



# **Renewable Energy in Crook County**

**(via Salem)**

**Crook County Planning Commission Work Session  
February 26, 2025**

# Agenda

Status of State Rules

Timing

State Rule Deep Dive

Code Update Status

County Solar Development Status

Questions to Ponder

Path Forward

# Status of Eastern Oregon Solar RAC Rulemaking

(as of Meeting #11 on 2/20/25)



# RAC Meeting

- Continued to refine the language and have built support
- Vote at the end was far more positive than last meeting – good chance it's approved
- Meeting with LCDC is end of June 2025
- New rules could be in place sometime second half of 2025

# Timing

- With it looking likely we'll have new state rules this year, my recommendation is to table approval of any renewable energy changes until state process is done
- Through DOD grant, it's important that Military Overlay section moves forward

# State Rules Deep Dive



# State Rules Deep Dive

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- New rules will give the counties a choice:
  - Continue to apply OAR 660-033-0130(38) solar rules (the “old rules”);
  - Apply new OAR 660-0130(45) solar rules for sites in Eastern Oregon (the “new site rules”); or
  - Perform a Goal 5 Inventory to adopt a Significant Photovoltaic Solar Resource Area pursuant to OAR 660 Div. 23 (the “new area rules”)
- County can start thinking about which path it wants
- That will inform code update process
- County may find benefits favor acting fast

# OAR 660-033-0130(45)(d) (the new site rules)



- EO Counties to use (45) unless adopt Div23 or “opt out”
- (45) allows for greater acreages before exceptions are needed

Site Type	Acres before exception needed	current
High Value Farmland	160	12
Arable Land	1,280	20
Non-arable land	1,920	320



**III. The application fails to provide adequate reasons for an exception to statewide land use planning Goal 3 Agricultural Lands.**

This application requests to expand the area of an approved solar energy facility to 585 acres on agricultural land in the County's EFU-3 zone. Oregon Administrative Rules that implement statewide land use planning Goal 3, however, require that "a photovoltaic solar power generation facility shall not use, occupy, or cover more than 320 acres." OAR 660-033-0130(38)(j). Thus, in order to receive approval for this application, the applicant must meet the requirements for an exception to statewide land use planning Goal 3. Those requirements have not been met.

OAR 660-004-0022 governs "reasons" exceptions for any use not allowed by the applicable Goal. OAR 660-004-0022(1) requires that the reasons to justify such a Goal exception must show that "[t]here is a demonstrated need for the proposed use or activity, based on one or more of the requirements of Goals 3 to 19." The Oregon Court of Appeals has held that a reasons



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exception must be based on a goal requirement. *1000 Friends of Oregon v. Jackson County*, 292 Or App 173, 193, 423 P3d 793, 805 (2018), *rev dismissed*, 365 Or 657 (2019) (describing "the necessity to base a reasons exception under OAR 660-004-0022(1)(a) on a goal requirement").

Reasons to justify a Goal exception must be truly exceptional: "[A] sufficient basis for a reasons exception under OAR 660-004-0022(1)(a) must be 'exceptional.'" *Oregon Shores Conservation Coalition v. Coos County*, LUBA No. 2020-002, 2021 WL 2336704, at \*13 (2021) (citing *VinCEP v. Yamhill County*, 55 Or LUBA 433 (2007)).

The Planning Commission decision errs by failing to make findings in response to OAR 660-004-0022. LandWatch raised this issue to the Planning Commission in a March 17, 2021 comment, which was added to the Planning Commission record as Exhibit 10. This application should be denied for failure to comply with OAR 660-004-0022.

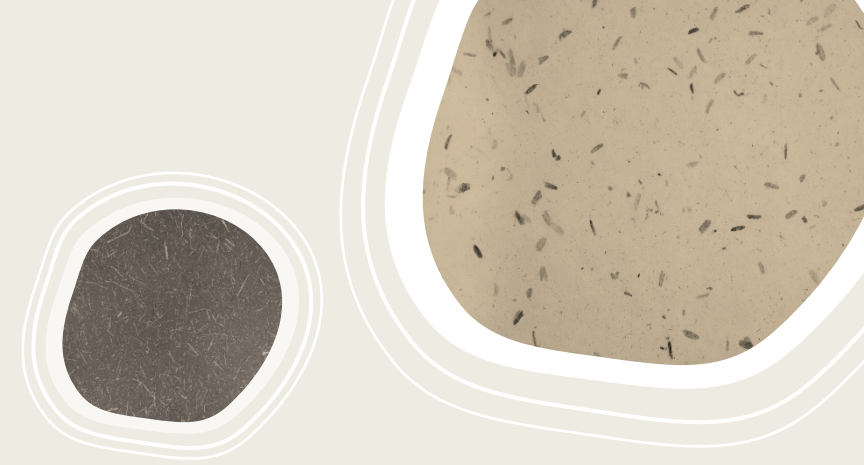
Thank you for the opportunity to comment in this matter. LandWatch requests notice of any decisions or further comment opportunities on this application.

Regards,

Rory Isbell  
Rural Lands Program Manager & Staff Attorney

Central Oregon LandWatch  
2843 NW Lolo Drive, Suite 200

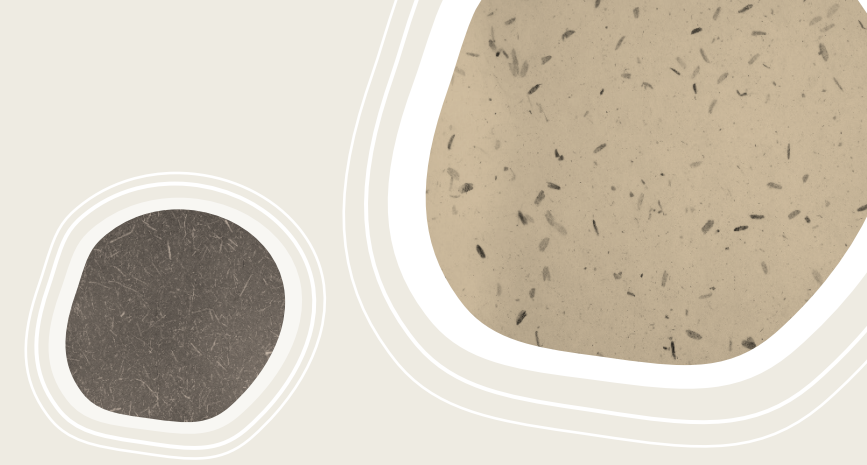
# OAR 660-033-0130(45)(d) cont'd



(D): Cannot use (45) rules if site has lands including:

- Significant Sage Grouse Habitat, Priority Wildlife Connectivity Areas, High or Very High Use Wildlife Migration Corridors, or Category 1 Habitat
- Acknowledged Urban Reserve Areas
- Class I or II soils
- Ag lands with an appurtenant water right
- Sites that would result in a significant impact to Historic, Cultural, or Archaeological Resources

# OAR 660-033-0130(45)(e)



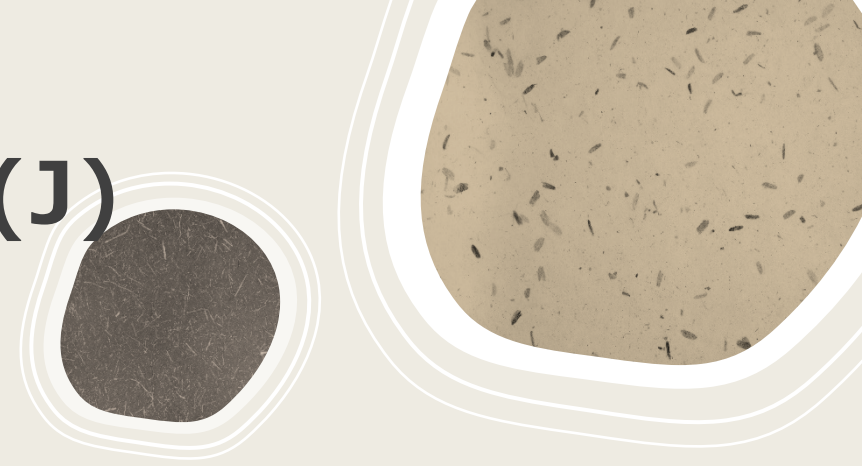
(A): Site characteristics must show:

- Slope < 15%;
- Within 10 miles of 69KV+ transmission line; and
- Estimated Annual Solar Utility-Scale Capacity Factor of 19 percent or greater

(B) + (C): If HVF or arable, must do cumulative impacts test (300 acres/2.5 miles for HVF; 2,000 acres/5 miles for arable)

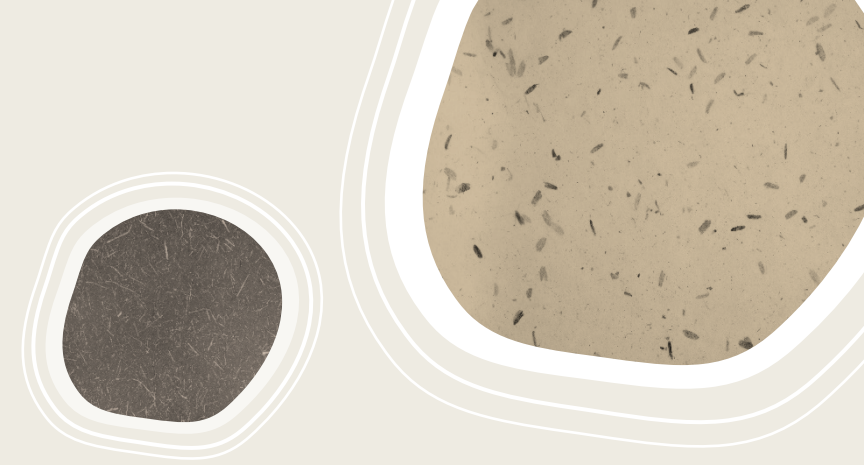
# OAR 660-033-0130(45)(e)(D)-(J) Mitigating Conflicts

- (D): Agricultural impact mitigation
- (E): Community benefit measures
- (F): Fish and Wildlife mitigation
- (G): Historic, Cultural, and Archeological mitigation
- (H): Temporary workforce housing
- (I): Ag impacts, soil erosion, soil compaction, noxious weeds
- (J): Option to add whatever, including mitigation requirements for wildfire hazard



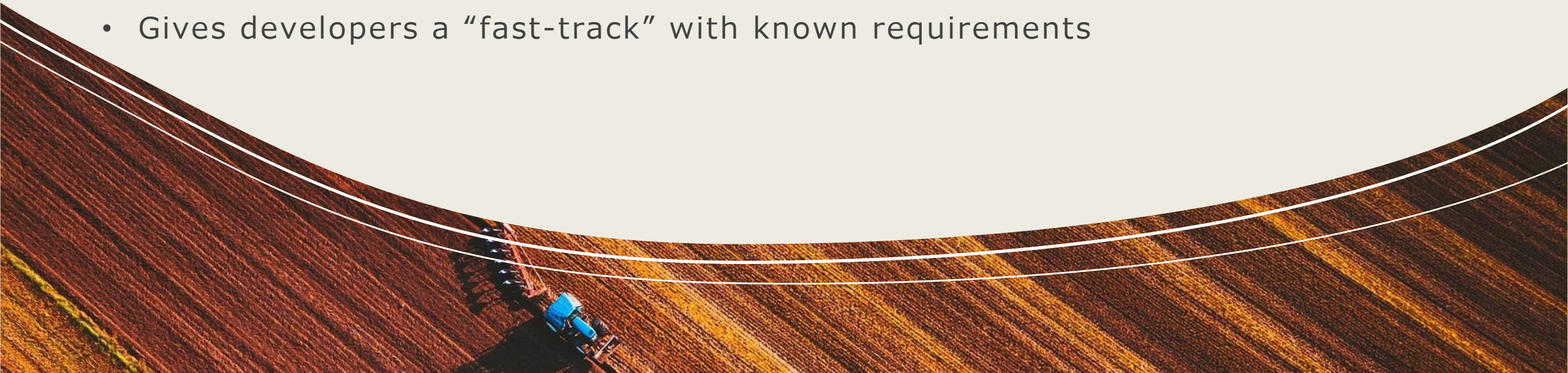
# OAR 660-033-0130(45)(f)-(I)

- Miscellaneous provisions:
  - Length of permit
  - Extensions
  - ORESA map
  - Nonremonstrance
  - Bond/Security



# New Division 23 “Area Rules” – OAR 660-023

- Idea is to make a County look hard at the issue, develop a program that will minimize/mitigate for conflicts and incentivize developers to utilize desired (i.e., low conflict) areas
- Gives County more control/flexibility in the process
- Gives developers a “fast-track” with known requirements



# OAR 660-023 (Div23) (aka the new area rules)



- Still many requirements and considerations, but if project checks all the boxes, allows for siting of very large projects by the County

Site Type	Acres before exception needed	(45)	(38)
High Value Farmland	240	160	12
Arable Land	2,560	1,280	20
Non-arable land	Unlimited	1,920	320

## (3) – SPSRA Adoption

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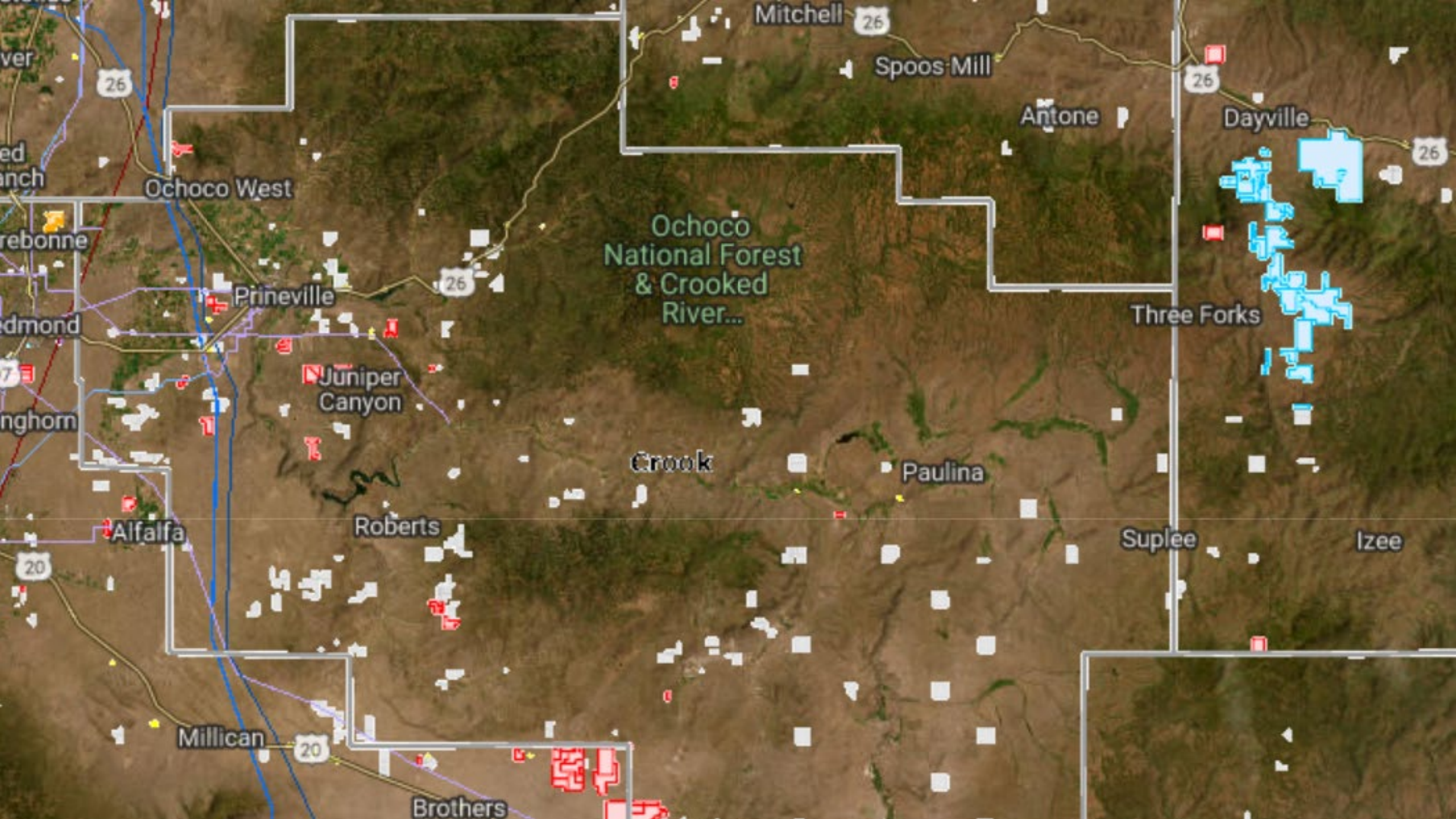
- “(a) Counties may establish significant photovoltaic solar resource areas through the adoption of a local program consistent with this section that includes a comprehensive plan amendment and implementing land use regulations found to be consistent with the provisions of this rule”
- (b) – Follow PAPA process in OAR 660-018
- (c) – Prior to hearing on adoption, must hold 1+ public meetings in SPSRA area
- (d) - + send notice to all the agencies
- (e) - says can choose to do ESEE or not



## (3)(h) – SPSRA Area

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- Is meant to be baseline and can then drill down for individual sites
- Factors:
  - Topography with slope < 15%
  - Within 10 miles of 69 KV+ transmission
  - Annual Solar Utility-Scale Capacity Factor of 19 percent or greater
  - BUT... County can decide to include areas not meeting these criteria for other reasons OR exclude areas meeting these criteria for other reasons



Mitchell 26

Spoos Mill

Antone

Dayville

Ochoco West

Ochoco National Forest & Crooked River...

Prineville

Three Forks

Juniper Canyon

Crook

Paulina

Roberts

Suplee

Izee

Alfalfa

Millican

Brothers

# Sites within SPSRA that require no mitigation

Impact factor	Measurement
Ag Lands	Class VII and VIII soils and Class VI < 300 lbs of forage/yr
Habitat	Category 5 or 6
HCA Resources	Facility will not result in significant adverse impacts to HCA resources

# Sites within SPSRA that require mitigation

Impact factor	Measurement
Ag Lands	Class VI > 300 lbs of forage/yr + III, IV, V w/o water right
Habitat	Category 2-4 (ORESAs + Consultation) + PWCA
HCA Resources	Significant adverse impacts to HCA resources can be mitigated

# Sites within SPSRA that must avoid

Impact factor	Measurement
Ag Lands	Prime, unique, Class I or Class II soil HVF, Ag lands with water right
Habitat	Sage Grouse, Category 1, Priority Wildlife Connectivity Areas, High and Very High Use Wildlife Migration Corridors
HCA Resources	Significant adverse impacts to HCA resources cannot be mitigated
UGB	Urban Reserve Areas

# SPSRA mitigation

Mitigation Type	Means
Agricultural	“compensatory” – can be method proposed by applicant or payment
HCA	Pre-app consult with SHPO; go with SHPO’s plan as CoA
Community	Must contribute to community beyond taxes/PILOT to “provide uplift opportunities for the community or communities” most impacted by project OR payment
Wildlife	ORS 215.446

# Div 23 Miscellaneous



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- Military Training Route notification
- Pre-Application notification requirements
- Cumulative impacts test for HVF and arable
- Ag impacts, soil erosion, soil compaction, noxious weeds
- Can add others including wildfire mitigation

# Crook County Solar Code Update Status

- Have draft update in packet
  - Simplifies, consolidates
  - Adds notification requirements, pre-app
  - Codifies wildlife habitat mitigation
  - Sets the stage well to apply (45) or Div 23
- Recommendation is to hold off until DLCD rules then choose which path: opt out, (45) site rules, or Div 23 G5 area rules





# County Solar Development Status

- Substations coming online in '25 will open the door to new capacity
- NewSun has multiple projects moving to develop fast
- Other developers will be drawn by gen-tie opportunities



# Questions to Ponder

- Does the County have strong opinions and want to provide comment on state of solar RAC rules?
- Do we want to opt out, use the site rules, or establish Div 23 program?
- What could agricultural mitigation and community benefits look like here?
- What would we want to use the \$\$ for?
- What other impacts from solar does Crook County want to address? (i.e., UGB, setbacks from highways/residential, etc.)
- Wind, battery storage, transmission, nuclear?

The background features a light beige color with several large, overlapping organic shapes. Each shape is outlined with two white lines. The shapes contain different textures: a solid reddish-brown, a brown with small dark specks, a dark brown with a fibrous texture, and a greenish-brown with a fibrous texture.

# Thank You

John Eisler

Crook County Community Development Director

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