



# Crook County

Community Development Department

300 NE 3rd Street, Room 12

Prineville, OR 97754

(541)447-3211

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**Crook County Planning Commission-Staff Report  
Plan Amendment – Goal 3 Exception  
West Prineville Solar Conditional Use Modification**

**September 2, 2020**

**APPLICATION: 217-20-000720-PLNG**

**APPLICANT: West Prineville Solar Farm LLC  
Jacob Stephens, Manager  
2033 E Speedway Blvd., Suite 200  
Tucson, Arizona 85716**

**REQUEST:** West Prineville Solar Farm, LLC (the Applicant) is requesting a comprehensive plan text amendment to document the finding of fact and statement of reasons in support of an exception to Statewide Planning Goal 3 (Agricultural Lands) for a commercial solar facility on more than 320 acres of nonarable lands as required by Oregon Administrative Rules (OAR) 660-004 (Interpretation of Goal 2 Exception Process) and OAR 660-033 (Agricultural Land). The Planning Commission reviewed and approved the West Solar Prineville Facility (217-20-000375) and the Goal 3 exception on June 2, 2020. The exception applies to property identified on the Crook County Assessor's maps as Township 15 South, Range 15 East Willamette Meridian, tax lots 2900 and 3000.

The Applicant has not applied to modify the final decision or supporting findings adopted by the Planning Commission. The Applicant defers to the Planning Commission's final decision and findings of June 2, 2020, which satisfy state and local requirements for Goal 3 exceptions and are based on substantial evidence in the record.

Planning Department Staff recommends that the Planning Commission approve the plan amendment and forward a request to Crook County Court to adopt an ordinance to amend the Crook County Comprehensive Plan to document the Goal 3 exception previously approved by the Planning Commission for the West Prineville commercial solar facility, which are attached to this staff report as Exhibit 1. Draft ordinance language is in Attachment A. A map of the exception area is included as Attachment B.

Notice was provided under 18.168.030. It should be noted that the proposed plan amendment does not change the comprehensive plan designation of the property (agricultural) or the zoning (Exclusive Farm Use – 3 – Powell Butte Area).

PROPOSED COMPREHENSIVE PLAN TEXT AMENDMENT

REQUEST TO ADD PROPERTY TO CROOK COUNTY EXCEPTION AREAS

APPENDIX B – Crook County Comprehensive Plan – Goal 3 Agricultural Exception Areas

Exception for Solar Commercial Photovoltaic Facility

**Oregon Administrative Rule 660-033-0130(38)(j)** states, for nonarable lands, a photovoltaic energy system shall not preclude more than 320 acres from use as a commercial agricultural enterprise unless an exception is taken pursuant to ORS 197.732 and OAR chapter 660, division 4.

**AREA NAME:** West Prineville Solar Facility

Crook County will adopt an ordinance amending the Crook County Comprehensive plan to document the findings of fact and statement of reasons in support of an exception from Goal 3 for a solar facility that will be sited on more than 320 acres. The property is currently not in commercial agricultural production. The County is not changing the underlying zoning of the subject property (Exclusive Farm Use) or the Comprehensive Plan Designation of the property as Agricultural.

The text of the exception will be in the form of an ordinance adopted by the Crook County Court stating that:

“The Crook County Comprehensive Plan is amended to include a ‘reasons’ exception for the West Prineville Solar Facility on property identified as Township 15 South, Range 15 East WM, Tax Lots 2900 and 3000. (See attached map.)

The findings of fact and conclusions in the staff report (attached) are adopted.<sup>1</sup>

The underlying zoning and comprehensive plan designation for the subject property are unchanged.”

**The language of the final exception language will be provided when adopted by the Crook County Court.**

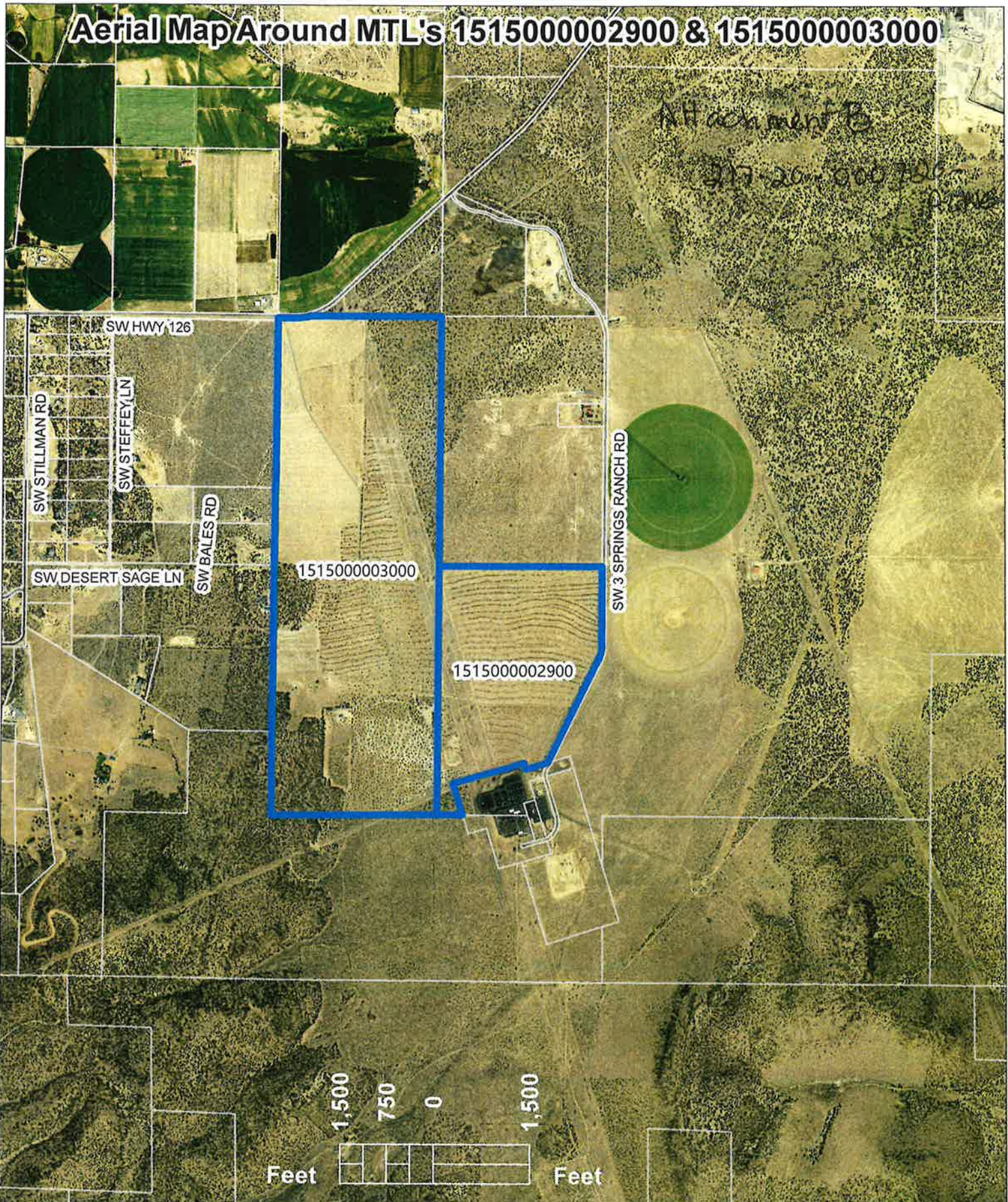
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<sup>1</sup> Findings in support of the exception will be provided in a staff report available September 2, 2020.



# Aerial Map Around MTL's 151500002900 & 151500003000

Attachment B  
 2/17/2010  
 151500002900

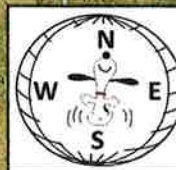


## COMMUNITY DEVELOPMENT

PLANNING

BUILDING

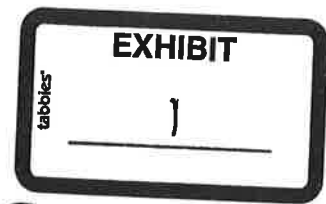
ON-SITE



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**Before the Crook County Planning Commission  
Conditional Use Modification Request - West Prineville Solar Farm LLC  
FINAL DECISION**

**APPLICATION:** 217-20-000375-PLNG

**OWNER:** Bryan Sproat  
P.O. Box 77  
Powell Butte, Oregon 97753

**AGENT/APPLICANT:** West Prineville Solar Farm LLC  
Jacob Stephens, Manager  
2033 E Speedway Blvd., Suite 200  
Tucson, Arizona 85716

**PROPERTY:** Township 15 South, Range 15 East WM, Tax lots 2900 and 3000

**APPLICATION RECEIVED:** April 15, 2020

**PUBLIC NOTICE:** April 21, 2020

**PROPERTY OWNER NOTICE:** April 21, 2020

**PUBLIC HEARING:** May 13 and 27, 2020

**REQUEST:** The Applicant requested approval to modify existing conditional use permit 217-19-000029-PLNG. The permit authorized a commercial photovoltaic system on up to 320 acres in the County's EFU-3 zone. The modification would increase the project acreage from 320 acres to approximately 654 acres.<sup>1</sup>

**LOCATION:** The proposed solar power generating facility (the Project) is within T15S, R15E, tax lots 2900 and 3000 on property owned by Bryan Sproat. The acreage is zoned Exclusive Farm Use (EFU-3 -Powell Butte Area). Attachment A shows the location of the permitted area and the proposed additional acreage.

**THE ABOVE ENTITLED MATTER** came before the Crook County Planning Commission at its regular meeting on May 13, 2020. The Applicant did not waive his right to final argument. The Planning Commission considered a motion to approve the request. The Commission moved to continue the hearing for deliberation only until a time and

<sup>1</sup> The Planning Commission also approved an associated transmission line as part of the decision. No modifications to the approved transmission line were requested as part of this application.



7. The Applicant will work with Crook County Counsel to amend the 2019 decommissioning plan to reflect the amended site footprint of approximately 654 acres. Implementation of final decommissioning and financial assurance will be provided entirely at the cost of the Applicant/Project developer to Crook County. The financial assurance will be one of the following: an irrevocable letter of credit, a surety bond or a trust fund in accordance with the approved financial assurances to guarantee the project decommissioning work will be completed in accord with the decommissioning plan.

The modified decommissioning plan and financial assurance shall be submitted to the Crook County Counsel for review and approval. **County Counsel approval of the decommissioning plan, including the financial assurance, shall not be unreasonably withheld and shall be required prior to the start of clearing and grading on the Project site.** The financial assurance shall consider the cost estimate and phasing schedule in the decommissioning plan, and shall provide adequate funding to restore the site, regardless of when construction or operation ends. A final decommissioning plan and financial assurance, acceptable to Crook County Counsel, shall be in place prior to amended project site clearing and grading.

8. The approximately 654-acre solar facility will be completely fenced at a minimum height of 8 feet. The fence shall be a chain link fence without slats. Gates will be provided to allow wildlife trapped in the enclosed area to have an exit.

9. The Applicant has met the requirements of HB 2329 regarding conducting a habitat assessment and consulting with the Oregon Department of Fish and Wildlife regarding mitigation on the subject property. The Applicant has submitted a mitigation plan and will continue survey work, as necessary, to assess natural resources (e.g., wetlands and waterways), wildlife issues (e.g., raptor nesting sites) and cultural and historic resources (Applicant's exhibits 4 and 7). The Applicant will submit survey reports to Crook County Community Development and the appropriate agencies (e.g., ODFW, USFWS, and the State Historic Preservation Office). If the project site layout changes to avoid identified resources, the Applicant shall submit a revised site plan to the Community Development Department.

The Applicant will conduct avoidance and mitigation measures outlined in the Wildlife Conservation Plan (Exhibit 4). Prior to site clearing and grading, the Applicant shall provide evidence to the County that one of the three options for implementing habitat mitigation, as detailed in Applicant's final Wildlife Conservation Plan (WCP) dated May 6, 2020 (Exhibit 4) and adopted as part of this Condition of Approval, has been initiated.

10. The Applicant shall notify Crook County Community Development in writing of a change in ownership of the facility, including, but not limited to, a transfer of title or lease for a term of years.

11. The erosion control plan submitted with application 217-29-000029-PLNG shall be reviewed and modified as necessary to reflect the additional project acreage. The Applicant shall consult with the Oregon Department of Environmental Quality to determine if a stormwater permit is required prior to the start of clearing and grading the amended site.

12. The Applicant shall work with Crook County Fire and Rescue to modify the emergency management plan to reflect the new 654-acre Project site.

13. The Applicant shall work with the Crook County Weedmaster to update the Weed Control Plan prior to site clearing and grading, to reflect the additional Project acreage.
14. Prior to commencement of any decommissioning work on the amended Project site, all applicable permits shall be obtained, (e.g., Land Use Permits, road access and building permits from the Crook County Road master or other entities).
15. The Applicant shall provide a legal description of the Project Site, including the transmission corridor prior to issuance of building permits. Any necessary easements shall be acquired and recorded for the gen-tie line prior to any clearing and grading.
16. Cultural and Historic Resources. The Applicant will engage with Oregon's State Historic Preservation Office as part of the development process to ensure that requirements related to cultural and historic resources are met. This may require the Applicant to provide on-site surveys of the property. The Applicant agrees that procedures to address best management practices for cultural discoveries will be in place during construction. Information regarding historic resources will be shared with Crook County Community Development and the Crook County Museum.
17. The Applicant will implement the US Fish and Wildlife Service guidance regarding migratory bird avoidance and mitigation. Specifically, the Applicant will conduct vegetation pre-clearing activities prior to the onset of the nesting during the period from September 1 through March 31). If clearing is to occur during nesting season, the Applicant will ensure that pre-construction surveys for nesting migratory bird species occur in consultation with USFWS. The Applicant shall maintain disturbance buffers for active nests as recommended by USFWS.
18. The Applicant shall meet the requirements of the Oregon Department of Transportation (ODOT) outlined in a March 28, 2019 memo submitted to Crook County Community Development (Attachment D) regarding the access to the subject property from State Highway 126. The Applicant shall submit an ODOT "Application to Upgrade an Existing Highway Approach" and shall submit a drainage study prepared by an Oregon Registered Professional Engineer, if required by ODOT.
19. As required by Section 4 (4) of House Bill 2329, "Upon receipt of a reasonable cost estimate from the state agency or tribe, the applicant and county may jointly enter into a cost reimbursement agreement administered by the county with:
- (a) The State Department of Fish and Wildlife to receive comments under subsection (3)(a) of this section.
  - (b) The State Historic Preservation Officer or any affected federally recognized Indian tribe to receive comments under subsection (3)(b) of this section.
  - (c) The State Department of Energy to receive comments under subsection (3)(c) and (d) of this section as well as comments regarding other matters as the county may require."
- No agencies have provided cost estimates at the time of this staff report.
20. The Applicant shall submit a vegetation removal and management plan prior to site preparation and clearing. The Applicant shall work with area Natural Resource agencies to evaluate options for disposing of vegetation (e.g., juniper) removed from the site.



21. The Applicant agrees that any on-site lighting during construction and operation will be illuminated only when people are present on the site and will be directed downward and shielded. Motion-detection lighting will be used where appropriate. Lighting on the substation will meet required safety standards.

22. The project owner shall 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 on-going activities associated with the neighboring Goal 5 aggregate resource site. Such document shall be submitted to the Crook County Counsel for review prior to site clearing and grading.

23. The Applicant will engage with Oregon's State Historic Preservation Office as part of the development process to ensure that requirements related to cultural and historic resources are met. This may require the Applicant to provide on-site surveys of the property. The Applicant agrees that during construction, procedures shall be in place that reflect generally accepted practices for cultural discoveries during construction. Applicable regulations will be followed including implementation of an inadvertent Discovery Plan (IDP) prior to construction, including required notification if any discoveries of significance are found.

24. Prior to site clearing and grading, the Applicant shall submit a checklist to the Planning Director to demonstrate that they have met all outstanding conditions of approval.

#### **BACKGROUND**

The Planning Commission staff reports and attachments, the application, and exhibits are included in the record and incorporated by reference.

**A. Project Summary:** The Applicant received Planning Commission approval for the 320-acre West Prineville solar facility on April 23, 2019 (Attachment B to the original staff report). The approved facility includes access roads and fencing; solar photovoltaic modules and solar inverters; transmission and communication equipment, and a project substation. The Project will consist of the same components. The proposed modification would add approximately 334 acres to the project and would include all of tax lot 2900 and tax lot 3000. All of the original conditions of approval will continue to apply to the larger project footprint. Some conditions may be modified to reflect the expanded acreage and to address additional criteria that apply due to the project exceeding 320 acres and triggering the requirements of 2019 Oregon House Bill 2329.

**B. Zoning:** The subject properties are zoned EFU-3 (Exclusive Farm Use, Powell Butte Area).

**C. Project Size:** The Project, in its entirety, will occupy approximately 654 acres.

**D. Site Description:** The subject properties (tax lots 2900 and 3000) are surrounded by properties zoned EFU-3. There are two existing residences on the subject property and accessory structures on the southern portion of the site that are currently used by the property owners. There is a small, spring-fed stock pond near the residences. There are fences along Highway 126, on the northeast border, and along the western and southern property lines. There is no evidence of irrigation water rights on either tax lot 2900 or tax lot 3000 and the properties have not been irrigated historically. The property has a current Oregon Department of Environmental Quality permit for use as an alkali stabilized domestic septage disposal area.

The subject property is uncultivated and nonirrigated. It is composed of two primary habitat types: sagebrush steppe and juniper steppe woodland. The property is traversed by existing 500kV electrical transmission lines and easements operated by BPA (Bonneville Power Administration) and PGE (Pacific Gas and Electric), as well as a 115kV line owned by PAC (PacifiCorp) crossing the northern edge of tax lot 3000 and running to the southeast and crossing the southern tip of tax lot 2900 where the Ponderosa substation is located. There are existing easements for the energy transmission Right of Ways (ROWs). There is an additional 230kV BPA transmission line running southwest from the Ponderosa substation over the southern part of the subject property. Transmission line ROWs are identified on Attachment A.

**E. Surrounding Land Uses:** All adjacent properties are in private ownership and are zoned Exclusive Farm Use (EFU). Property directly north is a thirty-seven-acre property without irrigation water rights. Property to the east and south of tax lots 3000 and 2900 is part of a large, active cattle ranch with two pivots and cattle grazing as the primary farm uses. There is an existing dwelling on property to the east. Property south of tax lot 2900 and southeast of tax lot 3000 is the BPA Ponderosa substation. PacifiCorp's Ponderosa and Corral Substations are adjacent to the BPA substation. Property to the northwest of tax lot 3000 is an approximately 160- acre dryland parcel with an existing residence. Directly west of tax lot 3000 are two approximately 20-acre parcels, each with a dwelling. Property to the southwest tax lot 3000 is an approximately 127-acres with a dwelling.

**F. Ownership:** The subject property is owned by Bryan and Shanna Sproat. The Applicant provided copies of deeds for verification of property ownership (See Exhibit C of the original application). Jacob Stephens is the owners' authorized agent.

**G. Water Rights:** There is no evidence of irrigation water rights on the subject property.

**H. Wildlife — Sensitive Bird Habitat:** The subject property has not been identified as big game habitat for pronghorn, mule deer or elk in the County's Goal 5 big game habitat inventory. The property is also not identified as Sage Grouse Habitat. The Applicant has submitted a Wildlife and Federal Sensitive Plant Review prepared by PBS Engineering and Environmental Inc. (Exhibit 1) and a Wildlife Conservation Plan (Exhibit 2).

There is a spring on the subject property that may be used by wildlife. In addition, the existing BPA 500kV transmission line easement may operate as a migration corridor for deer, antelope and other wildlife. The Applicant is proposing to avoid issues of concern (e.g., the stream fed pond) and will follow ODFW and USFWS guidance regarding raptor nests and migratory bird habitat. Ground clearing and construction activities will be scheduled to avoid nesting seasons, or the Applicant will agree to monitor the site to minimize impacts to nesting birds. The Applicant agrees to mitigate impacts to on the non-previously permitted, impacted areas (approximately 200 acres) at a mitigation ratio of 1:1. This ratio has been agreed to by Oregon Department of Fish and Wildlife.

**I. Access:** The proposed solar facility will be accessed by an existing driveway extending south from State Highway 126. The access has been permitted by the Oregon Department of Transportation (ODOT) (Permit number 10435306 issued in 1995). An alternate access is proposed via Three Springs Ranch Road. This is a private road and the Applicant will work with the property owner regarding access.

**J. Soils:** According to the National Resources Conservation Service (NRCS), soils on the subject property (approximately 660 acres identified by the NRCS) are generally classified as Class VI. Approximately 44 acres are classified as Class IV soils and approximately 45 acres are classified as Class VII soils. ((See Attachment C).

Map Unit	Soil Type	Classification Non-irrigated	Acres	Percent of acres
066	Ayres cobbly loam	7s	15.0	2.3%
104Am	Redmond ashy sandy loam	6s	28.9	4.4%
109	Meadowridge –Era Complex	4e	9.4	1.4%
143	Stukmond-Lickskillet Redmond Complex	6e	40.6	6.2%
144	Redmond-Stukmond Complex	6e	309.9	46.9%
147	Ayresbutte-Ayres Complex	6s	171.8	26%
156	Ginserly-Hatrock Complex	4e	34.9	5.3%
157	Ginserly Cobbly Ashy Loam	6e	9.2	1.4%
162	Searles-Lickskillet complex	6e-7s	10.8	1.6%
172	Lickskillet-Bakeoven Complex	7s	29.6	4.5%

None of the soils have a history of irrigation. The class VI and VII soils are nonarable by definition. Class IV soils make up only 7% of the soils on the property. The project site does not consist of high-value farmland.

**J. Domestic Water:** The Applicant states that they will either purchase water from the City of Prineville for construction and operations or will procure water from a permitted, existing well on the subject property. The Applicant stated that they may rely on a combination of water sources. The Applicant or subcontractors will ensure that if water is procured from an existing or new well, that the well provider will have a limited water use license from the Oregon Water Resources Department allowing the use of groundwater from a well for construction (dust control) and operation purposes.

**K. Fire Protection:** The subject property is located within the Crook County Fire and Rescue District. Provisions for wildfire prevention and control are included in the Emergency Management plan. The District has been notified of the request to increase the project footprint.

**APPLICABLE CRITERIA:**

Crook County Code Title 18  
Chapter 18.24 Exclusive Farm Use (EFU-3) Zone<sup>2</sup>  
18.160 - Conditional Uses  
18.161.010(2) - (Commercial Power Generating Facilities – Commercial Photovoltaic Energy Systems  
18.124 Rimrock Setback Provisions

Crook County Comprehensive Plan

Oregon Revised Statutes  
ORS 197.732 Goal Exceptions  
ORS 215.416 Permit Application

Oregon Administrative Rules  
OAR 660-033-120 Uses Authorized on Agricultural Lands  
OAR 660-033-130(5) and (38) Minimum Standards Applicable to the Schedule of Permitted and Conditional Uses  
OAR 660-004 Interpretation of Goal 2 Exception Process

Oregon Enrolled House Bill (HB) 2329 (2019 Session)

**RESPONSE TO CRITERIA:**

The criteria that apply to this request to modify an existing conditional use approval (217-19-000029-PLNG) to site a commercial photovoltaic energy facility in Crook County's Exclusive Farm Use Zone are shown in standard font. Information from the Applicant's burden of proof statement is shown in ***bold/italics***.

**AMENDMENT REQUIREMENTS**

**CCC 18.161.010(2) Commercial Photovoltaic Energy Systems Criteria.**

(d) Amendments. The photovoltaic energy system requirements shall be facility specific, but can be amended as long as the facility does not exceed the boundaries of the Crook County land use permit where the original facility was constructed. An amendment to the specific requirements of the land use permit shall be subject to the standards and procedures found in Chapter 18.172 CCC. Additionally, an amendment shall be required if the facility changes would:

- (i) Require an expansion of the established facility boundaries;
- (ii) Increase the footprint of the photovoltaic energy system by more than 20 percent;

***FINDING: The proposal requests an expansion of the established facility boundary and increases the footprint of the photovoltaic energy system from up to 320 to up to 654 acres (over 100%) and therefore requires an amendment to the existing conditional use permit.***

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<sup>2</sup> The Crook County Code relating to Exclusive Farm Use zones was amended by Crook County Court Ordinance 309 on July 17, 2019. The original application, 217-19-000029-PLNG, was reviewed under the earlier code (Chapter 18.24). This application is also subject to the code in place when the original decision was issued per 18.172.100.



### **CCC 172.100 Revocation or modification of permit.**

(3) The commission shall hold a public hearing on any proposed revocation or modification after giving written notice to the permittee and other affected persons as set forth in this title. The hearing on the decision, which is subject to revocation or modification, is subject only to the standards, criteria and conditions that were applicable when the original permit was issued. The commission shall render its decision within 45 calendar days after the conclusion of the hearing.

**FINDING: *The Planning Commission will review the proposed amendment, hold a public hearing and issue a decision. Notice was provided to the public and to neighboring property owners within 750' of the expanded project boundaries on April 21, 2020. A public hearing was held on May 13, 2020 and continued for deliberation only until May 27, 2020.***

### **CROOK COUNTY CONDITIONAL USE STANDARDS AND CRITERIA**

Commercial Power Generating Facilities. A commercial power generating facility that is a conditional use in the applicable zone is governed by the general criteria and conditions in CCC 18.160.020 and 18.160.030 and the provisions of Chapter 18.161 CCC.

CCC 18.160.020 General criteria. In judging whether or not a conditional use proposal shall be approved or denied, the planning director or planning commission shall weigh the proposal's appropriateness and desirability or the public convenience or necessity to be served against any adverse conditions that would result from authorizing the particular development at the location proposed and, to approve such use, shall find that the following criteria are either met, can be met by observance of conditions, or are not applicable:

- (1) The proposal will be consistent with the comprehensive plan and the objectives of the zoning ordinance and other applicable policies and regulations of the county.
- (2) Taking into account location, size, design and operation characteristics, the proposal will have minimal adverse impact on the (a) livability, (b) value and (c) appropriate development of abutting properties and the surrounding area compared to the impact of development that is permitted outright.
- (3) The location and design of the site and structures for the proposal will be as attractive as the nature of the use and its setting warrant.
- (4) The proposal will preserve assets of particular interest to the county.
- (5) The applicant has a bona fide intent and capability to develop and use the land as proposed and has some appropriate purpose for submitting the proposal, and is not motivated solely by such purposes as the alteration of property values for speculative purposes.

CCC 18.160.030 General conditions. In addition to the standards and conditions set forth in a specific zone, this chapter, and other applicable regulations, in permitting a new conditional use or the alteration of an existing conditional use, the planning director or planning commission may impose conditions which it finds necessary to avoid a detrimental impact and to otherwise protect the best interests of the surrounding area or the county as a whole.

**FINDING:** *The Applicant states that the application for the expanded commercial photovoltaic energy system meets the applicable criteria in CCC 18.160.020 and 18.160.030. as demonstrated in the approved Conditional Use Permit (217-20-000029-PLNG), which is incorporated herein by this reference. The Applicant states that, expanding the Project footprint is consistent with the findings set forth in the original approval. The modification is consistent with the Crook County Comprehensive Plan and Crook County Code. The additional acreage is located on property that is not in commercial farm use and is not located closer to area residences than the original proposal. Because of the proposed location, the additional acreage will have minimal impacts on adjacent properties. The additional acreage is further south, away from highway 126 and closer to the BPA and PacifiCorp substation infrastructure. As with the original proposal, most potential negative impacts are associated with construction activities.*

*These provisions of the Crook County Code were addressed by the original conditions of approval. The original conditions of approval will continue to apply to the original project site and to the additional 334 acres proposed in application 217-20-000375-PLNG. The Planning Commission finds that the proposed Project meets the conditions of 18.160 and has modified the original conditions of approval to address the expanded footprint and potential impacts associated with the modified project.*

### **III. COMMERCIAL FACILITIES FOR GENERATING POWER – PHOTOVOLTAIC SOLAR POWER**

CC 18.161.010. In addition to any other requirements of the applicable zone, commercial power generating facilities are subject to the following criteria:

(2)(b) Commercial Photovoltaic Energy Systems. Application Requirements. An application for a commercial photovoltaic energy system shall include the following unless waived by the director in writing.

(i) A description of the proposed photovoltaic energy system, a tentative construction schedule, the legal description of the property on which the facility will be located, and identification of the general area for all components of the photovoltaic energy system, including a map showing the location of components and including:

- (A) Evidence of an active utility transmission interconnect request and/or process and description of same; and
- (B) A route and permitting plan for transmission lines connecting the project to the grid.

**FINDING:** *According to the Applicant, the project description, schedule, and transmission interconnection all remain the same for the expanded project area. The sole change is that the project will now cover up to 334 additional acres primarily to the east of the originally permitted area (Attachment A). As demonstrated in the original Permit, the Application for a commercial photovoltaic energy system meets the applicable criteria in CCC 18.161.010(2)(b)(i). There is an active interconnect request and no change proposed to the plan for transmission lines connecting to the grid.*

(ii) Identification of potential conflicts, if any, with:

- (A) Accepted farming practices as defined in ORS 215.203(2)(c) on adjacent lands devoted to farm uses;
- (B) Other resource operations and practices on adjacent lands including photovoltaic energy system facilities on such adjacent lands.

**FINDING:** *The project will continue to have limited potential conflicts with accepted farming practices on adjacent lands devoted to farm use. The added acreage will be primarily to the east of the currently*

**permitted area. After limited impacts during construction, operation of the Project is not expected to impact farming operations or other resource operations and practices, including photovoltaic energy system facilities. The Applicant has agreed to sign and record a covenant not to sue owners, operators, contractors, employees or invitees of property zoned for farm use for generally accepted farming practices (as defined in Oregon Revised Statute 30.930(20) for the subject property. (Condition 1).**

CCC 18.161.010(2)(b)(iii) A transportation impact analysis (TIA) or traffic assessment letter (TAL) with proposed recommendations, if any, reflecting the requirements in Section 7.1.7 of the Crook County transportation system plan (TSP) and the transportation impacts of the photovoltaic energy system upon the local and regional road system during and after construction, after consultation with the Crook County road master. The TIA or TAL will designate the size, number, location and nature of vehicle access points and shall include a construction and vehicle access plan and appropriate road access permits if needed.

**FINDING: The Applicant submitted an informal traffic assessment letter prepared by Transight Consulting LLC as part of the original application. While the expanded site may have more traffic during construction, after construction the number of daily trips should remain the same. The transportation assessment letter determined that there would be approximately four (4) trips per day during facility operation (two trips entering the project and two exiting the project). Since the project will generate less than 250 daily trips, a Transportation Impact Analysis is not required. Expanding the Project footprint will not change the identified transportation impacts after construction. Mitigation measures recommended for the original project will be continue to be implemented during construction on the additional acreage. (Condition 18).**

CCC 18.161.010(2)(b)(iv) A wildlife impact and monitoring plan.

A wildlife impact and monitoring plan shall be required for photovoltaic energy systems impacting inventoried wildlife resources identified within the County comprehensive plan. The wildlife impact and monitoring plan shall be designed and administered by the applicant's wildlife professionals. Contents and duration of the study shall be recommended by a technical advisory committee. At the request of applicant, this committee requirement may be waived or discontinued by the county planning commission. If applicant has completed a wildlife impact study, it can be submitted for review to the planning commission. Projects that do not impact inventoried wildlife resources identified within the county comprehensive plan shall provide sufficient information to address the application requirement and criteria relating to wildlife in subsections (2)(b)(viii) and (2)(c)(iv) of this section; however, a comprehensive wildlife impact and monitoring plan is not required.

**FINDING: The Applicant provided a Wildlife and Federal Sensitive Plant Review for the modified project area. (Exhibit 1). The Applicant states that the project site is not located in an area identified in the County Comprehensive Plan's Goal 5 inventory of big game habitat, nor is it within Oregon Department of Fish and Wildlife's (ODFW) mapped big game winter range for deer, elk or pronghorn antelope. The Applicant conferred with ODFW and the US Fish and Wildlife Service (USF&WS) to identify and address any concerns.**

**The Applicant discussed concerns with USF&WS regarding owl/raptor nesting sites and migratory bird nesting as part of the initial application. The Applicant agreed to adopt procedures to avoid nesting periods or to monitor for nest sites if construction occurs during normal nesting periods. This information will be provided to the County, ODFW and USF&WS. Additional avoidance, mitigation or monitoring provisions may be adopted. The Applicant states that expanding the area of the solar facility within the original permitted project boundary will not materially impact any additional inventoried wildlife resources (See the discussion of wildlife impacts in response to criteria in 2019 House Bill 2329). (Conditions 9 and 17).**

***The Applicant has submitted a wildlife conservation plan (Exhibit 4). This included proposed mitigation options based on the result of the site- specific habitat assessment and wildlife and sensitive plan review (Exhibit 1). The Applicant states that they have provided three mitigation options to meet the goal of non-net loss of big game habitat as a result of the expanded project footprint.***

***The Planning Commission received written testimony from Oregon Department of Fish and Wildlife and Oregon Department of Land Conservation and Development regarding the mitigation proposal (Exhibit 6). Greg Jackle, ODFW District Wildlife Biologist testified at the May 13, 2020 hearing. ODFW and DLCD are concerned that the three mitigation options presented by the Applicant did not provide enough specificity to determine that mitigation will be consistent with the requirements of OAR chapter 635, division 415 (regarding ODFW's mitigation policy).***

CCC 18.161.010(2)(b)(v) An emergency management plan for all phases of the life of the facility. The plan shall address the major concerns associated with the terrain, dry conditions, limited access, and water quality. The plan shall identify the fire district and verify that the district has the appropriate equipment, training and personnel to respond to fires. If the local fire department or district does not have adequate rescue capability, the Applicant shall provide a plan for providing such in case of an emergency.

***FINDING: An emergency management plan was provided to Crook County Fire and Rescue to support the Permit for the original West Prineville Solar project. The plan will be updated to reflect the amended project boundary. Expanding the footprint of the Project by up to 334 acres Crook County Fire and Rescue will be require a more detailed Emergency Management and Response plan for this facility (including final site design and layout information). Crook County Fire and Rescue will assess an impact fee consistent with their Board Policies for projects of this nature. The impact fee is will be due prior to clearing and grading. The plan will be reviewed under the Oregon Fire Code and shall include a full site plan and information on MW capacity. (Condition 12).***

CCC 18.161.010(2)(b)(vi) An erosion control plan, developed in consultation with the Crook County soil and water conservation district, the Crook County watershed council, and the Oregon Agricultural Water Quality Management Program (administered by the Oregon Department of Agriculture and Department of Environmental Quality). At a minimum, the plan should include the seeding of all road cuts or related bare road areas as a result of all construction, demolition and rehabilitation with an appropriate mix of native vegetation or vegetation suited to the area. The plan should also address monitoring during post-construction.

***FINDING: The Applicant addressed erosion control and mitigation in the original application. The erosion control plan shall be reviewed and modified as necessary to reflect the additional project acreage. The Applicant agrees to have the appropriate State and local agencies (e.g., Oregon Department of Agriculture, Oregon Department of Environmental Quality, Crook County Soil and Water Conservation District or the Crook County Watershed Council) review final aspects of the plan as part of ongoing site development. The Applicant will provide the Community Development Department with a finding from the Oregon Department of Environmental Quality regarding whether a stormwater management permit is required prior to site clearing and grading. (Condition 11).***

CCC 18.161.010(2)(b)(vii) A weed control plan addressing prevention and control of all Crook County identified noxious weeds.



**FINDING: A weed control plan was provided to Crook County to support the original Permit and will be updated to reflect the amended project boundary. The weed control practices identified in the original permit will also apply to the additional 334 acres. (Condition 13).**

CCC 18.161.010(2)(b)(viii) Information pertaining to the impacts of the photovoltaic energy system on:

(A) Wetlands and streams

(B) Wildlife (all wildlife listed as identified Goal 5 resources in the comprehensive plan, state and federal listed endangered, threatened, sensitive and special status species, bats and raptors and species of local sport and economic importance)

(C) Wildlife habitat

**FINDING: There are no known wetlands or streams within the original or amended project boundary. The Applicant states that prior to clearing and grading, site surveys, including wetlands delineation, wildlife and cultural resource survey will be conducted. Based on the findings of these reports, the facility layout may be modified to avoid impacts to natural or cultural resources. The subject property has not been identified as big game habitat for deer, elk or pronghorn in the County's Goal 5 big game habitat inventory. The subject property is not identified as Sage Grouse habitat. The Applicant provided a review of wildlife and sensitive plants (Exhibit 1).**

CCC 18.161.010(2)(b)(viii) Information pertaining to the impacts of the photovoltaic energy system on:

(D) Criminal activity (vandalism, theft, trespass, etc.). Include a plan and proposed actions to avoid, minimize or mitigate impacts.

**FINDING: The plan to avoid criminal activity includes fencing and gates and will not need to be amended as part of this application. Fencing will be extended around the additional acreage. (Condition 8).**

CCC 18.161.010(2)(b)(ix) A dismantling and decommissioning plan of all components of the photovoltaic energy system, as provided in subsection (2)(e) [Decommissioning Plan elements] of this section.

**FINDING: The approval of the original permit (217-19-00029-PLNG) included a condition requiring the Applicant to establish a bond, letter of credit or other financial assurance as required by Crook County Code 18.161.010(2)(xvi). The proposed expansion does not change the basic elements of this condition. However, the plan shall be modified to reflect the expanded project elements. A final decommissioning plan and financial assurance, acceptable to Crook County Counsel, shall be in place prior to project site clearing and grading. (Condition 7).**

CCC 18.161.010(2)(b)(x) A socioeconomic impact assessment of the photovoltaic energy system, evaluating such factors as, but not limited to, the project's effects upon the social, economic, public service, cultural, visual, and recreational aspects of affected communities and/or individuals. These effects can be viewed as either positive or negative. The purpose of this information is to provide decision makers with information in order to maximize potential benefits and to mitigate outcomes that are viewed as problematic. The applicant may submit information provided by the Economic Development of Central Oregon or similar entity to meet this requirement.

**FINDING: The original permit decision found that the solar facility would be designed to minimize adverse socioeconomic impacts to the County. The facility, even with the proposed expansion, will not increase demand for governmental services or capital expenditures. The facilities are expected to result in net positive**

***socioeconomic impacts to the County and are likely to generate positive local economic benefits. The Planning Commission accepts the original findings regarding socioeconomic impacts and agrees that the net effect of the proposed use will be positive.***

CCC 18.161.010 In addition to any other requirements of the applicable zone, commercial power generating facilities are subject to the following criteria.

(2)(c) Commercial Photovoltaic Energy Systems. Criteria. The following requirements and restrictions apply to the siting of a photovoltaic energy system facility:

(i) Setbacks. No portion of the facility shall be within 100 feet of properties zoned residential use or designated on a comprehensive plan as residential. If the facility is located in a residential zone then this restriction does not apply to the lot or parcel that the facility is located on, or any adjacent property in common ownership. Structures shall not be constructed closer than 100 feet of an existing residence unless a written waiver is obtained from the landowner, which shall become a part of the deed to that property. New electrical transmission lines shall not be constructed closer than 500 feet to an existing residence without prior written approval of the owner, said written approval to be made a part of the deed to that property.

***FINDING: The portion of the facility located on the proposed additional 334 acres will meet all setback requirements. There are no existing residences within 100 feet of the expanded project area. No transmission lines will be constructed closer than 500 feet to an existing residence.***

(ii) A plan shall identify how the development and operation of the facility will, to the extent practicable, protect and preserve existing trees, vegetation, water resources, wildlife habitat and other significant natural resources.

(iii) Ground Leveling. The proposed photovoltaic energy system shall be designed and constructed so that ground leveling is limited to those areas needed for effective solar energy collection and so that the natural ground contour is preserved to the greatest extent practical.

(iv) Wildlife Resources. The proposed photovoltaic energy system shall be designed to reduce the likelihood of significant adverse effects on wildlife and wildlife habitat.

(v) A finding by the Energy Facility Siting Council that a proposed energy facility meets the Council's fish and wildlife habitat standard, OAR 345-022-0060, satisfies the requirements of subsection (2)(c)(iv) of this section.

(vi) Public Safety. The proposed photovoltaic energy system shall be designed and will be operated to protect public safety, including development and implementation of a plan of operating procedures to prevent public access to hazardous areas.

(viii) Airport Proximity. The proposed photovoltaic energy system is not located adjacent to, or within, the control zone of any airport.

(ix) Cleaning Chemicals and Solvents. During operation of the proposed photovoltaic energy system, ail chemicals or solvents used to clean photovoltaic panels or heliostats should be low in volatile organic compounds and the operator should use recyclable or biodegradable products to the extent possible.

(x) Private access roads established and controlled by the photovoltaic energy system shall be gated to protect the facility and property owners from illegal or unwarranted trespass, illegal dumping, and hunting.

(xi) Where practicable the electrical cable collector system shall be installed underground, at a minimum depth of three feet; elsewhere the cable collector system shall be installed to prevent adverse impacts on agriculture operations.

(xii) In EFU zones any required permanent maintenance operations buildings shall be located off site in one of Crook County's appropriately zoned areas except that such a building may be constructed on site if:

(A) The building is designed and constructed generally consistent with the character of similar buildings used by commercial farmers or ranchers; and

(B) The building will be removed or converted to farm use upon decommissioning of the wind energy system consistent with the provisions of subsection (1)(e) of this section.

**FINDING: *The proposed addition of 334 acres primarily to the east of the approved project site does not require additional conditions to meet the criteria in (ii) – (xii). The proposed additional acreage is not within the control zone of the Redmond airport. (The Prineville airport has no control zone). There are no changes proposed to cleaning practices, cables will be buried underground where practicable and there is no change in the proposed location of the operation and maintenance building. The original conditions will continue to apply.***

(xiii) If the photovoltaic energy system is located in or adjacent to an EFU zone, a covenant not to sue with regard to generally accepted farming practices shall be recorded with the county. "Generally accepted farming practices" shall be consistent with the definition of farming practices under ORS 30.930. The applicant shall covenant not to sue owners, operators, contractors, employees, or invitees of property zoned for farm use for generally accepted farming practices.

**FINDING: *The Applicant has agreed to record a covenant not to sue with regard to generally accepted farming practices. This will remain as a condition of approval. (Condition 1).***

(xiv) A road use agreement with Crook County regarding the impacts and mitigation on county roads during and after construction shall be required as a condition of approval.

**FINDING: *The new acreage will be served by the access from State Highway 126. (Condition 18).***

(xv) A plan for dismantling of uncompleted construction and/or decommissioning of the photovoltaic energy system shall be required. Contents of the plan are as set forth in subsection (2)(e) [Decommissioning Plan Elements] of this section.

(xvi) A bond or other financial mechanism acceptable to the county shall be established to cover the cost of dismantling of uncompleted construction and/or decommissioning of the facility, and site rehabilitation; see subsection (2)(e) of this section. A bond or other financial mechanism may be phased throughout the proposed project. If phasing is proposed the applicant shall submit a phasing schedule. For projects being sited by the state of Oregon's Energy Facility Siting Council (EFSC), the bond or letter of credit required by EFSC will be deemed to meet this requirement. For non-EFSC projects the EFSC requirements on bonds shall serve as a guideline for the amount of the bond or other financial mechanism required.

**FINDING: The Applicant submitted a decommissioning plan in 2019. This will be modified to reflect the increased acreage. A final decommissioning plan and financial assurance is required prior to site preparation and ground clearing and will be subject to Crook County Counsel review and approval. (Condition 7).**

(xvii) A summary of as built changes in the facility from the original plan, if any, shall be provided by the owner/operator.

(xviii) Upon request of the county after the end of each calendar year the facility owner/operator shall provide Crook County an annual report.

**FINDING: The Applicant agrees to the conditions in xvii and xviii.**

#### **IV. OREGON ENERGY FACILITY RULES**

House Bill 2329 was passed by the Oregon legislature in 2019 with an effective date of January 1, 2020. It authorizes County governments to review and approve certain energy facilities that had previously been subject to permitting through the State of Oregon's Energy Facility Siting Council. HB 2329 Subsection 3 provides that in order to issue a permit, the county shall require that the applicant to:

(a)(A) Consult with the State Department of Fish and Wildlife, prior to submitting a final application to the county, regarding fish and wildlife habitat impacts and any mitigation plan that is necessary;

(B) Conduct a habitat assessment of the proposed development site;

(C) Develop a mitigation plan to address significant fish and wildlife habitat impacts consistent with the administrative rules adopted by the State Fish and Wildlife Commission for the purposes of implementing ORS 496.012; and

(D) Follow administrative rules adopted by the State Fish and Wildlife Commission and rules adopted by the Land Conservation and Development Commission to implement the Oregon Sage-Grouse Action Plan and Executive Order 15-18.

**FINDING: The Applicant states that they consulted with the Oregon Department of Fish and Wildlife regarding fish and wildlife impacts prior to submitting this amendment application. A site-specific habitat assessment was submitted to the County on April 30, 2020 (Exhibit 1). The property is not identified as Sage Grouse Habitat and is not located in an area identified in the Crook County Comprehensive Plan's Goal 5 inventory of significant big game habitat. It is not within ODFW's mapped big game winter range for deer, elk or pronghorn antelope.**

**The Applicant states that they conferred with ODFW and the US Fish and Wildlife Service (USF&WS) to address their concerns and continue their consultations. The Applicant states that expanding the area of the solar PV facility within the original permitted project boundary will not materially impact any additional inventoried wildlife resources. The Applicant has submitted a mitigation plan (Exhibit 4). The plan incorporates findings of the site-specific habitat assessment. While the Applicant and ODFW agree that mitigation will be required for approximately 200 acres of the expanded acreage (no mitigation was required for the original project) and that the mitigation required should be at a 1:1 ration (resulting in "no-net loss" of habitat), ODFW and DLCD are concerned that the mitigation plan is not specific enough regarding mitigation implementation.**



- (b) Demonstrate that the construction and operation of the renewable energy facility, taking into account mitigation, will not result in significant adverse impacts to historic, cultural and archaeological resources that are:
- (A) Listed on the National Register of Historic Places under the National Historic Preservation Act (P.L. 89-665, 54 U.S.C. 300101 et seq.);
  - (B) Inventoried in a local comprehensive plan; or
  - (C) Evaluated as a significant or important archaeological object or archaeological site, as those terms are defined in ORS 358.905.

**FINDING: The Applicant states that they have initiated consultation with the State Historical Preservation Office (SHPO). No historic, cultural or archeological resources listed on the National Register of Historic places or included in the Crook County comprehensive plan have been identified. The County received a letter from SHPO (Exhibit 3) recommending that the Applicant contact a professional archaeologist to conduct an archaeological survey of the project area. The SHPO letter states that many archaeological sites exist outside the general area of the Project, but the Project is located on a landform generally perceived to have a high probability for possessing archaeological sites.**

**A notice of the proposed facility amendment was provided to tribal governments. The Confederated Tribes of the Warm Springs Reservation of Oregon (CTWSRO) provided comments (Exhibit 2). The Applicant will continue to work with SHPO and with the Confederated Tribes of the Warm Springs. A site-specific archaeological survey will be required prior to any site clearing and grading. The survey shall be made available to the County, the tribes identified in HB 2329 and SHPO. Avoidance measures may be required depending on the findings of the survey. (Condition 16).**

- (c) Demonstrate that the site for a renewable energy facility, taking into account mitigation, can be restored adequately to a useful, nonhazardous condition following permanent cessation of construction or operation of the facility and that the applicant has a reasonable likelihood of obtaining financial assurances in a form and amount satisfactory to the county to secure restoration of the site to a useful, nonhazardous condition.

**FINDING: A decommissioning plan was executed with Crook County in 2019 for the original 320 acres. The Applicant shall revise the plan to reflect the entire 654-acre site. The plan and decommissioning bond will be subject to review and approval by Crook County Counsel prior to any site preparation and ground clearing. (Condition 7).**

- (d) Meet the general and specific standards for a renewable energy facility adopted by the Energy Facility Siting Council under ORS 469.470 (2) and 469.501. that the county determines are applicable

**FINDING: The administrative rules that implement the specific standards set by the Energy Facility Siting Council (EFSC) are located in OAR Chapter 345. The chapter includes specific standards for the siting and operation of energy facilities. Certain types of facilities (like radioactive material facilities) and certain size of facilities (large scale operations) require an EFSC site certificate. The administrative rules apply to uses that require a site certificate from EFSC.**

**This proposal does not require an EFSC site certificate because the project's total acreage is less than the acreage that would trigger EFSC review (a project located on greater than 1,920 acres of non-irrigated, low value farmland). This acreage standard has been adopted by the Oregon legislature and will be implemented in ORS 469.300(11)(D)(3), as amended by HB 2329. This proposal will be located on less than 1,920 acres of non-irrigated, non-arable land and thus the County can review the project.**

***Crook County has adopted standards to address siting of renewable energy projects (wind and solar) in Crook County Code 18.161. The Code language reflects the County's policy on the renewable energy siting standards that are applicable to projects in the County. The County requirements generally mirror the fourteen standards set forth in the Energy Facility Siting Council's administrative rules. In addition, the County has adopted standards not covered by EFSC rules (e.g., for weed control, emergency management and others). The County also applies the general conditional use provisions of Crook County Code 18.160 allowing the County to address additional siting concerns. This amendment application and burden of proof and the findings of the original project approval demonstrate that the County's renewable energy facility standards have been met.***

(e) Provide the financial assurances described in paragraph (c) of this subsection in the form and at the time specified by the county.

***County Counsel will work with the Applicant to review the existing decommissioning plan and financial assurance to address the additional 654 acres in the Project. (Condition 7)***

- (4) Upon receipt of a reasonable cost estimate from the state agency or tribe, the applicant and county may jointly enter into a cost reimbursement agreement administered by the county with:
- (a) The State Department of Fish and Wildlife to receive comments under subsection (3)(a) of this section.
  - (b) The State Historic Preservation Officer or any affected federally recognized Indian tribe to receive comments under subsection (3)(b) of this section.
  - (c) The State Department of Energy to receive comments under subsection (3)(c) and (d) of this section as well as comments regarding other matters as the county may require.

***No cost estimates had been provided by state agencies or tribes at the time of this staff report. This will be included as a condition of approval. (Condition 19).***

- (5) A county that receives an application for a permit under this section shall, upon receipt of the application, provide notice to persons listed in subsection (6) of this section. The notice must include, at a minimum:
- (a) A description of the proposed renewable energy facility;
  - (b) A description of the lots or parcels subject to the permit application;
  - (c) The dates, times and locations where public comments or public testimony on the permit application can be submitted; and
  - (d) The contact information for the governing body of the county and the applicant.
- (6) The notice required under subsection (5) of this section must be delivered 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 Aviation;
  - (e) The United States Department of Defense; and
  - (f) Federally recognized Indian tribes that may be affected by the application.

***Crook County provided notice to the above entities on April 22, 2021.***

#### **OREGON ADMINISTRATIVE RULES (OAR) – USE OF AGRICULTURAL LAND**

Commercial photovoltaic energy systems in EFU zones are subject to OAR 660-033-0120 and 660-033-0130. See also Crook County Code 18.161.010(2)(a) requiring facilities to meet the above OAR requirements.

OAR 660-033-0120 provides that a "photovoltaic solar power generation facility as a commercial utility facility for the purpose of generating power for public use by sale," is allowed on agricultural lands after required review by the governing body under ORS 215.296. The use requires notice and the opportunity for a hearing.

***Crook County is the governing body and will review the proposed use of agricultural land as part of the conditional use review. The County has provided the requisite notice and opportunity for a hearing to the public and adjacent property owners. The hearing before the Crook County Planning Commission occurred on May 13, 2020 and was continued for deliberation only until May 27, 2020.***

OAR 660-033-130 provides the minimum standards applicable to a schedule of permitted and conditional uses. The relevant sections applicable to the proposed photovoltaic energy system begin at subsection (5), which is more commonly known as the "significant impact test", and include subsection (38) which applies specifically to photovoltaic energy systems.

OAR 660-033-130(5)(a) provides that the proposed use may only be approved by the county where such use will not force a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest use.

OAR 660-033-130(5)(b) provides that the proposed use may only be approved by the county where such use will not significantly increase the cost of accepted farm or forest practices on surrounding lands devoted to farm or forest use.

***FINDING: Development of the additional acreage will not force a significant change in nor significantly increase the cost of accepted farm practices on surrounding lands. Adjacent properties to the south and east have been used historically for seasonal grazing. The Project will continue to be compatible with accepted farming practices on adjacent lands devoted to farm use. The Applicant has agreed to review and record a Farm Covenant not to Sue releasing liability against farming practices (as defined in Oregon Revised Statute 30.930(2)) for this property. The Applicant included the additional 334 acres in their original project site description and no additional neighboring properties are impacted by the amended proposal.***

OAR 660-033-130(38) provides that a proposal to site a photovoltaic energy system is subject to certain definitions and provisions. Only certain subsections apply to this project.

660-033-130(38)(d) "Nonarable land" means land in a tract that is predominantly not cultivated and predominantly comprised of nonarable soils.

***The 334-acre property where the modification to the approved solar facility is proposed is vacant, uncultivated land. There is no evidence that the property has been cultivated in the past. The property does not have irrigation water rights.***

660-033-130(38)(e) "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.

***Based on information from the Natural Resources Conservation Service, the soils on the proposed project site, including the additional 334 acres, are classified as predominately as NRCS Class VI and VII (non-irrigated)***

*(Attachment C). There are no irrigation water rights on the property and no evidence that the property has ever been irrigated or cultivated. The areas with Class VI and VII soils are nonarable, by definition.*

*Approximately 9 acres on the west edge of the subject property and 35 acres in the southwest corner of tax lot 3000 are classified as Class IV soils. It is anticipated that property on the southwest corner will be excluded from the project site. The Applicant states that no more than 20 acres of Class IV soils will be impacted by the project.*

*Based on the authority in 660-033-0130(38)(e), the County may determine that the Class IV soils on the site are non-arable. Based on evidence that the property has not been cultivated historically, has no irrigation rights and the site is currently used as a DEQ approved alkali stabilized domestic septage site further reducing the probability of it being cultivated in the future, the County determines that the Class IV soils on the site are non-arable. Neither the original project site, nor the expanded site have high value soils.*

**OAR 660-033-130(38)(f)** "Photovoltaic solar power generation facility" includes, but is not limited to, an assembly of equipment that converts sunlight into electricity and then stores, transfers, or both, that electricity. This includes photovoltaic modules, mounting and solar tracking equipment, foundations, inverters, wiring storage devices and other components. Photovoltaic solar power generation facilities also include electrical cable collection systems connecting the photovoltaic solar generation facility to a transmission line, all necessary grid integration equipment, new or expanded private roads constructed to serve the photovoltaic solar power generation facility, office, operation and maintenance buildings, staging areas and all other necessary appurtenances. For purposes of applying the acreage standards of this section, a photovoltaic solar power generation facility includes all existing and proposed facilities on a single tract, as well as any existing and proposed facilities determined to be under common ownership on lands with fewer than 1320 feet of separation from the tract on which the new facility is proposed to be sited. Projects connected to the same parent company or individuals shall be considered to be in common ownership, regardless of the operating business structure. A photovoltaic solar power generation facility does not include a net metering project established consistent with ORS 757.300 and OAR chapter 860, division 39 or a Feed-in-Tariff project established consistent with ORS 757.365 and OAR chapter 860,

*The proposed use meets the definition of a "photovoltaic solar power generation facility." The proposed addition of 334 acres will include components of the project approved in 217-19-00029-PLNG.*

**OAR 660-033-0130(38)(f)** requires that for high value farmland, as defined in ORS 195.300(10), a photovoltaic energy system shall not preclude more than 12 acres from use as a commercial agricultural enterprise unless an exception is taken pursuant to ORS 197.732 and OAR chapter 660, division 4.

*The Project site does not meet the definition of high value farmland in ORS 195.300. Soils on the additional 334-acre property are not irrigated and have an agricultural classification of predominately Class VI and VII. There are some Class IV soils, but these are not irrigated. The subject property does not consist of high-value farmland.*

**OAR 660-033-0130(38)(j)** states, for nonarable lands, a photovoltaic energy system shall not preclude more than 320 acres from use as a commercial agricultural enterprise unless an exception is taken pursuant to ORS 197.732 and OAR chapter 660, division 4.

(F) If a photovoltaic solar power generation facility is proposed to be developed on lands that contain a Goal 5 resource protected under the county's comprehensive plan, and the plan does not address conflicts between energy facility development and the resource, the applicant and the county, together with any state or federal agency responsible for protecting the resource or habitat supporting the resource, will cooperatively develop a specific resource management plan to mitigate potential development conflicts. If there is no program present to protect the listed Goal 5 resource(s) present in the local comprehensive plan or implementing ordinances and the applicant and the appropriate resource management agency(ies) cannot successfully agree on a cooperative resource management plan, the county is responsible for determining appropriate mitigation measures; and

***The subject property is not proposed to be developed on lands that contain a Goal 5 resource protected under the comprehensive plan. The area does not include any inventoried big game habitat.***

(G) If a proposed photovoltaic solar power generation facility is located on lands where, after site specific consultation with an Oregon Department of Fish and Wildlife biologist, it is determined that the potential exists for adverse effects to state or federal special status species (threatened, endangered, candidate, or sensitive) or habitat or to big game winter range or migration corridors, golden eagle or prairie falcon nest sites or pigeon springs, the applicant shall conduct a site-specific assessment of the subject property in consultation with all appropriate state, federal, and tribal wildlife management agencies. A professional biologist shall conduct the site-specific assessment by using methodologies accepted by the appropriate wildlife management agency and shall determine whether adverse effects to special status species or wildlife habitats are anticipated. Based on the results of the biologist's report, the site shall be designed to avoid adverse effects to state or federal special status species or to wildlife habitats as described above. If the applicant's site-specific assessment shows that adverse effects cannot be avoided, the applicant and the appropriate wildlife management agency will cooperatively develop an agreement for project-specific mitigation to offset the potential adverse effects of the facility. Where the applicant and the resource management agency cannot agree on what mitigation will be carried out, the county is responsible for determining appropriate mitigation, if any, required for the facility.

***The initial West Prineville Solar project was reviewed and approved in 2019. No wildlife habitat was identified at that time and no mitigation was required. ODFW and the Applicant agree with that finding. The modification to the approved solar project allowed by 2019 House Bill 2329 authorized development of a project site larger than 320 acres, subject to notification of specific State agencies, including ODFW. As required by HB 2329, the Applicant conducted a site-specific wildlife habitat assessment (Exhibit 1) and consulted with ODFW.***

***The Planning Commission received written testimony from Oregon Department of Fish and Wildlife and Oregon Department of Land Conservation and Development regarding the mitigation proposal (Exhibit 6). Greg Jackle, ODFW District Wildlife Biologist testified at the May 13, 2020 hearing. ODFW acknowledged that the site is not in an area mapped by ODFW as big game winter range but stated that the area is near pronghorn winter range and within an important elk movement corridor. ODFW recommended mitigation for the additional acreage resulting from the expanded project area and requested a mitigation ration of 1:1 to achieve a goal of "no-net loss" of habitat. ODFW is concerned that the three mitigation options presented by the Applicant did not provide enough specificity to determine that mitigation will be consistent with the requirements of OAR chapter 635, division 415 (regarding ODFW's mitigation policy).***

***The Applicant's mitigation plan (Exhibit 4) proposes three options to meet the goal of no-net loss. The Applicant stated in May 13 testimony, that the three options are necessary because the feasibility of any specific option is unknown at this time (see Exhibit 5 from the Deschutes Land Trust). Each option is designed***

**to meet ODFW's mitigation policy regarding no-net loss. As required by proposed condition of approval 9, the Applicant agrees to implement one of the mitigation alternatives in the Wildlife Conservation Plan (Exhibit 6) and will submit confirmation of implementation to the Crook County Planning Commission prior to any site preparation or clearing and grading of the subject property. The Planning Commission finds that the Applicant's mitigation plan (Exhibit 4) meets the requirements of OAR 660-130-033(38), the Crook County Comprehensive Plan and zoning ordinances and 2019 HB 2329.**

**GOAL EXCEPTION: Because the proposed photovoltaic energy system as amended will preclude more than 320 acres from use as a commercial agricultural enterprise, a goal exception is required.**

A goal "exception" is a "decision to exclude certain land from the requirements of [an] applicable statewide goal." See OAR 660-004-0000(2). The exceptions process is intended to permit necessary flexibility in the application of the Statewide Planning Goals. *Id.* at (3).

For a use located within an EFU zone, the "applicable statewide planning goal" is Goal 3, which is the State's Agricultural Lands goal. As expressed in Oregon's Statewide Planning Goals and Guidelines, Goal 3 is to preserve and maintain agricultural lands. Agricultural lands shall be preserved and maintained for farm use, consistent with existing and future needs for agricultural products, forest and open space and with the state's agricultural land use policy expressed in ORS 215.243 and 215.700.

Counties are authorized to approve an exception to a goal if certain criteria are met. For these local jurisdictions, the exceptions process is authorized by Goal 2 (Land Use Planning) and ORS 197.732(2) which provides, in relevant part:

"A local government may adopt an exception to a goal if: ....

(c) The following standards are met:

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

(B) Areas that do not require a new exception cannot reasonably accommodate the use;

(C) The long term environmental, economic, social and energy consequences resulting from the use at the proposed site with measures designed to reduce adverse impacts are not significantly more adverse than would typically result from the same proposal being located in areas requiring a goal exception other than the proposed site; and

(D) The proposed uses are compatible with other adjacent uses or will be so rendered through measures designed to reduce adverse impacts."

The applicable administrative rules set forth in OAR Chapter 660 Division 4, Interpretation of Goal 2 Exception Process, and in particular OAR 660-004-0020(2), Exception Requirements, outline how each of the four standards in ORS 197.732(2)(c) should be met.

1. First, the exception shall list "the facts and assumptions used as the basis for determining that a state policy embodied in a goal should not apply to specific properties or situations, including the amount of land for the use being planned and why the use requires a location on resource land." OAR 660-004-0020(2)(a).

***Both the original and amended proposal have demonstrated that the subject property, while zoned for farm***



*use, does not have the soil quality or water rights to be developed as productive farmland and therefore the goal to protect agricultural land should not apply to this property. In general, as noted in the County's Comprehensive Plan Agriculture Section 7 (page 41), while agriculture is an important part of the county's economy, "only a relatively small portion, approximately 5% [of the County's Agricultural lands] are classified as agricultural cropland of which only 60% are under irrigation, the remaining cropland being dry land farming....agricultural cropland in the county is restricted generally by soil capabilities, a short growing season, and limited sources and supplies of water for irrigation." The subject property is rangeland and per the Comprehensive Plan (page 46) can be developed through the goal exception process. The subject property has a limited history of grazing due to lack of water for cattle and poor forage quality.*

*Statewide Planning Goal 3 also seeks to preserve farmland for future use. The proposed use for a solar facility is not permanent. Unlike a request for a rezoning or a comprehensive plan change, where the zoning classification would be permanently changed, and the EFU status lost, this application is for an allowed conditional use on EFU-zoned property. The land will continue to carry its farm zoning designation. At the end of the solar facility's useful life, the site would be decommissioned, and the solar panels removed in accordance with the Decommissioning Plan. The site could be reclaimed for agricultural use.*

2. Second, the Applicant should sufficiently demonstrate that "areas that do not require a new exception cannot reasonably accommodate the use." OAR 660-004-0020(2)(b). This can be met by describing the location of possible alternative areas considered for the use that do not require a new exception (OAR 660-004-0020(2)(b)(A)) broadly rather than specifically (OAR 660-004-0020(2)(b)(C)).

*the Applicant reviewed an analysis provided by the Community Development Department using County GIS (Geographic Information System) data to identify suitable lands in all of Crook County to accommodate the proposed 654-acre solar facility. The Applicant used four factors to identify a site for a new solar generating facility: (i) Identify zones in both Crook County and the City of Prineville that authorize a commercial photovoltaic facility as a permitted or conditional use; (ii) Identify lands that are 650 acres or greater, whether as a single parcel or as a contiguous block; (iii) Identify parcels within proximity to a high-voltage transmission facility or substation or parcels to site a transmission facility in order to relay electricity to a substation<sup>3</sup>; and (iv) Identify conflicts as to the use proposed and the surrounding land uses.*

#### Crook County Lands

*A review of Crook County Code reveals that commercial power generating facilities are not allowed as an outright, permitted use in any zone.<sup>4</sup> Instead, the County authorizes commercial power generating facilities as a conditional use in the EFU Zone, Forest zone, Forest Recreation Zone (FR-10), Powell Butte Rural Residential Zone (PBR-20), Rural Residential Zone (R-5), Light Industrial Zone (LM), Heavy Industrial Zone (H-M), Recreational Residential Mobile Zone (RR(M)-5) and Rural Residential Zone (R-10).*

<sup>3</sup> As discussed herein, the City of Prineville code would allow solar arrays in many zones but would not allow the transmission lines which are deemed an associated major utility facility.

<sup>4</sup> In contrast, non-commercial solar energy facilities are authorized as an outright, permitted use in the Light Industrial Zone, L-M zone, in CCC 18.68.010(17) (with some limits imposed). A non-commercial power generating facility operates as a standalone power generator and is not connected to a utility grid. CCC18.08.140 N Definitions. In this case, the applicant will connect the power generated from the solar energy facility into the PacifiCorp utility grid system. Thus, Crook County lands carrying this zone designation do not allow the requested use, which is defined as a commercial power generating facility

**Although commercial utility facilities are allowed as conditional use facilities in the County's Forest (F-1) zone, Crook County Coded 18.28.015(9) states "A commercial utility facility for the purpose of generating power shall not preclude more than 10 acres from use as a commercial forest operation. Renewable energy facilities are subject to the standards in Chapter 18.161 CCC." Properties in forest zones are thus not included in this analysis.**

**Any other property zoned EFU would also require an exception to Goal 3. Similarly, any site over 320 acres in the FR-10 Zone would require an exception to Statewide Land Use Planning Goal 4 (Forest Use). Thus, no other parcels within these zoning designations were further analyzed.**

**There are no single or contiguous lots within PBR-20, R-5, LM and H-M zones that met or exceeded the 650-acre requirement. Thus, no lots within this zoning designation were further analyzed because these sites cannot reasonably accommodate the proposed use.**

**There are certain lots within the County's RR(M)-5 that are larger than 650 acres, either individually or as contiguous properties. These are located in the southeastern part of the county, south of Prineville and east of the Crooked River in the Juniper Canyon area. However, none of the parcels are contiguous to a high-voltage transmission line. There are some low-voltage transmission lines in the area owned by Central Electric Cooperative, however a project of this size needs to interconnect to a high-voltage (115 kV or 230 kV) transmission line or substation. Connecting to existing high-voltage transmission would be costly and provide additional impacts to both resource and non-resource lands. Furthermore, all these large parcels are located within Mule Deer Winter Range including both general and critical winter range. Two of the larger properties would require 200-foot setbacks from the rimrock. There are two 640-acre parcels zoned RRM-5 east of Juniper Canyon Road. These are both entirely in General deer habitat and on property that directly abuts a rural residential subdivision. Both properties lack access to the required transmission services.**

**There is a single lot within R-10 that is larger than 650 acres. It is located on a butte in the Juniper Canyon area north of the RR(M)-5 zoned lands and due south of Prineville and the Urban Grown Boundary. While there appears to be a high-voltage transmission near the property according to Exhibit 8, this line as shown is an approximate location and the physical line is not actually through or adjacent to the property. This property was further analyzed to demonstrate how it is not a suitable alternative due to conflicts with the proposed use and surrounding land uses described below.**

**The only existing access to this site is off SE Davis Loop, which serves residential properties in Juniper Canyon. During construction of the solar project, a high volume of vehicles would make use of the residential road. The Comprehensive Plan states that any industry that generates more than 20 auto-truck trips a day shall not locate in a residential neighborhood. P. 61. While these transportation impacts would occur only during construction, construction activities generally occur over a four to six-month period.**

**Additionally, SE Juniper Canyon Road provides residential access to Crook County residents and the limited access to the Juniper Canyon area is of concern for traffic safety and emergency purposes. The County is considering an alternate access to serve the residents of this area south of Prineville. One option for the secondary access is to cross this R-10 property and connect Crooked River Highway to SE Davis Loop.**

**The alternative site is surrounded on the north, west, and east sides by rimrock. The Comprehensive Plan includes policies to protect natural rimrock:**

**"7. Rimrocks from the intersection of Elliot Lane and O'Neil Highway, including Westwood Subdivision and**

***Ochoco Wayside Viewpoint, to Stearns Ranch; and those rimrocks paralleling Juniper Canyon, Combs Flat Road and Ochoco Creek to Ochoco Reservoir shall be protected against manmade structures by such zoning restrictions as deemed necessary. Restrictions addressing setbacks and building restrictions shall be applied to protect scenic values.” P. 109.***

***Crook County Code 18.124 ( Supplementary Provisions) requires that any structure located on the rimrock shall be set back 200 feet from the edge of said rimrock (CCC 18.124.100). The setback requirement would reduce the usable and developable size. These limitations could require the solar facility to locate closer to existing residential properties and the aggregate site located south of the property. Transmission and interconnect lines would also be required to meet rimrock setback requirements.***

#### **Housing**

***The Comprehensive Plan details the projected need for housing in an effort to ensure enough land is earmarked for housing. See e.g. P. 16. One of the County’s Energy Policies is to encourage high density residential development in close proximity to high employment areas and commercial areas. P. 34. This alternative site is in close proximity to and overlooks downtown Prineville. The site is already zoned for rural residential development, has existing residential development nearby, and is intended to serve future residential needs of the County.***

***Although the solar site is not an “industrial use”, it seems most compatible when sited adjacent to industrial uses or other large EFU land holdings. The County’s comprehensive plan is to direct industrial growth areas away from residential neighborhoods through zoning and other planning regulation. P. 58.***

#### **City of Prineville Lands**

The Applicant also reviewed properties within the City of Prineville to determine if there are zones that would allow a commercial generating facility. In the City, a commercial solar array facility is referred to as a “Minor Utility Facility” if it is a “smaller scale...self-generating facility that will not impact surrounding properties.” In contrast, related power transmission lines including poles or towers are considered a “Major Utility Facility”. City of Prineville Code, Chapter 153: Land Development.

***The Applicant found that the City’s code authorizes Minor Utility Facilities outright in Light Industrial (M-1) and Heavy Industrial (M-2) Zones and as Type I conditional uses in Residential Zones 1 through 5 (R-1 through R-5), Commercial Zones 1 through 5 (C-1 through C-5) and Industrial Park (IP) zones. Major Utility Facilities are authorized as Type II conditional uses in R-1 through R-5, C-1, C-2, C-5, M-1, M-2 and IP zones. City of Prineville Code Zoning Tables 153.035 and 153.037.***

***There are several large M-1 parcels, however the largest contiguous parcels comprise two 160-acre parcels which even when combined do not meet the 654-acre requirement. There is a large property zoned M-2 that is occupied by the County’s landfill and is unavailable for development.***

***The City’s policy is to protect land for industrial uses as they produce more employment in comparison to other lands, such as agricultural lands located in the county. The City’s Urban Growth Boundary is developed, in part, to provide for the development of lands that cannot be built outside the UGB in the County. To remove lands within the City’s UGB for a solar facility is counterintuitive to the very purpose of building solar facilities to generate power to serve businesses and residents. The solar facility, unlike most industrial uses, does not require City sewer and water services. Thus, these industrial zoned lands were not further analyzed. Information from the County’s GIS system confirms that here are no single or contiguous lots in the City’s R-1***

***through R-5, C-1, C-2, C-5 and IP zones that meet or exceed the 650-acre requirement for the proposed facility. Thus, no lots within these zoning designations were further analyzed.***

3. The next criterion to address is the long term environmental, economic, social and energy consequences resulting from the use at the proposed site location. We must also consider measures designed to reduce adverse impacts that are not significantly more adverse than would typically result from the same proposal being located in areas requiring a goal exception other than the proposed site. ORS 197.732(2)(c)(C). Because this statute and the applicable administrative rules largely use identical language, with the administrative rules providing additional specificity as to exceptions requirements, the findings below pertain to the administrative rules as set forth in OAR 660-004-0020.

The administrative rule requires that the local jurisdiction must find that “the long-term environmental, economic, social and energy consequences resulting from the use at the proposed site with measures designed to reduce adverse impacts are not significantly more adverse that would typically result from the same proposal being located in areas requiring a goal exception other than the proposed site.” OAR 660-004-0020(2)(c).

### **Environmental**

***This project requires a large enough site to accommodate this size of energy system, must be in close proximity to transmission that is large enough to support the power generation, must not cause significant adverse impacts to adjacent properties, and must be in a location that captures maximum sun exposure.***

***The subject property is ideal in that it is comprised primarily (93%) of nonarable land and soil types, is non-irrigated, and is otherwise nonproductive for agricultural uses. The proposed site is currently being used as an Oregon Department of Environmental Quality approved alkali stabilized domestic septage site, which further reduces the probability of it being cultivated in the future. The site is outside any Goal 5 inventoried resources areas and is not within mapped big game winter range for deer, elk, or pronghorn antelope.***

***The subject property is located near existing transmission infrastructure and large energy users, minimizing the need to disturb additional lands for transmission capability. The proposed location also allows the facility to serve large energy users in the area. As shown in Attachment A, the proposed project is located under and around four major transmission lines owned and operated by tree regional utilities (BPA, PGE and PAC) and is also immediately adjacent to three major substations (BPA Ponderosa and PAC Ponderosa and Corral). The location next to existing infrastructure is ideal for siting a commercial solar photovoltaic facility.***

***The Applicant notes that there may be potential adverse environmental impacts associated with construction activities including potential soil erosion. Mitigation measures would be implemented during nesting season, to protect avian or bat species. Slash would be removed to avoid on-site nesting. The Applicant would use the existing soils and perimeter vegetation to reduce erosion. Fencing will assist to keep big game on the perimeter of the site. The Applicant has consulted with the Oregon Department of Fish and Wildlife to minimize impacts to wildlife and habitat.***

***The Applicant may make partial use of City water for dust control to minimize impacts to the ground water table. The Applicant may also use water from a permitted, existing well on the property during construction for dust control and to clean the panels to optimize the energy produced. Water will be returned to the water table through the soils that filter water quickly. The same type of soils that make the subject property not***

*ideal for agricultural production make the subject property ideal for return of water to the water system through quick filtration.*

*The identified adverse impacts of installing a photovoltaic energy system at the subject site are not significantly more adverse than would result from the same proposal being located in other areas of the County. In other words, if the proposal were sited elsewhere in the County, we would anticipate additional adverse impacts such as visual impacts or construction traffic impacting adjacent residential properties and/or the greater presence of identified Goal 5 resources. (Other sites in the County were not ideal in any case because of the criteria mentioned at the beginning of this section). Siting such a proposed low development density on this site will reduce any large-scale environmental impacts on this or adjacent properties.*

*The County's air, water and land resource policy in the Comprehensive Plan is to "encourage non-pollutant industries to locate in Crook County" P. 23. The photovoltaic energy system will generate electricity without polluting air or water resources in the County.*

### **Economic**

*The original and amended proposals do not require extension of public services such as water, sewer or roads. The project will be accessed via an existing access from State Highway 126. The project will not generate additional traffic that would warrant improving any additional roads in the area. The Applicant will work with Crook County Fire and Rescue to address potential costs to the district.*

*The subject property has not been utilized as a commercial agricultural operation, has not been farmed, does not receive irrigation water, and is very infrequently used for cattle grazing due to its present use as an alkali stabilized domestic septage facility, there is little long-term economic impact on the general area caused by the removal of land from the agricultural resource base. Furthermore, the project is not irreversible; the photovoltaic energy system may be removed per the submitted Decommissioning Plan and used agricultural activities in the future.*

*The County's economic policy in the Comprehensive Plan is "to diversify, stabilize and improve the economy of the county." (p29) The long-term economic benefit of the proposed expansion would be both direct and indirect. During construction the project will employ approximately 100 full-time-equivalent workers, some of whom will be from the surrounding area. During operations, the project will employ approximately two to four full-time-equivalent employees. There will be indirect benefits to businesses such as restaurants, hotels, gas stations, grocery stores and equipment suppliers.*

*Additionally, the proposal may help support the ability of the County to attract additional data center development because of the increased local renewable electricity generation. Oregon Senate Bill 611 allows local jurisdictions to attract data centers and inherently recognizes that data centers may prefer to use locally generated electricity. Data centers bring jobs and tax revenue to the area. The County has been a supporter of data centers as one part of an engine to support rural communities' economic stability. And the County prefers data centers and other employers to locate on industrial-zoned property rather than proposals such as this photovoltaic energy system. In this way, they can concentrate public services within the City of Prineville.*

## Social

*When addressing the social impacts of a project, it is helpful to analyze the potential impacts to nearby residences. There are four residences in the vicinity, three are located near the western boundary of the project and one on the eastern side. The impacts to these dwellings would be minimal as the Applicant agrees that all facility equipment will be setback 100-feet from the property line as required by Crook County Code. The facility substation is proposed to be located in the southeast corner of the site. There are no residences anywhere near that portion of the subject property. The associated transmission lines will also be located in the southeast corner, away from existing residential development.*

*Additionally, the overall long-term social benefits of the proposal would be stability and growth of a few long-term direct and mostly indirect employment opportunities in an area that currently suffers from high unemployment levels.*

## Energy

*Energy efficiencies are realized by transmitting the energy production to growing energy users in the immediate Prineville area. By obtaining water from the City of Prineville, new energy consuming services for water and sewer do not need to be constructed.*

*The first energy principle in the Comprehensive Plan states "Prineville and Crook County receive about 300 days of sunshine per year. Solar energy will be a very feasible source of energy." P. 30. Other renewable generation including hydropower, biomass, wind and geothermal were not determined to be as feasible. The first energy policy in the Comprehensive Plan is "to encourage renewable and/or efficient energy systems design, siting and construction materials in all new development and improvements in the county", and the fourth energy policy is to regulate objects from casting shadows on existing solar collecting units. P. 34.*

*The long-term environmental, economic, social and energy consequences resulting from locating the proposed use at the proposed site is less than they would be at any other location in the county. No adverse impacts have been identified for the proposed site that would be significantly more adverse than if the proposal was sited elsewhere in Crook County.*

4. Finally, the local jurisdiction must find that "the proposed uses are compatible with other adjacent uses or will be so rendered through measures designed to reduce adverse impacts." See OAR 660-004-0020(2)(d).

*The findings for Section 2 of this document support the fact that the proposed use is compatible with other adjacent uses or will be rendered through measures such as the Farming Practices Waiver. The proposed Project is consistent with the comprehensive plan and objectives of the zoning ordinance. Specifically, Crook County's Comprehensive plan includes the following policies:*

*Air, Water and Land Resource Policies: Encourage non-pollutant industries to locate in Crook County.*

*Economic Policies: To diversify, stabilize and improve the economy of the County.*

*Energy - The comprehensive plan includes the following statement regarding solar energy production: "Prineville and Crook County receive about 300 days of sunshine per year. Solar energy will be a very feasible source of energy."*

*"To encourage renewable and/or efficient energy systems design, siting and construction materials in all new development and improvements in the County."*



***The Planning Commission received no testimony regarding the requested exception to Goal 3 and finds that the standards for granting an exception to Statewide Planning Goal 3 have been met.***

## **PUBLIC COMMENTS**

The Planning Commission held a public hearing on the proposed conditional use request on May 13, 2020. The Commissioners heard testimony from the Applicant and Greg Jackle, Oregon Department of Fish and Wildlife. Written testimony was submitted in a joint letter from ODFW and DLCD (Exhibit 6). Testimony focused on the wildlife conservation plan and proposed mitigation measures. No one testified against the subject project. Testimony regarding mitigation is summarized above. The Planning Commission made a motion to approve the request and to accept the Applicant's mitigation plan (Exhibit 4). The Commission closed the public hearing and continued the hearing for deliberation only to May 27, 2020.

Commissioner Ponte was unable to attend the hearing and submitted comments to staff regarding the proposed project. He has concerns regarding wildlife impacts due to the size of the project but acknowledged that the existing powerline easement provided a migratory route. He agreed with ODFW's concerns regarding the lack of specificity regarding mitigation plan implementation.

Commissioner Lundquist raised concerns regarding the lack of mitigation for the entire project acreage. He did not think that the Applicant should be able to choose to mitigate for only a portion of the acreage. He suggested that the Applicant appeared unwilling to work with ODFW. Staff noted that the original application was approved with no mitigation required and without comment from ODFW. None of the property has been mapped as big-game habitat although several Commissioners and staff noted the use of the property for several wildlife species. Staff noted that the Applicant was only able to apply for the increased acreage due to passage of House Bill 2329 by the state legislature (effective January 1, 2020). This provision allows local governments to review projects greater than 320 acres. It also requires applicants to consult with ODFW regarding potential impacts to wildlife. The Commissioners discussed the mitigation ratio and the majority of commissioners agreed to the 1:1 mitigation ratio proposed in the Applicant's mitigation plan.

## **CONCLUSION**

The Applicant provided a burden of proof statement and supporting evidence describing the proposed amendment of the current conditional use permit to expand the approved solar facility (217-19-000029-PLNG) to include an additional 334 acres. The Planning Commission finds that the information provided by the Applicant and information in the staff report and findings, demonstrate that the Project meets the applicable criteria of the Crook County Comprehensive Plan, the Crook County Code, Oregon Revised Statutes (including provisions of 2019 House Bill 2329) and the Oregon Administrative Code. All conditions of approval, including those from the original application, are included. Some conditions have been added and other conditions modified to address the expanded site. This conditional use approval expires four years from the date of the signed decision.

DATED THIS 2<sup>nd</sup> DAY OF June 2020



Michael Warren, Planning Commission Chair



Ann Beier, Planning Director

**NOTICE TO PERSONS PROVIDING TESTIMONY**

The above approval may be appealed in writing to the Crook County court no later than 4:00 p.m. on June 15<sup>th</sup>, ~~2019~~<sup>2020</sup> (twelve calendar days from the effective date of this approval) on payment of an appeal fee of \$2000.00 plus 20% of the initial application fee. The appellant must also provide written transcripts of the relevant meeting tapes at the appellant's expense.

Appeals must be submitted to the Crook County planning Department, 300 NE Third Street, Prineville, Oregon, and must be received together with the appeal fee by the Planning Department no later than the above time and date.

Attachments – Site Map  
Soils

- cc: Oregon Department of Energy
- Oregon Department of Fish and Wildlife
- Military Departments
- Confederated Tribes of the Warm Springs Reservation of Oregon
- Oregon State Historic Preservation Office
- Crook County Fire and Rescue
- County Departments

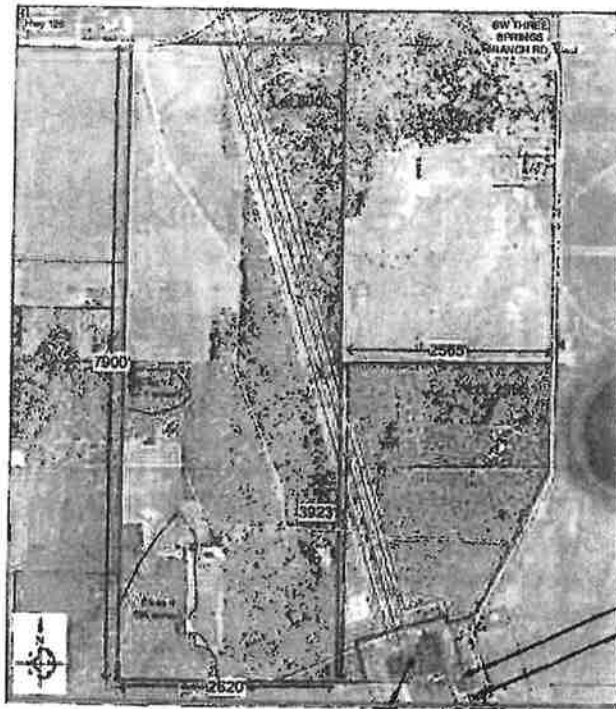
Notice of the May 13, 2020 public hearing was sent to property owners within 750' of the subject properties

A Attachment A-1  
 17-20-000375-PLAN

**Site Plan: Present Overview TL 2900 & 3000**

**Legend**

- Tax Lot Boundaries
- Existing Transmission ROW/ Easements
- Existing Access/Driveways
- Existing State and Private Roads
- Existing BPA/PGE and PAC 115 and 500KV Transmission lines and associated easements
- Existing residential power line
- Existing Buildings



Existing PAC Ponderosa Substation

New PAC Corral Substation  
 (under construction)

Existing BPA Ponderosa Substation

**GENERAL NOTES**

1. DISTANCES, LOCATIONS, AND ROUTING OF ASSOCIATED TRANSMISSION LINES AND ACCESS ARE APPROXIMATE AND SUBJECT TO APPLICANT'S FINAL DESIGN.
2. SOLAR PV FACILITIES SUBJECT TO APPLICABLE ACREAGE RESTRICTIONS.
3. TOTAL FACILITIES SITING AREA CONSIDERED IS LESS THAN 664 ACRES. TOTAL ARABLE LANDS CONSIDERED ELIGIBLE LESS THAN 20 ACRES. NO HIGH VALUE FARMLAND.
4. SETBACK REQUIREMENTS SHALL CONFORM TO CROOK COUNTY STANDARDS FOR PARCELS ZONED EFU-3 INCLUDING TAX LOT BOUNDARIES.
5. LOT 3000 CONTAINS EXISTING RESIDENCE AND BUILDINGS USED IN SUPPORT OF EXISTING PERMITTED USES.

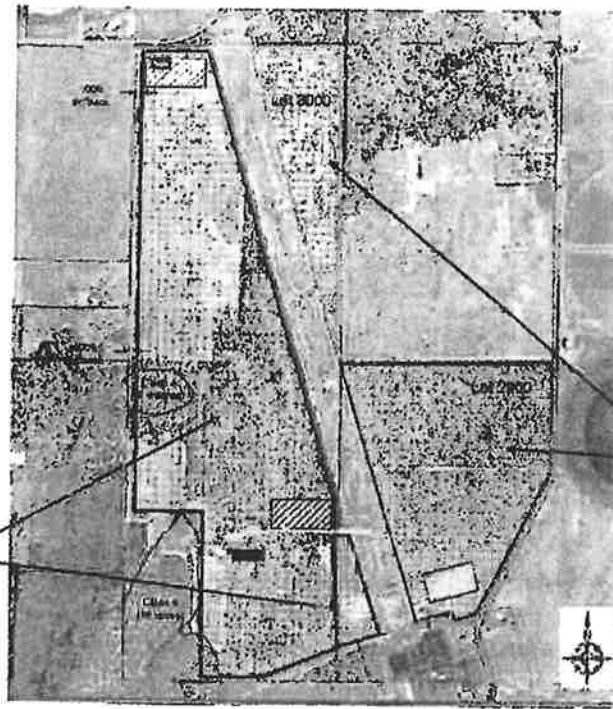
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**Site Plan: PV Facility Siting Area**

**Legend**

- Modified Access Roads
- Existing Access Road
- ▭ PV Facility Siting Area(orig)
- ▭ Temporary Laydown Yard(s)
- ▨ Temporary Construction Trailer Options
- - - Substation Facility Transmission Line
- ▭ Substation Facilities Siting Area
- ▨ Added PV Facility Siting Area



**GENERAL NOTES**

1. DISTANCES, LOCATIONS, AND ROUTING OF ASSOCIATED TRANSMISSION LINES AND ACCESS ARE APPROXIMATE AND SUBJECT TO APPLICANT'S FINAL DESIGN.
2. SOLAR PV FACILITIES SUBJECT TO APPLICABLE ACREAGE RESTRICTIONS. TOTAL PV FACILITIES SITING AREA CONSIDERED IS LESS THAN 654 ACRES AFTER SETBACK RESTRICTIONS APPLIED. TOTAL ARABLE LANDS CONSIDERED ELIGIBLE LESS THAN 20 ACRES. NO HIGH VALUE FARMLAND.
3. SETBACK REQUIREMENTS SHALL CONFORM TO CROOK COUNTY STANDARDS FOR PARCELS ZONED EFU-3.

Original Areas for PV Facility Siting

Expanded Areas for PV Facility Siting

Title: Document Number: Date of Issue:	Prepared by: Checked by: Date:	Date: Scale: Author:
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Attachment A-3

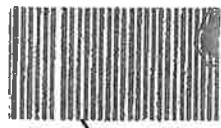


**Site Plan: Example Solar PV Facility**  
(for illustrative purposes only)

**GENERAL NOTES**

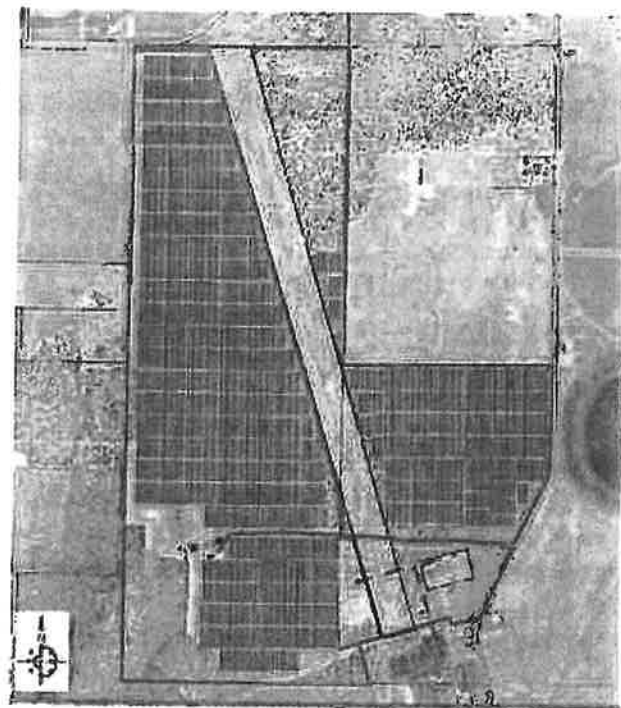
1. DISTANCES, LOCATIONS, AND ROUTING OF ASSOCIATED TRANSMISSION LINES AND ACCESS ARE APPROXIMATE AND SUBJECT TO APPLICANT'S FINAL DESIGN.
2. SOLAR PV FACILITIES SUBJECT TO APPLICABLE ACREAGE RESTRICTIONS. TOTAL PV FACILITIES SITING AREA CONSIDERED IS LESS THAN 654 ACRES. TOTAL ARABLE LANDS CONSIDERED ELIGIBLE LESS THAN 20 ACRES. NO HIGH VALUE FARMLAND.
3. SETBACK REQUIREMENTS SHALL CONFORM TO CROOK COUNTY STANDARDS FOR PARCELS ZONED EFU-3.
4. PV STRUCTURES LAYOUTS ARE SHOWN IN APPROXIMATE LOCATIONS ONLY. TRACKER ROWS RUN NORTH SOUTH, FIXED RACKS RUN EAST-WEST. ACTUAL LOCATION SUBJECT TO FINAL DESIGN.
5. DRAWING NOT TO SCALE.

ZOOMED IN VIEW OF MODULE/ TRACKER ROWS



15'-25'

Row-to-Row distance may vary and be increased or decreased in final design.



**Legend**

- Access Roads (existing access)
- Facility Transmission Line
- PV Tracker rows
- Facilities Substation Siting Area

Scale:  
Plotted 1/8" = 1'-0"  
Graphic Scale 0 10 20 30 40 50 60 70 80 90 100

Prepared for: West Plains by Rebo  
Terra LLC

DATE:	08/14/2013
PROJECT:	Example Solar PV Facility
SCALE:	1/8" = 1'-0"
BY:	Rebo Terra
CHECKED:	
DATE:	



A Hachment Co Soils  
 217-20-000375-  
 PLNG

