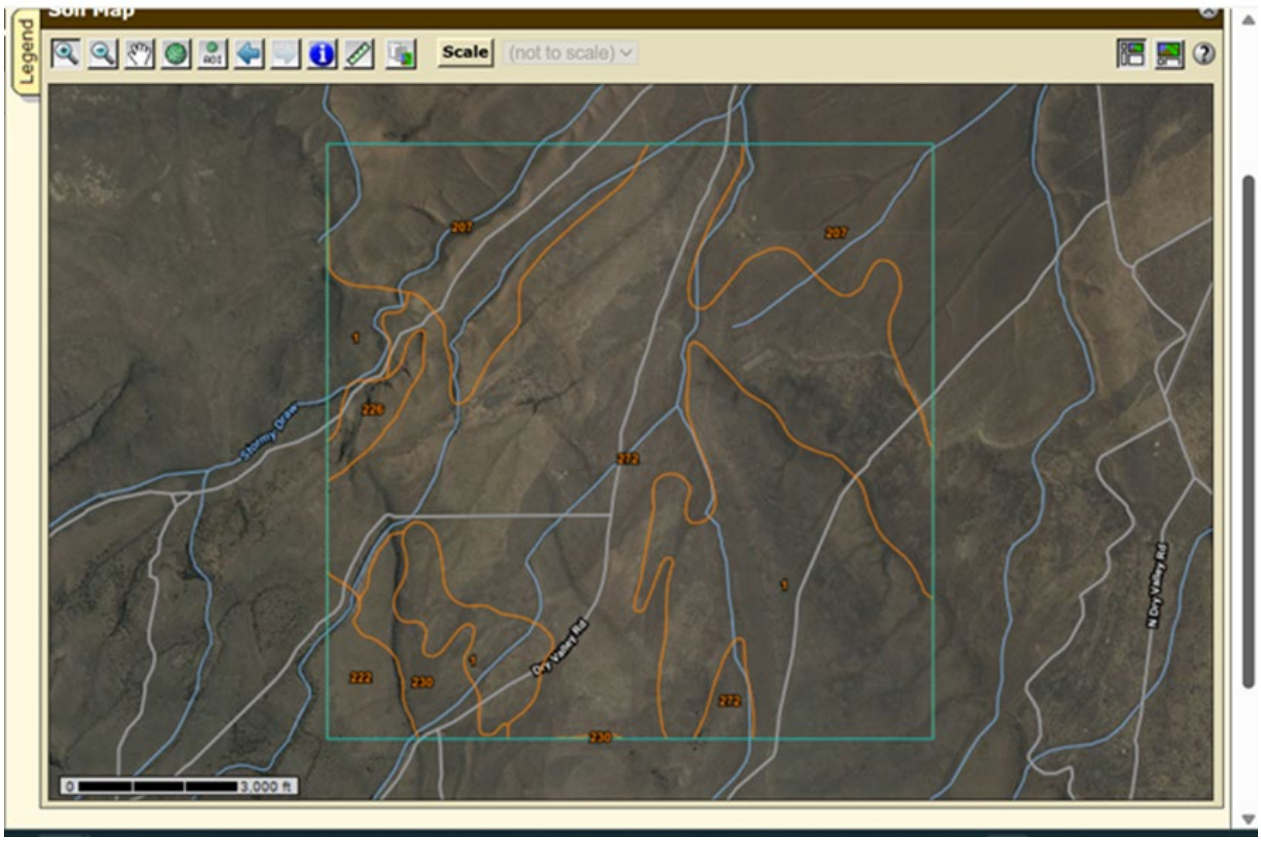
Class 2 soil: $1,141.52 x 1.2 = $1,369.82
Class 3 soil: $998.83 x 1.2 = $1,198.60

3.3 Calculate the total value for each soil class identified in 3.2 rounding to the nearest whole dollar.

Class 2 soils: 62.3 acres @ $1,369.82 per acre = $ 85,340
Class 3 soils: 915.3 acres @ $1,198.60 per acre = $1,097,079

3.4 Add the total value of all soil classes identified in 3.3. This is the total agricultural mitigation responsibility.

$85,340 + $1,097,079 + $0 = **$1,182,419**



Mitigation Calculations

1.0 Getting Started.

1.1 Identify the subject project area.

The subject project area is comprised of 2,994 +/- acres located in NW Harney County near Wagontire, Oregon.

1.2 Identify if the subject project area includes lands used, or if not currently in use, best suited for livestock grazing or cultivated agriculture.

The subject project area is identified as being used dry rangeland used for livestock grazing.

1.3 Determine the various soils included within the subject project area and the number of acres in each soil class using data from the National Resource Conservation Service (NRCS). The NRCS On-Line Soil Survey is probably the best source of this information
https://websoilsurvey.nrcs.usda.gov/app/

SOIL INFORMATION				
#	Soil Name	AC	%	Ag Capability Class
1	Actem Cobbly Loam	771.4	25.8	6e
207	Middlebox gravelly sandy loam	633.6	21.2	6e
222	Ninemile-Edemaps complex	76.6	2.6	6e
226	Ninemile-Reluctan-Rubble Land	33.9 12	1.1 0.4	6e 8 Rubble Land
230	Ninemile-Westbutte-Ninemile complex	38 56.5	1.3 1.9	6 7 Ninemile Complex
272	Raz-Brace complex, 2 to 20 percent slopes, harney area, mlra 23	1,371,4	46	6e

Total Class 6 Soils = 2,924.9 Acres Total Class 7 & 8 Soils = 68.7 Acres

2.0 Establish the Time Value of Money Adjusted Productivity Value (TVMAPV). This will include a series of steps.

2.1 For <u>cultivated agriculture</u> use the following:

The subject project area is not used for cultivated agriculture.

2.2 For <u>Livestock Grazing</u> use the following:

a. Determine the most recent pasture rent from the National Agricultural Statistics Service (NASS). If there is no information available for your county use the "Oregon" figures ($11.50 from 2023).

The most recent pasture rent for Harney County according to NASS is $4.80

b. Multiply the crop rate figure by the General Economic Contribution per Farm percentage of 0.79, which provides the Economic Contribution amount.

$4.80 x 0.79 = $3.792

c. Identify the duration of the Lease Agreement in years and multiply by the Economic Contribution amount.

The lease agreement is for 25 years. 25 x 3.792 = $94.8

d. Apply a CAP RATE of 3% to discount the amount established in c., back to the Present Value (PV) by multiplying that number by the factor shown in table 2. Round to the nearest full cent. The resulting figure is the Time Value of Money Adjusted Productivity Value (TVMAPV).

$94.8 x 0.6965 = $66.0282
Rounded to the nearest full cent = $66.03

3.0 Calculate Mitigation Responsibility.

3.1 Multiply the TVMAPV by the appropriate efficiency factor identified for each soil type in Table 2.

$66.03 x 1.0 for Class 6 soils = $66.03

3.2 Multiply the dollar amounts identified at 3.1 above by an administrative cost of 1.2%. Round to the nearest full cent not include Class 7 and 8 soils, or class 6 soils when not applicable. This is the total per acre mitigation cost for the identified soil class.

Class 6 soils: $66.03 x 1.2 = $79.236
Rounded to the nearest full cent = $79.24

3.3 Calculate the total value for each soil class identified in 3.2 rounding to the nearest whole dollar.

Class 6 soils: 2,924.9 acres @ $79.24 per acre = $ 231,769

3.4 Add the total value of all soil classes identified in 3.3. This is the total agricultural mitigation responsibility.

$231,769

Table 1

LEASE AGREEMENT DURATION	NUMBER
20 YEARS	.7439
25 YEARS	.6965
30 YEARS	.6533
35 YEARS	.6017

Table 2

Efficiency Factor	
Class 1 Soils	2.5
Class 2 Soils	2
Class 3 Soils	1.75
Class 4 Soils	1.5
Class 5 Soils	1.25
Class 6 Soils	1

Table 3

Cash Rent Expense per Acre by County — Oregon: 2022 and 2023

County	Irrigated cropland		Non-irrigated cropland		Pasture	
	2022	2023	2022	2023	2022	2023
	(dollars)	(dollars)	(dollars)	(dollars)	(dollars)	(dollars)
Baker	114.00	134.00	(D)	81.50	9.70	8.70
Benton	137.00	145.00	111.00	116.00	29.00	30.00
Clackamas	231.00	274.00	156.00	130.00	52.50	59.50
Clatsop	(D)	(D)	(D)	73.50	(D)	(D)
Columbia	(D)	(D)	139.00	114.00	(D)	40.50
Coos	(D)	(D)	88.00	87.50	41.50	30.00
Crook	138.00	123.00	(D)	(D)	(D)	8.70
Curry	(D)	(D)	39.50	(D)	30.00	36.00
Deschutes	117.00	132.00	(D)	(D)	(D)	43.00
Douglas	(D)	(D)	38.00	46.00	15.00	20.00
Gilliam	(D)	(D)	51.00	(D)	2.30	2.70
Grant	82.00	62.00	(D)	(D)	3.90	4.90
Harney	(D)	(D)	33.00	27.50	6.00	4.80
Hood River	686.00	748.00	(D)	(D)	(D)	(D)
Jackson	(D)	123.00	41.00	57.00	30.00	(D)
Jefferson	144.00	162.00	(D)	(D)	43.50	41.50
Josephine	(D)	127.00	(D)	(D)	(D)	(D)
Klamath	(D)	273.00	(D)	(D)	36.00	25.50
Lake	133.00	155.00	(D)	(D)	7.40	12.50
Lane	186.00	166.00	83.00	89.50	45.50	(D)
Lincoln	(D)	(D)	51.00	46.50	(D)	(D)
Linn	187.00	197.00	138.00	155.00	67.50	62.50
Malheur	252.00	258.00	(D)	(D)	8.80	8.80
Marion	303.00	303.00	147.00	166.00	64.50	(D)
Morrow	(D)	473.00	37.00	(D)	5.90	7.80
Multnomah	(D)	276.00	135.00	155.00	(D)	(D)
Polk	237.00	217.00	134.00	144.00	(D)	50.50
Sherman	(D)	(D)	(D)	(D)	(D)	(D)
Tillamook	(D)	220.00	193.00	191.00	149.00	153.00
Umatilla	376.00	(D)	76.00	66.00	8.00	5.50
Union	179.00	209.00	97.00	96.00	(D)	9.20
Wallowa	107.00	105.00	(D)	50.50	6.00	5.60
Wasco	394.00	394.00	59.50	70.50	(D)	9.00
Washington	250.00	267.00	145.00	143.00	57.00	50.00
Wheeler	(D)	(D)	(D)	(D)	3.20	(D)
Yamhill	419.00	387.00	201.00	200.00	75.50	74.50
Other counties [1]	335.00	336.00	40.50	52.00	7.90	28.50
Oregon	261.00	259.00	101.00	107.00	11.50	11.50

(D) Withheld to avoid disclosing data for individual operations.
[1] Beginning in 2021, district level estimates have been discontinued. Other counties are a combination of counties that could not be published at the county level.

Example of Two-Mile Study Area - Random 1,280-acre area