



Crook County Community Development Department

300 NE 3rd Street, Room 12

Prineville, OR 97754

(541)447-3211

**Staff Recommendation to the Crook County Planning Commission
Conditional Use Modification & Goal Exception Request – Empire Solar Facility
217-22-000152-PLNG & 217-22-000153-PLNG**

August 3, 2022

OWNERS:	Powell Butte Vistas LLC Kevin Spencer 63026 Lower Meadow Dr, Suite 200 Bend, OR 97701	Steve & Stephanie Christensen 560 Columbia LLC 400 SW Bond St, Suite 100 Bend, OR 97702
	Bill Phillips & Doug McGee 1498 E Loma Vista St Gilbert, AZ 85295	Oregon Department of State Lands 775 Summer St NE, Suite 100 Salem, OR 97301

**APPLICANT/
AGENT:** Aurora Solar LLC
Brian Walsh, Sara Parson, & Matt Hutchinson
1125 NW Couch, Suite 700
Portland, OR 97209

LOCATION: The subject properties are identified in the Assessors database as 1615000002000, 1615000000800, 1615000002300, 1615000002800, 1615000002301, & 1615000002400. It is located west of SW George Millican Rd, approximately 6.5 miles south of its intersection with SW Hwy 126.

ZONING: Exclusive Farm Use, EFU-3 (Powell Butte Area)

**PUBLIC
HEARING:** August 10, 2022 @ 4:00pm

REQUEST: The Applicant is requesting a modification to the approved 320-acre Empire Solar Facility (216-16-000373-PLNG), to expand the footprint from 528 acres to 1,553 acres, increasing generating capacity from 56 megawatts to 103 megawatts, and the addition of an optional 103-megawatt battery energy storage system.

I. BACKGROUND

- A. **Zoning:** Exclusive Farm Use Zone, EFU-3 (Powell Butte Area).
- B. **Project Summary:** The proposed Project is a solar photovoltaic power generation facility with up to 103 MW of generating capacity. The proposed Project Site Boundary is approximately 1,553 acres. Consistent with CUP No. 217-16-000373-PLNG, the proposed Project consists of a solar array with solar photovoltaic modules, trackers, inverters and transformers, and supporting components including an electrical collection system, collector substation (in an updated location), O&M building, access roads, and internal service roads. The previously approved 34.5-kV overhead electrical collector line will be upgraded to 115-kV and will lead from the relocated Project collector substation to a switch at the existing Gala Solar 115-kV gen-tie line, and then the Project would share the Gala Solar 115-kV gen-tie line to the point of interconnect at the Ponderosa Substation. A new optional 103-MW BESS may be sited adjacent to the Project collector substation or the Gala Solar collector substation. The proposed Project components are shown on the preliminary Project Site Plan provided as Figures 2a and 2b. Though some previously approved components may not be included in final design, the Applicant will retain all previously approved Project components in the amended CUP.
- C. **Site Description:** The Project is located southeast of Powell Butte in Crook County, approximately 6 miles southwest of the city of Prineville boundary, 3.4 miles west of the Crooked River, and 0.9 miles west of SW Millican Road. An existing transmission line corridor runs to the east of and within the Project Site Boundary, and the Project Site Boundary is about 500 feet from the existing Gala Solar Facility to the east. Consistent with previously approved CUP No. 217-16-000373-PLNG, the primary access to the Project will be a gated, private access road extending west and then south from SW Millican Road to the northern portion of the Project site via a combination of existing roads (e.g., the shared use of the existing Gala Solar access road) and proposed new access roads. The subject properties are surrounded by properties zoned EFU-3. There are no existing structures on the subject properties. There is no evidence of irrigation water rights on the properties, and they have not been irrigated historically. The subject properties are uncultivated and non-irrigated. It is composed of two primary habitat types: sagebrush steppe and juniper steppe woodland. The property is bordered by 500kV electrical transmission lines and easements operated by BPA (Bonneville Power Administration), identified on the BPA website as the Grizzly-Captain Jack No 1 and Grizzly-Summer Lake No 1 Transmission Lines, which run north and south and connect at the Ponderosa Substation to the north. There are existing easements for the energy transmission Right of Ways (ROWS).
- D. **Surrounding Land Uses:** Adjacent properties are in a mixture of private and public ownership and are zoned Exclusive Farm Use (EFU). Property directly north is a 2,438-acre property without irrigation water rights. The 392-acre property to the east is developed with the Gala solar facility, which is another 320-acre solar facility. The 3,126-acre property to the west has been approved for the Hidden Canyon Destination Resort. The 360-acre property to the south is owned the Oregon Department of State Lands and is currently vacant.
- E. **Water Rights:** There is no evidence of irrigation water rights on the subject property.

- F. **Wildlife:** The site is not identified as Sagebrush Grouse habitat (Sensitive Bird Habitat zone). The subject property is in an area that is mapped by ODFW as winter range for elk, and a portion of the property is within ODFW mapped winter range for deer and pronghorn.
- G. **Access:** The Solar PV Facility will be accessed by a modified access road off of the existing private road from SW George Millican road, as designated in the Site Plan showing the entryway off the highway. As part of on-going development, any alternative entrances and/or additional road access permits will be obtained as necessary from the County, BLM, or ODOT as applicable.
- H. **Fire Protection:** The subject property is located inside the Crook County Fire and Rescue District. Provisions for wildfire prevention and control shall be included in an Emergency Management Plan to be presented to Crook County Fire and Rescue for review and approval.

II. **APPLICABLE CRITERIA:**

Crook County Code

Title 18, Zoning

Chapter 18.16 Exclusive Farm Use Zones
Chapter 18.160 Conditional Uses
Chapter 18.161 Commercial Power Generating Facilities

Oregon Revised Statutes

ORS 215.283 (Uses authorized on agricultural lands)
ORS 197.732 Goal Exceptions
ORS 215.446 Renewable Energy Facility

Oregon Administrative Rules

OAR 660-004 Interpretation of Goal 2 Exception Process

III. **FINDINGS OF FACT**

Crook County Code

Title 18, Zoning

Chapter 18.16 Exclusive Farm Use Zones, EFU-1 (Post-Paulina Area), EFU-2 (Prineville Valley-Lone Pine Areas), EFU-3 (Powell Butte Area)

18.16.010 Use Table

FINDING: The applicant has applied for an approximately 1,553-acre solar facility, which falls under use 6.8 in the Use Table for the zoning. The use will also be applying for an associated transmission line that is necessary for public service, identified as use 6.4 in the use table. The table also lists the proposed use as being subject to CCC 18.16.015(15), 18.16.060(3) and Chapter 18.161, which are addressed in this report.

18.16.015. Use Standards

(15) A Utility Facility That Is Necessary for Public Service.

(b) An associated transmission line is necessary for public service upon demonstration that the associated transmission line meets either the following requirements of subsection (15)(b)(i) or (ii) of this subsection:

FINDING: Per CCC 18.08.010 and ORS 469.300(Definitions), “associated transmission lines” means transmission lines constructed “to connect an energy facility to the first point of junction with either a power distribution system or an interconnected primary transmission system or both or to the Northwest Power Grid.” As described in Section 2.3.9 of the application submitted for review, the upgraded 115-kV gen-tie line will connect the amended Project to a switch on the existing Gala Solar 115-kV gen-tie line which is the first point of junction with the transmission system. The existing Gala Solar 115-kV gen-tie line will then connect the Project to PacifiCorp’s transmission system at the Ponderosa Substation, thereby connecting the proposed energy facility to the Northwest power grid. As proposed, both the upgraded 115-kV gen-tie line and existing Gala Solar 115-kV gen-tie line meet the County’s definition of an associated transmission line under CCC 18.08.010 and are permitted in the underlying zoning. As described below, the upgraded 115-kV gen-tie line and existing Gala Solar 115-kV gen-tie line meet one or more of the requirements of subsection CCC 18.16.015(15)(b)(i), specifically (A) and (C), and are necessary for public service. Accordingly, evaluation under CCC 18.16.015(15)(b)(ii) is not required. The criterion is met.

(i) An applicant demonstrates that the entire route of the associated transmission line meets at least one of the following requirements:

(A) The associated transmission line is not located on high-value farmland, as defined in ORS 195.300, or on arable land;

FINDING: The upgraded 115-kV gen-tie line and Gala Solar 115-kV gen-tie line are entirely on nonarable land (NRCS soil capability Class VI and VII) that is not currently irrigated, with no associated irrigation water rights (see Section 3.2, Table 3, and Figures 7 and 8 of the application). Therefore, these associated transmission lines will not be located on high-value farmland as defined by CCC 18.08.080, or on arable land. The request complies.

(B) The associated transmission line is collocated with an existing transmission line;

FINDING: The upgraded 115-kV gen-tie line for the proposal will not be collocated directly on existing transmission line infrastructure. The upgraded 115-kV gen-tie line will connect to a switch on the existing Gala Solar 115-kV gen-tie line. The existing Gala Solar 115-kV gen-tie line was approved and constructed as a component of the Gala Solar Facility under CUP No. 217-14-000069-PLNG, and the Applicant requests shared use of the approved and operating Gala Solar 115-kV gen-tie line to connect the Project to PacifiCorp’s existing Ponderosa Substation. The existing Gala Solar 115-kV gen-tie line complies with the criteria.

(C) The associated transmission line parallels an existing transmission line corridor with the minimum separation necessary for safety; or

FINDING: The upgraded 115-kV gen-tie line and existing Gala Solar 115-kV gen-tie line parallel the existing PacifiCorp transmission line corridor with the minimum separation necessary for safety for the length of their respective routes (see Figures 2a and 2b of the application). Therefore, the proposed and existing associated transmission lines will comply with the criteria.

(D) The associated transmission line is located within an existing right-of-way for a linear facility, such as a transmission line, road or railroad, that is located above the surface of the ground.

FINDING: The upgraded 115-kV gen-tie line is located parallel to but not within an existing right-of way for a linear facility. The existing Gala Solar 115-kV gen-tie line was permitted under CUP No. 217-14-000069-PLNG in an established easement. As described above, the upgraded 115-kV gen-tie line and existing Gala Solar 115-kV gen-tie line both meet one or more of the requirements of subsection (15)(b)(i) and are thus necessary for public service. The request complies.

18.16.020 Conditional use review criteria

An applicant for a use permitted as a conditional use “C” in Table 1 must demonstrate compliance with the following criteria and specific requirements for conditional uses in Chapter [18.160](#) CCC:

- (1) The use will not force a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest use;*
- (2) The use will not significantly increase the cost of accepted farm or forest practices on surrounding lands devoted to farm or forest use; and*

FINDING: In accordance with the above criterion, the proposed use must not force a significant change, or significantly increase the cost of accepted farm or forest practices on surrounding lands devoted to farm or forest use. None of the surrounding lands are devoted to forest use. The Applicant provided the following analysis of the surrounding properties:

“Surrounding lands consist of the following:

- Properties north of the proposed Project Site Boundary owned by Powell Butte Vistas LLC, the Raasch Family Trust, and a portion of the parcel owned by the Oregon Department of State Lands (ODSL) that is not leased by the Applicant. These properties are undeveloped and have been or are currently used for periodic or seasonal cattle grazing.
- Properties east of the proposed Project Site Boundary include the existing BPA and PacifiCorp transmission line corridor, the previously approved and operating Gala Solar Facility, BLM property, and an undeveloped parcel owned by Raasch Family Trust. The proposed project will not preclude access along the existing BPA and PacifiCorp transmission line corridor to adjacent properties. The existing Gala Solar Facility is not a farm use. There are no known accepted farming practices on the BLM land east of the proposed Project Site Boundary. The Raasch Family Trust property is undeveloped and used for periodic cattle grazing.

- Properties south and west of the proposed Project Site Boundary owned by Sage Brush Ventures LLC and RMG Destination LLC. The accepted farm practices on this surrounding land to the south and west are primarily cattle grazing operations.

Potential adverse impacts to accepted farming practices from the Project could include temporary impacts from Project construction traffic, fugitive dust, and increased risk of wildfire. However, these potential impacts will not result in significant impacts to surrounding agricultural practices for the following reasons:

- Some increase in traffic on SW Millican Road is anticipated during construction; however, the temporary increase in the level of traffic should not interfere with surrounding agricultural activities that consist primarily of seasonal cattle grazing operations. As previously demonstrated in the Traffic Assessment Letter (Attachment 4), there are no anticipated long-term adverse traffic impacts associated with the proposed Project's construction or operation that would significantly impact transportation on SW Millican Road. In addition, the Project will not preclude access to surrounding lands or change accepted practices for cattle grazing operations on surrounding lands.
- The Applicant's contractor will implement measures during construction to reduce the potential for impacts to surrounding adjacent lands due to fugitive dust, including using water trucks to spray exposed soil down during dry and windy conditions, and leaving as much of the grass and other groundcover vegetation intact during construction as possible. Consistent with Condition 13 of CUP No. 217-16-000373-PLNG, the Applicant will also submit a final erosion control plan to the County prior to the start of construction.
- The proposed Project Site Boundary continues to be within the Powell Butte Risk Assessment Area and within the jurisdiction of the Crook County Fire & Rescue Department. The Crook County Fire & Rescue Department responds to structural and natural vegetation fires in Crook County Rural Fire Protection District No. 1. The Applicant previously coordinated with the Crook County Fire & Rescue and the Crook County Sheriff's Department to develop an Emergency Management Plan to describe Project-specific response procedures to fires and other emergencies for all phases of the facility. The Applicant has developed an Amended Emergency Management Plan (Attachment 5) to address wildfire concerns. Section 7 of the Amended Emergency Management Plan identifies specific safety and prevention practices to minimize accidental fire ignition at the proposed Project site (Attachment 5). "

All adjacent properties are zoned Exclusive Farm Use. As stated in the application submitted, "Property to the east is a solar photovoltaic facility. Other surrounding lands have limited seasonal grazing that will have limited, if any impacts associated with the solar facility." The applicant's statement is correct regarding the neighboring farm uses, and staff agrees that there will be a limited impact to agricultural operations. The request complies.

(3) The proposed use will be compatible with vicinity uses, and satisfies all relevant requirements of this title and the following general criteria:

(a) The use is consistent with those goals and policies of the comprehensive plan which apply to the proposed use;

FINDING: The Applicant states in their application that the original 2008 decision can be relied upon for compliance with the above criteria. They state that the amended facility will remain consistent with the applicable policies of the Crook County Comprehensive Plan and address the following policies.

Air, Water and Land Resources Policies

- 1. Encourage nonpollutant industries to locate in Crook County (Industrial Element, Chapter III).*
- 4. Encourage “design with nature” considerations in the design and engineering of all development proposals (Housing, Industrial, Commercial and Transportation Elements, Chapters VIII, III, III, and IV).*
- 7. To encourage all systems and efforts for the collection, reuse and recycling of metallic and non-metallic wastes.*

The Applicant states that Solar energy generation is an internationally recognized clean, renewable source of energy and considered a non-polluting industry. The Project will have temporary and localized low-level impacts to air quality due to the operation of construction equipment and generation of airborne dust, and best management practices (BMPs) will be implemented to minimize the effects of the dust. Impacts to the area’s water quality will be avoided and minimized through the implementation of the Project’s erosion control measures and BMPs. Consistent with Condition 13 of CUP No. 217-16-000373-PLNG, the Applicant will submit a final erosion control plan to the County prior to the start of construction.

As described above, the proposed Project will be designed to blend with the surrounding landscape to the greatest extent feasible. The O&M building will be painted a neutral color consistent with the background viewshed. The proposed Project will be well screened by existing vegetation (primarily mature and intermediate juniper trees, 15 to 35 feet tall) as well as the currently operational Gala Solar Facility. Although the proposed Project components will modify the existing landscape, they will be similar in nature to existing modifications (e.g., Gala Solar Facility, transmission lines) and will be set back from SW Millican Road between 0.2 and 0.5 mile to reduce contrast with the remote character of the area. In addition, the proposed Project will be designed, sited, constructed, and operated to follow wildlife and habitat avoidance and minimization measures identified in Section 3 of the Applicant’s Wildlife Impact and Mitigation Plan – 2022 Addendum (Tetra Tech 2022).

Solid waste including metallic and non-metallic waste will be recycled to the extent practicable and disposed off-site. Applicable regulations governing the transport and disposal of BESS components identified in Attachment 1 will be followed by the Applicant or its licensed contractor. Therefore, the proposed Project is consistent with this policy.

Based on the evidence provided by the applicant, staff agrees that the project will be consistent with the policies for Air, Water and Land Resources.

Agricultural Policies

- 1. It shall be the policy of Crook County, Oregon, to preserve agricultural lands, to protect agriculture as an economic enterprise, to balance economic and environmental considerations, to limit non-*

agricultural development, to maintain a “low” population density, and to maintain a high level of livability in the county.

This policy is implemented through CCC 18.16, 18.160, and 18.161, which are addressed in Sections 4.1, 4.2, and 4.3 of the CUP amendment application submitted. While some agricultural land will be removed from low-intensity grazing use, the project will not adversely affect the agricultural land resources of the County, as it will not impact the ability of existing farms and ranches in the area (including the Project landowners) to continue operation. The project will result in a net benefit to agricultural incomes, as the minimal loss of agricultural income due to the limited amount of land occupied by the Project will be more than offset by revenue to local farmers/ranchers from Project leases. The additional revenues received by farmers from Project lease payments will provide a stable and predictable source of income that will supplement farm/ranch revenues and help ensure that landowners’ agricultural operations can remain viable in years with lower commercial productivity. As described in the Applicant’s response to CCC 18.16.020(1) and (2), the proposed Project will have a minimal impact to existing agricultural lands and operations. The Project will not contribute to local population density and through the economic benefits identified in response to applicable Economic Policies of the CCCP, will support a high level of livability in the County. Based on the evidence provided by the applicant, staff agrees that the project will be consistent with the policies for Agricultural Policies.

Public Facilities and Services Policies

6. All utility lines and facilities shall be located on or adjacent to existing public or private right-of-ways to avoid dividing existing farm units.

As demonstrated in Section 2.3.9 of the application submitted for review, the proposed Project is sited to take advantage of existing transmission line corridors and infrastructure. Per CCC 18.08.010 and ORS 469.300(Definitions), the proposed Project includes and will use “associated transmission lines” to connect with the Northwest Power Grid. Section 2.3.9 of the application states that the upgraded 115-kV gen-tie line will connect the amended Project to a switch on the existing Gala Solar 115-kV gen-tie line which is the first point of junction with the transmission system. The existing Gala Solar 115-kV gen-tie line will then connect the proposed Project to PacifiCorp’s transmission system at the Ponderosa Substation, thereby connecting the proposed energy facility to the Northwest power grid.

In addition, pursuant to CCC 18.16.015(15)(b)(i), both the upgraded 115-kV gen-tie line and existing Gala Solar 115-kV gen-tie line parallel the existing PacifiCorp transmission line corridor with the minimum separation necessary for safety for the length of their respective routes. The proposed Project and associated transmission lines are reliant on their current location and proximity to the existing PacifiCorp transmission system to meet this policy. Based on the evidence provided by the applicant, staff agrees that the project will be consistent with the policies for Public Facilities and Services.

(b) The parcel is suitable for the proposed use considering its size, shape, location, topography, existence of improvements and natural features;

FINDING: The leased parcels that make up the proposed Project Site Boundary are suitable for a solar power generation facility due to the availability of the solar resources, topography, size,

existing energy transmission facilities, and the vacant nature of the land. The operating Gala Solar Facility is located about 500 feet east of the proposed Project and opposite the existing BPA and PacifiCorp transmission line corridor, further demonstrating that the area is suitable for solar energy generation. The Crook County Comprehensive Plan states that “Prineville and Crook County receive about 300 days of sunshine per year. Solar energy will be a very feasible source of energy” This fact was also demonstrated in the original approval. Generally, the proposed Project Site Boundary is located in an undeveloped remote area. The topography of the area is predominantly flat, gently sloping up, westward away from SW Millican Road and is suitable for placement of the solar array and related infrastructure. Land within and surrounding the proposed Project Site Boundary is marginally used rangeland or unused vacant land (with the exception of the existing transmission line corridor and operating Gala Solar Facility). The proposed Project Site Boundary is limited to nonarable, non-high-value farmland and avoids impacts to lands devoted to active agricultural uses such as cultivation. Therefore, the area is large enough to site a commercial-sized solar facility, without impacting farm operations in the County. The proximity of the existing BPA and PacifiCorp transmission line corridor, in conjunction with operating Gala Solar Facility, create a uniquely suitable site for the proposed Project to supply a new source of renewable energy for the regional grid. Based on those factors, staff finds that the request complies.

(c) The proposed use will not alter the character of the surrounding area in a manner which substantially limits, impairs or prevents the use of surrounding properties for the permitted uses listed in the underlying zoning district;

FINDING: The Project is proposed in a predominantly undeveloped and remote area of the County. As discussed above under CCC 18.16.020(1) and (2), the Applicant considers the surrounding area to include land adjacent to the proposed Project Site Boundary. These adjacent surrounding lands are also within the County’s EFU-3 (Powell Butte Area) zoning district. The character of the surrounding area is similar to the proposed Project Site Boundary in that the Project’s solar array will be located on a portion of 1,553 continuous acres of private and state property used periodically for cattle grazing. The surrounding properties to the north, south, and west generally include vacant and undeveloped land used for seasonal cattle grazing operations. The surrounding properties to the east of the proposed Project Site boundary include the existing PacifiCorp transmission line corridor, the previously approved and operating Gala Solar Facility, undeveloped BLM property, and a vacant parcel owned by Raasch Family Trust. Although the proposed Project components will modify the existing landscape, they will be similar in nature to existing modifications (e.g. Gala Solar Facility, transmission lines) and will be setback from SW Millican Road between 0.2 and 0.5 miles to reduce contrast with the remote character of the area. Surrounding properties are all within the EFU zoning district. The EFU zoning district permits a wide range of uses as identified in CCC 18.16.010, including uses similar to the proposed Project (i.e. wind power generation facilities, other commercial utility facilities). Hence the amended Project will not alter the character of the surrounding area in a manner that substantially limits, impairs, or prevents the use of surrounding properties for the permitted uses in the underlying zoning district. The request complies.

(d) The proposed use is appropriate, considering the adequacy of public facilities and services existing or planned for the area affected by the use; and

FINDING: Similar to the original approval, the amended Project will not require substantial public services. Water for the O&M building will be supplied via an on-site exempt groundwater well.

Wastewater will be managed with an on-site, County permitted septic system. Standard electric power and telephone services will be provided by local service providers, consistent with service provided to the existing Gala Solar Facility. During operations, the Project will be primarily unoccupied using passive technology, such as the SCADA system, for remote operation. This means little to no noise, traffic, or other offsite impacts will be generated from Project operations. No known or proposed public facilities are located or planned in the vicinity of the proposed Project, and none are required for the proposed Project. Therefore, the amended Project is an appropriate use that will operate within the capacity of existing public services, and the request complies.

(e) The use is or can be made compatible with existing uses and other allowable uses in the area. (Ord. 309 § 2 (Exh. C), 2019)

FINDING: For purposes of this analysis, the Applicant considers the “area” as the “surrounding area” discussed above under CCC 18.16.020(1), (2), and (3). The existing uses within the surrounding area include vacant and undeveloped land used for seasonal cattle grazing operations to the north, south, and west of the proposed Project Site Boundary. Existing uses to the east of the proposed Project Site Boundary include the existing PacifiCorp transmission line corridor, the previously approved and operating Gala Solar Facility, undeveloped BLM property, and a vacant parcel owned by Raasch Family Trust. Lands surrounding the proposed Project Site Boundary are within the EFU zone where, per CCC 18.16.010, uses similar in nature to the proposed Project are allowable and include wind power generation facilities, transmission towers, other commercial utility facilities. Once constructed, the Project will be a largely passive use that is operated remotely, with a limited staff of two to four personnel for daily on-site operations and maintenance of the Project. This means little to no noise, traffic, or other off-site impacts will be generated from Project operations. In addition, the proposed Project will not preclude access to the surrounding area, will not limit the ability to develop other allowed uses in the surrounding area, and will not change accepted practices for existing cattle grazing operations on lands in the surrounding area. For these reasons, the amended Project will remain compatible with existing and allowable uses in the area, and the request complies.

18.16.060. Commercial Facilities for Generating Power

(1) Commercial Power Generating Facility.

(a) Permanent features of a power generation facility shall not use, occupy, or cover more than:

(i) Twelve acres on high-value farmland unless an exception is taken pursuant to ORS [197.732](#) and Chapter [660](#) OAR, Division [4](#); or

(ii) Twenty acres on land other than high-value farmland unless an exception is taken pursuant to ORS [197.732](#) and Chapter [660](#) OAR, Division [4](#).

(b) A power generation facility may include on-site and off-site facilities for temporary workforce housing for workers constructing a power generation facility. Such facilities must be removed or converted to an allowed use under ORS [660-033-0130](#)(19) or other statute or rule when project construction is complete.

(c) Temporary workforce housing facilities not included in the initial approval may be considered through a minor amendment request. A minor amendment request shall be subject to OAR [660-033-0130\(5\)](#) and shall have no effect on the original approval.

FINDING: The proposed request is for a modification to the approved 320-acre Empire Solar Facility (216-16-000373-PLNG), to expand the footprint from 528 acres to 1,553 acres, increasing generating capacity from 56 megawatts to 103 megawatts, and the addition of an optional 103-megawatt battery energy storage system. The proposed project site is not composed of high-value farmland, but an exception is being applied for through ORS 197.732 due to the size of the proposed facility being over 320 acres, but less than 1,920 acres. Findings regarding ORS 197.732 can be found further on in this report. Workforce housing was not listed as a proposed use within the application submitted for review. The request complies.

(3) Photovoltaic Solar Power Generation Facility. A proposal to site a photovoltaic solar power generation facility shall be subject to the following definitions and provisions:

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

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

FINDING: The proposed Project Site Boundary is not located on cultivated land or on arable soils and is therefore not on arable land. As described in Section 3.2, the proposed Project is located entirely on nonarable soils (NRCS Class VI and VII), with no current or historic irrigation facilities or associated irrigation water rights. The request complies.

(c) "Nonarable land" means land in a tract that is predominantly not cultivated and predominantly comprised of nonarable soils.

(d) "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.

FINDING: The entire proposed Project will be located on land that is not cultivated and contains soils with an NRCS Class of VI and VII (as detailed in Section 3.2 and presented on Figure 7 of the application). A review of data obtained from OWRD and communication with OWRD staff determined there are no irrigation water rights associated with parcels in the proposed Project Site Boundary or Goal 3 Exception Area, and these areas have no history of irrigation (See Figure 8 and Attachment 3). Therefore, consistent with the County's finding for the previously approved CUP, the proposed Project will be on nonarable land. The request complies.

(e) "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 1,320 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 Chapter 860 OAR, Division 39 or a feed-in-tariff project established consistent with ORS 757.365 and Chapter 860 OAR, Division 84.

FINDING: The proposed Project continues to meet the definition of a “photovoltaic solar power generation facility.” The proposed Project features are consistent with the originally approved CUP No. 217-16-000373-PLNG, with amendments to increase the generating capacity, expand the Project Site Boundary, upgrade the gen-tie line, add new access road routes, and add an optional up to 103-MW battery energy storage system. The specific changes requested in this CUP amendment application are identified in the application submitted under Table 1, described in Section 2.0, and presented on Figures 2a and 2b.

The existing Gala Solar Facility is separated by less than 1,320 feet and is in common ownership with the proposed Project; therefore, the existing Gala Solar facility is included in the proposed Goal 3 Exception Area of approximately 1,879 acres for purposes of applying the acreage standards of this section to the proposed Project.

(f) For high-value farmland described at ORS 195.300(10), a photovoltaic solar power generation facility 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 Chapter 660 OAR, Division 4 or the requirements of subsection (3)(g) of this section are met. The governing body or its designate must find that:

FINDING: As stated in response to CCC 18.16.060(1)(a)(i), the proposed Project is not located on high-value farmland. The Goal 3 Exception Area is located entirely on nonarable soils (NRCS Class VI and VII), with no current or historic irrigation facilities or associated irrigation water rights, as detailed in Section 3.2. None of the Goal 3 Exception Area meets the definition of high-value farmland provided under ORS 195.300(10). Therefore, an exception pursuant to ORS 197.732 related to high-value farmland is not required. The request complies.

(g) For arable lands, a photovoltaic solar power generation facility shall not preclude more than 20 acres from use as a commercial agricultural enterprise unless an exception is taken pursuant to ORS 197.732 and Chapter 660 OAR, Division 4. The governing body or its designate must find that:

FINDING: As stated in response to CCC 18.16.060(3)(a) and(b), the proposed Project will not be located on arable land.

(h) For nonarable lands, a photovoltaic solar power generation facility 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 Chapter 660 OAR, Division 4. The governing body or its designate must find that:

(i) The project is not located on high-value farmland soils or arable soils unless it can be demonstrated that:

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

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

FINDING: The Project will exceed 320 acres of nonarable land, and therefore the Applicant is seeking an exception pursuant to ORS 197.732 and OAR chapter 660, division 4 (see Section 7). Findings regarding compliance with that statute and applicable administrative rule can be found further on in this report. As stated above, the proposed Project will not be located on high-value farmland or arable land. The Applicant proposes a condition of approval to this CUP amendment application, that County approval of a Goal 3 exception for the Project will be obtained prior to construction in order to exceed 320 acres of development on nonarable land. The Applicant concurrently submitted, a Comprehensive Plan Amendment application to the County to that demonstrates the Project meets the criteria for an exception to Goal 3. The request complies.

(ii) No more than 12 acres of the project will be sited on high-value farmland soils described at ORS 195.300(10);

FINDING: As stated above, the proposed Project is not located on high-value farmland soils described at ORS 195.300(10). The request complies.

(iii) No more than 20 acres of the project will be sited on arable soils unless an exception is taken pursuant to ORS 197.732 and Chapter 660 OAR, Division 4;

FINDING: As stated above, the proposed Project will not be located on arable land.

(iv) The requirements of subsection (3)(f)(iv) of this section are satisfied;

FINDING: The requirements of subsection (3)(f)(iv) apply only to high-value farmland. As stated above, the proposed Project is not located on high-value farmland.

(v) 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

FINDING: The entire proposed Project Site Boundary is located on lands that are designated as mule deer (*Odocoileus hemionus*) winter range, and the east half of the Project Site Boundary falls within mapped pronghorn (*Antilocapra americana*) winter range (see Figure 2 to Attachment 7, Wildlife and Habitat Assessment Report). The Applicant has worked cooperatively with ODFW to develop the Wildlife Impact and Mitigation Plan – 2022 Addendum (2022 Mitigation Plan), provided in Attachment 8 of the application. The 2022 Mitigation Plan addresses impact avoidance and minimization measures for big game as well as additional mitigation approaches for potentially unavoidable impacts on big game habitat that may occur within the proposed Project Site Boundary. After avoidance and minimization measures have been implemented, some impacts on big game habitat will remain. Temporary and permanent habitat loss will be accounted for according to habitat mitigation recommendations under OAR 635-415-0025 (ODFW Habitat Mitigation Policy). Based on coordination with ODFW and the County (see the ODFW April 15, 2021 and November 22, 2021 Meeting Summaries in Attachment 8) acceptable mitigation options for impacts to big game winter range habitat include: (1) payment in-lieu mitigation with the Deschutes Land Trust (Land Trust) or (2) payment-in-lieu mitigation with the Crook County Soil and Water Conservation District (SWCD). Findings regarding these options are address in ORS 215.446.(3)(a)(C) of this report. Both payment-in-lieu options would use a formula (see Attachment 8 of the application) to calculate the total payment obligation. The formula accounts for the costs of property acquisition, mitigation actions, maintenance, monitoring, and any other actions needed by the Land Trust or SWCD for the long-term protection and management of the mitigation site. In prior meetings with ODFW, the Applicant discussed a third mitigation option where the Applicant would own the mitigation site near the Project area; however, the Applicant has yet to acquire or lease these lands. Therefore, the Applicant-owned mitigation site option is not considered viable at this time. If this option develops at a later time, the Applicant stated that they would seek County approval, with ODFW input, to implement this option instead. Mitigation for impacts within the previously approved Project Site Boundary will be provided as described in the previously approved Wildlife Impact and Mitigation Plan.

The Applicant states that their preferred mitigation option is payment in-lieu mitigation with the Land Trust. Prior to Project construction and consistent with Condition 9 of CUP No. 217-16-000373-PLNG, the Applicant will provide Crook County with financial and legal assurances documenting that one of the compensatory mitigation options described in the 2022 Mitigation Plan have been implemented. Therefore, with implementation of the appropriate Goal 5 resource mitigation measures identified for the amended Project, the request complies.

(vi) If a proposed photovoltaic solar power generation facility is located on lands where the potential exists for adverse effects to state or federal special status species (threatened, endangered, candidate, or sensitive), or to wildlife species of concern identified and mapped by the Oregon Department of Fish and Wildlife (including big game winter range and migration corridors, golden eagle and prairie

falcon nest sites, and 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 species of concern 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 species of concern 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.

FINDING: For both the previously approved CUP No. 217-16-000373-PLNG and the proposed CUP amendment application, the Applicant conducted desktop reviews of available data and literature, conducted field investigations, and consulted ODFW wildlife biologists to determine the potential presence of special status species at the Project. See Attachment 7 (Wildlife and Habitat Assessment Report) and Attachment 8 (2022 Mitigation Plan). Potential impacts on designated big game habitat are discussed above under subsection (v) for impacts on Goal 5 resources identified in the Crook County Comprehensive Plan, and further addressed in ORS 215.446(3)(a)(C) of this report.

As demonstrated in the application submitted for review, there are no documented occurrences of federal or state endangered, threatened, proposed, or candidate plant species within 5 miles of the Project (ORBIC 2021). The Applicant conducted wildlife and habitat surveys on April 19–22, 2021 for previously unsurveyed areas of the proposed expanded Project Site Boundary. Based on the availability of sagebrush shrub-steppe and juniper woodland habitat there is potential for some special-status species to use the Survey Area (e.g. loggerhead shrike [*Lanius ludovicianus*], sage thrasher [*Oreoscoptes montanus*], sage(bush) sparrow [*Artemisiospiza nevadensis*], pinyon jay [*Gymnorhinus cyanocephalus*]); however, no special status wildlife species were observed during surveys. The results of the updated wildlife and habitat assessment are provided in Attachment 7 of the application.

The 2021 field survey found that because the amended Project Site Boundary and surrounding areas are scattered with juniper trees, there is moderate potential for raptors to nest in the area. However, juniper trees are typically short in stature and do not provide much cover for birds so the likelihood of eagles nesting in these trees is lower than other raptors. One large inactive stick nest—likely that of a red-tailed hawk (*Buteo jamaicensis*)—was observed in a tall tree near the original southern boundary of the generation facility during the September 2016 field investigation. The applicant stated that based on ongoing nest monitoring data collected by the Oregon Eagle Foundation and on a review of available literature and databases, including data from the Oregon Biodiversity Information Center, golden eagles (*Aquila chrysaetos*) are known to nest on Powell Butte over 2 miles from the Project site. However, USFWS data confirm there are no known nesting sites within the amended Project Site Boundary, nor is there suitable nesting substrate for eagles (i.e., cliffs or very large trees) in the proposed Project Site Boundary. The Applicant's environmental consultant did not observe golden eagles during a site reconnaissance in September 2016 or during the April 2021 field survey. The USFWS provides recommended disturbance buffer distances for most raptor species as a measure to implement during

construction to avoid or minimize impacts on raptors. The nearest golden eagle nesting site is beyond the USFWS-recommended 0.5-mile disturbance buffer recommended for active golden eagle nests. Because there are currently no nests known in the immediate vicinity of the Project, take (under the federal Bald and Golden Eagle Protection Act) and disturbance to nesting golden eagles is not expected. Foraging habitat exists in the Site Boundary. While loss of foraging habitat is a potential effect to golden eagles, this potential effect is minimized by the relative size of the Project area compared with the amount of suitable foraging habitat within the surrounding area.

As previously approved in CUP No. 217-16-000373-PLNG, the Applicant plans to conduct vegetation clearing in the proposed Project Site Boundary in the winter, outside of the general bird breeding season of this region (approximately April 1 to August 31), to reduce potential conflicts with active nests during construction. If vegetation clearing during the nesting season is unavoidable, then the Applicant will conduct pre-construction surveys for active raptor and other migratory bird nests in 7 to 10 days prior to construction ground disturbance. The Applicant, in consultation with ODFW, has developed the 2022 Mitigation Plan (see Attachment 8) which builds on the 2016 Mitigation Plan. Attachment 8 describes impact avoidance and minimization measures for wildlife and habitat during the Project's design, siting, and construction for special status or protected wildlife—including raptors and other migratory birds—as well as additional mitigation options for unavoidable impacts on big game habitats that occur in the proposed Project Site Boundary. For the above reasons, the Project as amended will continue to meet this criterion.

(vii) The provisions of subsection (3)(h)(vi) of this section are repealed on January 1, 2022.

FINDING: The criterion does not apply, the applicant has demonstrated compliance with subsection (3)(h)(vi).

(i) 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 farming or forest practices as defined in ORS 30.930(2) and (4).

FINDING: A condition of approval has been included requiring that prior to any site clearing or grading, the applicant shall sign and record in the deed records for Crook County a document binding the Project owner and the Project owner's successors in interest, prohibiting them from pursuing a claim for relief or cause of action alleging injury from farming practices as defined in ORS 30.930(2). The Applicant shall submit this agreement to County Counsel for review prior to filing it with the Crook County Clerk.

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

FINDING: Per the Amended Retirement and Site Restoration Plan (see Attachment 2), the Applicant has the ability and financial resources to restore the proposed Project site to its useful, former condition. Decommissioning financial securities are addressed in Chapter 18.161 of this report and are addressed in the conditions of approval.

(k) Standards for solar photovoltaic generating facilities found in CCC 18.161.010 shall also apply. (Ord. 309 § 2 (Exh. C), 2019)

FINDING: CCC 18.161.010 is addressed further on in this report where the use is found to comply.

18.16.075. Development Standards

All dwellings and structures approved pursuant Table 1 shall be sited in accordance with this section.

(1) Lot Size Standards. Lot size shall be consistent with the requirements of CCC 18.16.070.

FINDING: No land divisions are proposed through the request, the criteria does not apply.

(2) In an EFU zone, the minimum setback of a residence or habitable structure shall be 100 feet from a property line. If a parcel in the EFU zone is nonbuildable as a result of the habitable structure setback requirements, the commission may consider a conditional use application from the land owner to adjust the setback requirements to make the parcel buildable.

FINDING: No residences or other habitable structures are proposed. The criteria does not apply.

(3) The minimum setbacks for all accessory structures are:

(a) Front yard setback shall be 20 feet for property fronting on a local minor collector or marginal access street, 30 feet from a property line fronting on a major collector ROW, and 80 feet from an arterial ROW unless other provisions for combining accesses are provided and approved by the county.

(b) Each side yard shall be a minimum of 20 feet, except corner lots where the side yard on the street side shall be a minimum of 30 feet.

(c) Rear yards shall be a minimum of 25 feet. (Ord. 309 § 2 (Exh. C), 2019)

FINDING: The proposed Project is located a minimum of 0.4 miles from SW Millican Road (nearest Major Collector Road) and 0.09 miles from the unnamed local access road that branches west off of SW Millican Road directly north of the Gala Solar Facility. No local minor collector streets, marginal access streets, or arterial roads are located in the vicinity of the proposed Project. The O&M building, collector substation, and optional BESS are subject to the above setback standards. As evidenced by the site plan submitted, the proposed structures will comply with the setback standards. The request complies.

Chapter 18.160 Conditional Uses

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.

FINDING: The proposed modification 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: *"Prineville and Crook County receive about 300 days of sunshine per year. Solar energy will be a very feasible source of energy."*

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

The Applicant's response to CCC 18.16.020(3)(a) demonstrates that solar energy generation resulting from the proposed Project is an internationally recognized clean, renewable source of energy and considered non-polluting. Development of the proposed Project will increase economic diversity within the County, which lends itself to a more stable and resilient economy. The proposed Project site is ideal for siting a renewable solar generation facility, is uniquely positioned to take advantage of existing transmission infrastructure and shared facilities at the Gala Solar Facility, and will contribute to the design, siting and construction of renewable energy in Crook County.

The County has also adopted specific standards in the Crook County Code for commercial photovoltaic energy systems. These standards are implemented through CCC 18.16, 18.160, and 18.161. Furthermore, the Crook County Code requires that an applicant evaluate potential adverse impacts on accepted farming practices, natural environments, and built environments and to avoid, minimize, and mitigate impacts to the extent necessary. The Applicant demonstrates that the proposed Project will comply with applicable criteria and standards and, in doing so, further promote the development of renewable energy in the County. This evidence demonstrates consistently with the applicable policies of the Crook County Comprehensive Plan and the applicable standards and regulations under the Crook County Code that are addressed throughout this CUP amendment application. The request complies.

(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.

FINDING: The proposed Project will not have adverse impacts on the livability, value, and appropriate development of abutting properties and the surrounding area when compared to other types of development permitted outright in the underlying Exclusive Farm Use Zone. As previously evaluated and approved in CUP No. 217-16-000373-PLNG, and for purposes of demonstrating compliance with this

criterion, the Applicant considers abutting and surrounding properties to be those that are located adjacent to the proposed Project Site Boundary. Consistent with the Applicant's responses to CCC 18.16.020(1), (2), and (3), the existing uses on abutting properties within the surrounding area include vacant and undeveloped land used for seasonal cattle grazing operations to the north, south, and west of the proposed Project Site boundary. Existing uses abutting to the east of the proposed Project Site boundary include the existing PacifiCorp transmission line corridor, the previously approved and operating Gala Solar Facility, undeveloped BLM property, and a vacant parcel owned by Raasch Family Trust. Uses permitted outright under CCC 18.16.010 in the County's EFU-3 (Powell Butte Area) zoning district may include farm uses, propagation or harvesting of a forest product, composting limited to accepted farm practices on the subject tract, and facilities for the processing of farm products.

Livability: To assess the livability of abutting properties and the surrounding area, the Applicant considered nuisance-related issues such as aesthetics, noise, and air emissions. As described above, the proposed Project will be designed to blend with the surrounding landscape to the greatest extent feasible. The O&M building will be painted a neutral color consistent with the background viewshed. The proposed Project will be well screened by existing vegetation (primarily mature and intermediate juniper trees, 15 to 35 feet tall) as well as the currently operational Gala Solar Facility. Although the proposed Project components will modify the existing landscape, they will be similar in nature to existing modifications (e.g., Gala Solar Facility, transmission lines) and will be setback from SW Millican Road between 0.2 and 0.5 mile to reduce contrast with the remote character of the area. Aside from the short-term noise generated during construction, due to the inherently quiet nature of the proposed Project, minimal noise will be generated during operation. The Applicant's contractor will implement measures during construction to reduce the potential for impacts to surrounding adjacent lands due to fugitive dust, including using water trucks to spray exposed soil down during dry and windy conditions, and leaving as much of the grass and other groundcover vegetation intact during construction as possible. Consistent with Condition 13 of CUP No. 217-16-000373-PLNG, the Applicant will also submit a final erosion control plan to the County prior to the start of construction. It is reasonable to assume that other farm uses permitted outright (e.g., cultivation, processing, and composting) could have greater visual, noise, and air emissions impacts than those addressed throughout this CUP amendment application. Due to the clean energy nature of the proposed Project, no air emissions or hazardous waste will be generated as a result of its operation. Thus, the proposed Project will have a minimal adverse impact on the livability of abutting properties and the surrounding area.

Value: The proposed Project directly abuts land zoned EFU-3 (Powell Butte Area). As discussed in CCC 18.16.020(1) and (2), the proposed Project will not significantly increase the cost of accepted farm practices on surrounding lands devoted to farm use. Thus, the proposed Project will have no adverse impact on the value of abutting properties and the surrounding area in comparison to other types of development permitted outright in the EFU-3 (Powell Butte Area) zoning designation. Furthermore, landowners within the proposed Project Site Boundary support the amended Project as demonstrated in written letters of support. See Attachment 10 (Landowner Letters of Support) in the application submitted.

Appropriate Development: There is one residence located within 1 mile of the Project site, a ranch that is 0.8 miles northeast of the proposed switch on the Gala Solar gen-tie. The next closest residences are 2.8 miles northeast, 2.9 miles west, and 4.5 miles south of the Project as amended. Given the remoteness of the Project and the sparse residential density, the potential adverse impacts on livability (e.g., potential impacts from traffic, air pollution, noise pollution, etc.) would be minimal. As described in the original CUP, traffic will be heavier on SW Millican Road during construction. Within the previous

Traffic Assessment Letter (Attachment 4 of the application), the Applicant demonstrated there are no anticipated long-term adverse traffic impacts associated with the proposed Project's construction or operation. For example, traffic trips associated with the proposed Project's two to four full-time personnel will remain far lower than the County's threshold for conducting a formal traffic study which is required at 250 or more daily trips or 25 or more weekday p.m. peak hour trips. Construction trip estimates in the previous Traffic Assessment Letter (i.e., 20 to 30 truck trips per day for material transport and 300 to 500 passenger car trips per day for commuting laborers) also remain consistent for the anticipated average construction workforce (250 temporary construction laborers). While the temporary construction period is extended from 9 months, as previously anticipated, to 12 months for the expanded Project, the construction schedule is condensed to the extent feasible to minimize the duration of potential impacts from construction. The Applicant also demonstrates in response to CCC 18.16.020(3)(d) that the proposed Project will operate within the capacity of existing public services in the County.

For these reasons, the County may find that the Project as amended would have minimal adverse impacts on the livability, value, and appropriate development of surrounding properties. The request complies.

(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.

FINDING: The amended Project site abuts the existing BPA and PacifiCorp transmission line corridor and is within about 500 feet of the existing Gala Solar Facility. While the proposed Project Site Boundary is undeveloped and remote, the setting does not warrant special consideration of the proposed Project's attractiveness. Nonetheless, the proposed Project is designed to minimize the development footprint. The majority of the proposed Project consists of the solar array, which will not exceed 12 feet in height when fully tilted. Other proposed Project components, except the upgraded 115-kV gen-tie line, will be one story or less in height. Furthermore, the proposed Project will be largely screened by mature juniper trees (up to 35 feet tall) or the existing Gala Solar Facility and will be setback from SW Millican Road between 0.2 and 0.5 mile. The request complies.

(4) The proposal will preserve assets of particular interest to the county.

The Project will further the County's interest in renewable energy development, is not sited on commercial agricultural land, and will not have adverse impacts on other County interests. In addition, the proposed Project will be located directly west of the existing BPA and PacifiCorp transmission line corridor and operating Gala Solar Facility. Siting energy development on marginally used rangeland and vacant land, in close proximity to existing substations and other electrical infrastructure, preserves higher resource lands for other uses. Therefore, this criterion is met.

(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.

FINDING: The Applicant confirms that it has a bona fide intent and ability to develop the Project, as proposed, for the purpose of providing renewable energy into the marketplace. The Applicant is wholly owned by Avangrid Renewables, LLC (Avangrid) and enjoys the financial backing of an international

corporate parent, Iberdrola, S.A., which the Applicant states is the world's number one producer of wind power, Spain's number one energy group and the fourth largest utility company in the world by market capitalization, employing 40,000 people in mainly five geographical areas: Spain, United Kingdom, United States, Mexico, and Brazil.

According to the Applicant, Avangrid, headquartered in Portland, Oregon, owns and operates more than 6,000 MW of utility scale renewable energy production. Avangrid has successfully operated renewable energy projects in Oregon since 2001, and now owns more than 1,483 MW of utility-scale wind and solar generation in the state. With respect to operation of solar facilities, Avangrid currently operates 126 MW of solar generation facilities, including the largest operating solar project in Oregon (the Gala Solar Facility). In 2021, Avangrid is constructing an addition 365 MW of new solar projects in Oregon. With respect to battery storage systems as proposed for the amended Project, Avangrid is currently in the permitting phase for four battery storage projects in the United States; in addition, Avangrid's approved 303-MW Bakeoven Solar Project in Wasco County includes a planned 100-MW BESS. Avangrid's experience as an independent Balancing Authority in the northwest and as a North American Electric Reliability Corporation compliance operator demonstrates that it has the expertise to operate a BESS at the proposed Project. The Applicant has experience in the design, construction, and operation of wind energy facilities, solar energy facilities, co-generation facilities, substations, and low- and high-voltage electrical lines. Based on its financial backing and long history of involvement in the renewable energy industry in the U.S., the Applicant has demonstrated that they have sufficient expertise and capitalization to ensure its ability to develop, construct, and operate the Project. The request complies.

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. These conditions may include the following:

(1) Limiting the manner in which the use is conducted including restricting the time an activity may take place and restraints to minimize such environmental effects as noise, vibration, air pollution, glare and odor.

FINDING: The Applicant shall continue to follow the conditions set for the previously approved CUP No. 217-16-000373-PLNG. The Applicant has designed the proposed Project to minimize the development footprint and impacts on existing habitat to the greatest extent feasible within the proposed Project Site Boundary. The Applicant seeks to begin construction activities in December 2023, thereby reducing impacts on nesting migratory birds by conducting vegetation clearing prior to the onset of the general bird breeding season for the region (approximately April 1–August 31). The timeline limits the duration of any temporary environmental effects caused by construction activities. During construction, the Applicant will implement dust control measures using standard industry practices. Additionally, a Basic Air Contaminant Discharge Permit would also be pursued by the Applicant's contractor to prevent and mitigate any air pollution impacts if temporary aggregate and concrete production is conducted onsite for construction. Any noise associated with construction would be limited in duration and would typically only occur during daylight hours. During operations, the Project would create little to no noise, and any potential glare from the panels would be screened by trees from the closest public road or

residences. The closest residence is 1 mile northeast of the proposed solar array, and the panels would face south. Any potential glare or reflection would not affect this resident or the other nearest residents (from solar array: approximately 2.8 miles northeast, 2.9 miles west, and 4.5 miles south). No substantial vibration or unusual odors are expected from construction and operation of the proposed Project. The Applicant will adhere to all conditions set by the County for the Project as amended. The request complies.

(2) Establishing a special yard or other open space or lot area or dimension.

FINDING: No special setback is required for the Project as amended.

(3) Limiting the height, size or location of a building or other structure.

FINDING: Both the relocated O&M building and the Project collector substation will be limited to one story in height. The solar modules themselves will not exceed a total height of 12 feet with the tallest possible module configuration. The upgraded 115-kV gen-tie line will be supported by structures that will rise to approximately 80 to 100 feet above grade, similar to the dimensions of the existing parallel PacifiCorp transmission lines. No additional conditions are required for compliance.

(4) Designating the size, number, location, and nature of vehicle access points.

FINDING: The amended Project will include a new 0.7-mile Project access road that will connect the relocated Project collector substation area to the existing Gala Solar collector substation (Figure 2b of the application). New Project service roads within the Project Site Boundary will be up to 16-foot-wide with an internal turning radius sufficiently sized for emergency vehicle access. Chain-link perimeter fencing, 8 feet in height, will enclose the solar array. The fence will not be topped with barbed or razor wire to avoid injury to big game. The perimeter fencing will include up to six, 20-foot-wide vehicle and pedestrian access gates. No additional conditions are required for compliance.

(5) Increasing the amount of street dedication, roadway width or improvements within the street right-of-way.

FINDING: No new street dedication is needed in public road right-of-way to accommodate the proposed Project. The road approaches to SW Millican Road from the primary, secondary, and tertiary access routes are wide enough to accommodate the proposed Project. No additional conditions are required for compliance.

(6) Designating the size, location, screening, drainage, surfacing or other improvement of a parking area or loading area.

FINDING: The previously approved Project included a 1.33-acre laydown area to be constructed within the Project fence line that would also be the location of the O&M building. While the original laydown area remains within the Project Site Boundary and could be used, the proposed Project includes a new 7-acre temporary staging area adjacent to the relocated 3-acre area for the Project collector substation, O&M building, and optional BESS (Figure 2b of the application). The O&M building will also have adjacent gravel parking to accommodate staff and visitors to the proposed Project. No additional conditions are required for compliance.

(7) Limiting or otherwise designating the number, size, location, height, and lighting of signs.

FINDING: As previously approved in CUP No. 217-16-000373-PLNG, a small sign will be placed at the entrance to the Project site from SW Millican Road to identify the proposed Project's location and meet any requirement specified in the Amended Emergency Management Plan, provided in Attachment 5. Additionally, the Applicant states that the Project related signs will adhere to the standards set forth in CCC 18.124. No additional conditions are required for compliance.

(8) Limiting the location and intensity of outdoor lighting and requiring its shielding.

FINDING: Limited lighting is needed for Project security and occasional after-hours work and maintenance. The Applicant stated that they will implement down-shield lighting at the Project collector substation, O&M building, and optional BESS as needed. Outdoor lighting will be sited, limited in intensity, shielded, and hooded in a manner that prevents the lighting from projecting onto adjacent properties and roadways.

(9) Requiring diking, screening, landscaping, or another facility to protect adjacent or nearby property and designating standards for its installation and maintenance.

FINDING: The proposed Project would be setback from SW Millican Road and the existing Gala Solar Facility and screened by mature juniper trees (up to 35 feet tall). No landscape screening is proposed.

(10) Designating the size, height, location, and materials for a fence.

FINDING: As previously approved in CUP No. 217-16-000373-PLNG, the proposed Project will be fenced with chain link cyclone fencing no less than 8 feet in height, and without barbed wire on top, consistent with ODFW recommendations for the exclusion of big game animals. Fencing is also required for security, but the design criteria for both wildlife and security/safety objectives are compatible. The location of the proposed fence line as amended is illustrated on Figure 2b of the application. No additional conditions are required for compliance.

(11) Protecting and preserving existing trees, vegetation, water resources, wildlife habitat or other significant natural resources.

FINDING: The Applicant states that they will continue to minimize impacts on surrounding habitat and ecosystem functions (e.g., water conveyances, wildlife movement corridors) to the extent practical. Existing natural resources and ecosystem functions that do not require alteration or removal would be avoided. Areas with temporary Project impacts will be restored and revegetated using industry accepted BMPs (e.g., use of native seed mixes, control of noxious weeds). Avoidance and minimization measures have been developed in coordination with ODFW and Crook County, and are described in the Project's 2022 Mitigation Plan (see Attachment 8 of the application) and Amended Noxious Weed Control Plan (see Attachment 11 of the application). No additional conditions are required for compliance.

(12) Other conditions necessary to permit the development of the county in conformity with the intent and purpose of this title and the policies of the comprehensive plan.

FINDING: Unless the commission deems it necessary, no additional conditions are identified to ensure the proposal meets the requirements of the Crook County Code, or Comprehensive Plan. The request

complies.

18.160.050 Standards governing conditional uses

(19) 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.

FINDING: Compliance with 18.160.020 & 18.160.030 is demonstrated in previous findings. The use is also being reviewed subject to the criterion in 18.161 where the proposal was found to comply.

Chapter 18.161 Commercial Power Generating Facilities

18.161.010 Criteria.

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

(2) Commercial Photovoltaic Energy Systems.

(a) In addition to the requirements of this chapter, Commercial Photovoltaic Energy Systems in EFU zones are subject to OAR 660-033-0120 & 0130.

FINDING: The proposed energy facility meets or exceeds the requirements of OAR 660-033-0120 and 660-033-0130. Chapter 18.161 of the Crook County Code adopted the state model code for commercial energy facilities and mirrors the criterion in the applicable OARs. Compliance with the OARs and the Crook County Code is demonstrated in the findings throughout this report.

(b) 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:

FINDING: A description of the property location, site characteristics, and proposed Project components is included above in Sections 2.0 and 3.0 of the application submitted. Figures 2a (Preliminary Project Site Plan) and 2b (Preliminary Project Site Plan [Solar Development Area]) illustrate the locations of various Project components. The tentative construction schedule is described in Section 2.5 of the application. The request complies.

A) Evidence of an active utility transmission interconnect request and/or process and description of same;

FINDING: The Applicant has rights for a new generator interconnection request that was made on March 18, 2016 for Queue Position #0734. PacifiCorp has completed a Feasibility, and System Impact

Study, and the Facility Study is in process. The Applicant has included a Large Generator Interconnection Agreement from PacifiCorp as Attachment 12 of the CUP amendment application. The request complies.

(B) A route and permitting plan for transmission lines connecting the project to the grid.

FINDING: The proposed Project will upgrade and relocate the previously approved overhead 34.5- kV collector line to a 115-kV gen-tie line along the eastern edge of the proposed Project Site Boundary. The relocated route parallels an existing transmission line corridor and runs from the Project collector substation north to a switch on the existing Gala Solar 115-kV gen-tie line where it will interconnect with PacifiCorp's transmission system (Figures 2a and 2b of the application). Proposed temporary and permanent Project impacts are detailed in Table 2 in Section 2.4 of the application. While the proposed 115-kV gen-tie line is anticipated to be constructed instead of the previously approved 34.5-kV overhead collector line leading from the solar array to the previously permitted collector substation location, the Applicant requests the flexibility to retain previously permitted Project components in the amended CUP approval. The gen-tie and collector lines are included within the definition of a photovoltaic solar power generation facility under OAR 660-033-0130(38)(e) and are included within the CUP amendment application for County review and approval. In addition, both the upgraded 115-kV gen-tie line and existing Gala Solar 115-kV gen-tie line meet the County's definition of an associated transmission line under CCC 18.08.010 and are reviewed in accordance with the EFU-3 (Powell Butte Area) zone. As addressed previously, the upgraded 115-kV gen-tie line and existing Gala Solar 115-kV gen-tie line meet one or more of the requirements of subsection CCC 18.16.015(15)(b)(i), specifically (A) and (C), and are necessary for public service. The request complies.

(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;

FINDING: Findings under CCC 18.16.020 of this report address any potential conflicts with accepted adjacent farming practices. Other surrounding lands have limited seasonal grazing that will have limited, if any impacts associated with the solar facility. Those previous findings can be relied upon in determining compliance with the above criteria. The request complies.

(B) Other resource operations and practices on adjacent lands including photovoltaic energy system facilities on such adjacent lands

FINDING: There are no forest or mineral resource operations or practices on lands adjacent to the Project Site Boundary. The operating Gala Solar Facility is adjacent to the proposed Project, and as described in Table 1 and Section 2 of the application, the Project would share some existing facilities, including the primary access road. The Gala Solar Facility is in common ownership with the proposed Project, and there are no potential conflicts. The request complies.

(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: As described in the original CUP, traffic will be heavier on SW Millican Road during Project construction. The previous Traffic Assessment Letter demonstrates there are no anticipated long-term adverse traffic impacts associated with the proposed Project's construction or operation. For example, traffic trips associated with the proposed Project's two to four full-time personnel will remain far lower than the County's threshold for conducting a formal traffic study which is required at 250 or more daily trips or 25 or more weekday p.m. peak hour trips. Construction trip estimates in the previous Traffic Assessment Letter (i.e., 20 to 30 truck trips per day for material transport and 300 to 500 passenger car trips per day for commuting laborers) also remain consistent for the anticipated average construction workforce (250 temporary construction laborers). While the temporary construction period is extended from 9 months, as previously anticipated, to 12 months for the expanded Project, the construction schedule is condensed to the extent feasible to minimize the duration of potential impacts from construction. No recommendations for mitigation were proposed within the traffic assessment letter. The request complies.

(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 proposed Project Site Boundary intersects areas designated by Crook County and ODFW as big game critical winter range habitat for pronghorn antelope and mule deer, which are inventoried resources identified in the Crook County Comprehensive Plan and mapped by ODFW. The Applicant has coordinated with ODFW to develop the 2022 Mitigation Plan that describes the potential impacts on inventoried and other special status wildlife species and their habitats. This plan provides measures designed to avoid or minimize these potential impacts, as well as mitigation approaches to offset habitat impacts that cannot be avoided consistent with ODFW's Habitat Mitigation Policy. The Applicant states that they will continue to coordinate with ODFW to select and implement one of the mitigation options identified in Attachment 8 of the application. The mitigation options identified include addressing wildlife impacts and implementing a monitoring plan. The Applicant has committed to ongoing coordination with ODFW and the County to implement necessary Project mitigation and requests that the technical advisory committee requirement be waived or discontinued by the County Planning Commission. Prior to Project construction and consistent with Condition 9 of CUP No. 217-16-000373-PLNG, the Applicant will provide Crook County with financial and legal assurances documenting that one of the compensatory mitigation options described in the 2022 Mitigation Plan have been implemented. Therefore, this criterion is met.

(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: The proposed Project Site Boundary continues to be within the Powell Butte Risk Assessment Area and within the jurisdiction of the Crook County Fire & Rescue Department. The Crook County Fire & Rescue Department responds to structural and natural vegetation fires in Crook County Rural Fire Protection District No. 1. The Applicant previously coordinated with the Crook County Fire & Rescue and the Crook County Sheriff's Department to develop an Emergency Management Plan to describe Project-specific response procedures to fires and other emergencies for all phases of the facility. The Applicant has developed an Amended Emergency Management Plan to address major concerns, including dry conditions and access routes to and from the Project. Both of these County agencies will be provided with the Amended Emergency Management Plan for review. To ensure compliance, the applicant shall coordinate with Crook County Fire & Rescue, and the Crook County Sheriffs Office to address the amendments to the Emergency Management Plan. Prior to any development, the applicant shall provide written approval from both agencies to the Crook County Community Development Department. With that condition, the request complies.

(vi) An erosion control plan, developed in consultation with the Crook County Soil and Water Conservation District, the Crook County Watershed Council. 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: As a condition of the amended CUP approval, upon completion of the civil engineering for the proposed Project's final site plan, the Applicant will prepare a draft Erosion Control Plan and share it with the County's Soil and Water Conservation District and the Crook County Watershed Council for review. The plan shall describe Best Management Practices to avoid, control, and repair erosion-related impacts, including, but not limited to, installation and maintenance of temporary or permanent erosion control devices and use of appropriate seed mixes to restore soil disturbances. The plan shall also include schedules of activities, prohibitions of practices, physical or managerial practices to prevent or reduce the pollution of waters of the state, a seed mix list for seeding all road cuts or related bare road areas and other bare areas as a direct result of construction, and an erosion monitoring schedule for post-construction operation. Once the plan has been reviewed by the County, the Applicant shall submit it to the Oregon Department of Environmental Quality (DEQ) and shall comply with any DEQ-required stormwater permitting requirements, which may include obtaining a National Pollutant Discharge Elimination System 1200-C permit. The Applicant will notify DEQ of the pending Project and possible consultation. Consistent with Condition 13 of CUP No. 217-16-000373-PLNG, the Applicant will also submit a final Erosion Control Plan to the County prior to the start of construction. With that condition, the request complies.

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

FINDING: The Applicant has updated the previously approved Noxious Weed Control Plan consistent with the amended Project and based on the April 2021 habitat assessment. The Applicant has also updated the plan to incorporate the current Crook County list of identified noxious weeds. The Amended Noxious Weed Control Plan is provided as Attachment 11 of the application. The Crook County Weedmaster has stated the following in the past: “Several years ago, I worked closely with the solar folks to help them produce a weed plan that would be acceptable to us. Since then, and a few solar farms later, the weed plans submitted all look similar. I believe that the first plan served as a cookie cutter for future documents. The plagiarism does not bother me in the least and the documents are more than ample.” Based on the plan submitted, and concurrence from the Weedmaster on the plans utilized, the request complies.

(viii) Information pertaining to the impacts of the Photovoltaic Energy System on:

(A) Wetlands and Streams;

FINDING: The Applicant’s environmental consultant conducted field investigations for wetlands and streams on the Project property in September 2016, which confirmed the presence of six ephemeral channels on the Project site. Based on these investigations, and on a review of available data (e.g., aerial imagery, National Hydrography Dataset, and National Wetland Inventory), these channels lack connectivity to any downstream relatively permanent waters (including the Crooked River). The Wetland and Waters Technical Memorandum concluded that due to the ephemeral nature of the channels and the lack of connectivity to any downstream relatively permanent waters, these features are not jurisdictional under Oregon or federal law. The Applicant conducted an updated wetland and waters survey for the area within the proposed Project Site Boundary in the spring of 2021. The results of which are detailed in Attachment 13 (Wetland Delineation Report) of the application submitted. Results of the 2021 survey confirmed that only ephemeral streams are present within the proposed Project Site Boundary, now 13 total. No jurisdictional wetlands are located within the proposed Project Site Boundary. The Applicant submitted this report to DSL for concurrence on October 11, 2021. On May 2, 2022, staff received correspondence from DSL who provided an approved wetland delineation for the project. The request complies.

(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; and

FINDING: The Applicant’s response in Section 4.1 of the application, and staff’s findings for CCC 18.16.060(3)(h)(v) and (vi) address the proposed Project’s impacts on wildlife and wildlife habitat. The Wildlife and Habitat Assessment Report was provided as Attachment 7 of the application, and the Project’s Wildlife Impact and Mitigation Plan – 2022 Addendum (2022 Mitigation Plan) was provided as Attachment 8 of the application. The 2022 Mitigation Plan provides measures designed to help avoid or minimize impacts on wildlife and their habitat, and also describes additional mitigation to offset impacts that are unavoidable. Based on compliance with previous criteria, the request complies.

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

FINDING: The Applicant has developed an Amended Emergency Management Plan, consistent with the measures proposed in the original CUP application. The plan continues to address issues such as theft and vandalism and describes the Project's design features that would help avoid or reduce these risks. Access to Project facilities would be gated and locked, and the solar array, Project collector substation, O&M building, and optional BESS would be enclosed by perimeter security fencing that will meet anti-trespass standards as set forth by National Electric Code guidance (design of fencing will incorporate a balance of wildlife safe design along with safety and security). As the Amended Emergency Management Plan describes, public view of the facility from nearest public right-of-way (SW Millican Rd) would be blocked by 0.2 to 0.9 miles of land (depending on one's location on the road). Reaching the Project requires traveling at least 1.3 miles on unpaved road using the primary access route, approximately 1 mile using a narrower, secondary access route, or approximately 0.5 mile using the tertiary access route. Each of these routes will be gated. Motion detection lighting installed at these facilities would further deter trespassers. See Attachment 5 (Amended Emergency Management Plan) of the application. The request complies.

(ix) A dismantling and decommissioning plan of all components of the Photovoltaic Energy System, as provided in 18.161.010(2)(e) of this section.

FINDING: The Applicant has prepared an Amended Retirement and Site Restoration Plan that describes the proposed dismantling and decommissioning methods and costs. See Attachment 2 (Amended Retirement and Site Restoration Plan) of the application. Decommissioning is also discussed in more detail in this report within the findings for CCC 18.161.010(2)(c)(xv-xvi). The request complies.

(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 applicant included a socioeconomic impact assessment with their application addressing the above criterion. With regard to the project's effects on affected communities and/or individuals, they address the following in their application:

Social: The Applicant anticipates that construction of the Project would create an average of 250 temporary construction jobs for a period of up to 12 months. The Applicant will follow new House Bill (HB) 2021 labor standards passed by the Oregon Legislature in 2021. HB 2021 establishes Responsible Labor Standards requirements for developers, contractors, and subcontractors of large-scale energy projects of 10 MW or greater in Oregon (ODOE 2022). The Applicant will complete the attestation to implement the labor standards of HB 2021, or enter into a Project Labor Agreement. The Applicant will hire local experienced contractors/workers as possible and commercially feasible during the construction phase of the Project and would obtain necessary goods and services from local businesses

within the County whenever reasonably possible. Operation of the Project should create two to four full-time permanent maintenance positions for local residents.

Economic: Development of the proposed Project would increase economic diversity within the County, which lends itself to a more stable and resilient economy. The Project is expected to result in substantial annual tax revenue for the County. The land would be taxed at a higher assessed value than it currently is taxed. The Project as originally approved was estimated to generate over \$12 million dollars in property tax payments to the County over the life of the Project. With additional tax lots included in the proposed Project, this value is likely to be higher. A larger tax base benefits the community by providing more funding for services such as public safety and education. In addition to other benefits, job creation has a multiplier effect within the local community, increasing business for local restaurants, hotels, and retail establishments. Workers employed in service of the construction of the Project would spend portions of their salaries in local communities, creating “induced” economic benefits at various local area businesses, especially retail, lodging, and food and entertainment establishments. According to Economic Development for Central Oregon (EDCO), demand for renewable energy is increasing, and efforts are underway at the state and regional levels to increase capacity. EDCO has written a letter of support for the Project as amended. See Attachment 6 (EDCO Letter of Support) of the application.

Public Service: Allowing the Project to be developed is consistent with the purposes of the EFU-3 (Powell Butte Area) zoning district, which allows for the development of commercial utility facilities as a conditional use. The Project would not interfere with the overall agricultural productivity of the region. The Project would have no substantial impacts on local or regional public services. Other than reducing potential hunting opportunities by the landowner, recreational aspects of the community would not be affected. The additional revenues received by the landowner from the project lease and easement payments would provide a steady source of income that would supplement revenues and help ensure that lessor-landowner operations would remain viable.

Cultural: The Applicant has conducted a first phase of desktop and field investigations to evaluate the Project’s potential to impact significant historical or cultural resources and a second phase is planned prior to construction (see Attachment 14, Cultural Resources Survey Report [Confidential – Provided under Separate Cover]). If significant resources are discovered and unavoidable, then the Applicant will consult with State Historical Preservation Office regarding suitable mitigation.

Visual: The location and design of the site and structures for the proposed use will not significantly detract from the visual character of the area and are consistent generally with the surrounding and otherwise permitted use on adjoining and surrounding lands. The proposed use is comparable to current permitted uses in the immediate property vicinity, such as the adjacent Gala solar facility. Because the proposed facility is located to the west of the existing Gala solar facility it will be shielded from view from SW George Millican Road, which is located approximately one mile away to the east.

Recreation: The Project has been sited to avoid recreational resources. There are no recreational facilities or public use trails on the proposed project site. Furthermore, as stated above, the solar facility is located to the west of the existing Gala solar facility so it will be shielded from view from SW George Millican Road. The Project will therefore not negatively impact recreational aspects of the area.

(c) 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 one hundred 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 one hundred 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: No facilities will be located within 100 feet of any property zoned for residential use. The nearest residence is located approximately 4,400 feet northeast from the proposed switch on the existing 115-kV Gala Solar gen-tie line at the northeastern edge of the Project Site Boundary. The request complies.

(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.

FINDING: To the extent practicable, the Applicant has designed the proposed Project to preserve existing trees and vegetation along the perimeter of the Project site and to avoid or minimize impacts on streams and other sensitive natural resources within the Project Site Boundary. As discussed above in Section 4.2 of the application in the response for CCC 18.160.030(11), permanent and temporary impacts will be minimized and mitigated in accordance with the Project's 2022 Mitigation Plan and Amended Noxious Weed Control Plan, developed in coordination with ODFW and Crook County. See Attachment 8 (2022 Mitigation Plan) of the application, and Attachment 11 (Amended Noxious Weed Control Plan) of the application. The request complies.

(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.

FINDING: As previously approved in CUP No. 217-16-000373-PLNG, the proposed Project Site Boundary will be cleared and graded to a level sufficient to support the final design of the Project array. The general contours of the Project site would be maintained to the extent possible to meet construction standards for the specific technology and final design. The Project site would maintain the general grade from west-northwest to east-southeast. The Project site's natural grade is optimal for solar production and reduces the need for intense grading. Ground leveling would generally be limited to the areas needed for the O&M building, Project collector substation, optional BESS, and internal service roads. Posts are anticipated to be drilled to minimize grading within the Project Site Boundary. The request complies.

(iv) Wildlife Resources: The proposed photovoltaic energy system shall be designed to reduce the likelihood of significant adverse effects on wildlife and wildlife habitat. Measures to reduce significant impact may include, but are not limited to, the

following:

(A) Designing foundations and support structures for solar equipment to avoid creation of artificial habitat or shelter for raptor prey.

FINDING: The Applicant stated that as previously approved in CUP No. 217-16-000373-PLNG, the solar panels will be mounted on a fixed-tilt or single-axis racking system that will be supported by driven piles or a system of pre-cast concrete ballasts. Panels will be mechanically fastened to an aluminum table or legs that are elevated above the ground and tilted at an angle to face south. The foundation system and vegetation under the panel tables will be maintained to reduce or eliminate habitat or shelter of raptor prey. Therefore, this criterion is met.

(B) Controlling weeds to avoid the creation of artificial habitat suitable for raptor prey

FINDING: The Applicant's Amended Noxious Weed Control Plan is included as Attachment 11 of the application. Also see measures proposed in the 2022 Mitigation Plan (Attachment 8), and discussed under CCC 18.160.030(11) in Section 4.2 of the application. The request complies.

(C) Using anti-perching protection devices on transmission line support structures and appropriate spacing of conductors.

FINDING: According to the Applicant, the upgraded 115-kV gen-tie line and any overhead collector line facilities included in the Project's final design will be built to Avian Power Line Interaction Committee guidelines for conductor spacing and bird-safe design. However, the Applicant will not install anti-perching protection devices on electrical poles. The Avian Power Line Interaction Committee recommends anti-perch devices for retrofitted poles that cannot meet the proper conductor spacing, which is not part of the Project. In this case, the Applicant's upgraded 115-kV line and any overhead collector line will be designed with the proper conductor spacing to discourage and prevent electrocutions and collisions with overhead power lines and support structures. The request complies.

(D) Avoiding construction activities near raptor nesting locations during sensitive breeding periods and using appropriate no construction buffers around known nest sites.

FINDING: As described in Section 4.1 of the application, under CCC 18.16.060(3)(h)(v) and (vi), the Applicant has coordinated with ODFW to develop the 2022 Mitigation Plan that describes impacts avoidance and minimization measures for raptors and other migratory bird species, including disturbance buffers for active nests. See Attachment 8 (2022 Mitigation Plan) of the application. To ensure compliance, a condition of approval is included stating that the applicant shall adhere to the "Bird Avoidance and Mitigation Measures" within Attachment 8 of the application submitted. With that condition, the request complies.

(E) Using suitable methods such as coloration or sound producing devices to discourage birds from entering areas of concentrated solar energy.

FINDING: The proposed Project will use photovoltaic solar technology, not concentrated heat technology. The criteria does not apply.

(F) Fencing as appropriate to limit access by people or wildlife.

FINDING: The majority of the proposed Project—including the solar array, collector substation, O&M building, and optional BESS—would be within the security fencing to limit access by people and wildlife. As described in Section 2.3.12 of the application, fencing will be designed in consultation with ODFW and would be no shorter than 8 feet, and without barbed wire on top, to exclude any big game from entering the Project site. Fencing is also required for security, but the design criteria for both wildlife and security/safety objectives are compatible. The request complies.

(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 paragraph (4).

FINDING: The Project as amended is not subject to Energy Facility Siting Council review. This criterion does not apply.

(vi) Misdirection of Solar Radiation: The proposed solar energy facility shall be designed and be operated to prevent the misdirection of solar radiation onto nearby property, public roads or other areas accessible to the public.

FINDING: The solar array will be located in an area with no adjacent residences or public roads. The nearest public road is SW Millican Road, approximately 0.2 mile to the east at its closest point, and there is both the existing Gala Solar Facility and mature and semi-mature juniper trees (15 to 35 feet tall) separating SW Millican Road from the proposed Project. The nearest residence is located approximately 1 mile northeast of the solar array and would be partially screened from the Project by mature juniper woodland and Gala Solar facility. In addition, the panels would face south, away from this residence. Potential glare or reflection would not affect this resident or the other nearest residents, which are located approximately 2.8 miles northeast, 2.9 miles west, and 4.5 miles south. The request complies.

(vii) 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.

FINDING: The proposed Project site is located on private and state property that is currently fenced and gated at the access roads. There is no public access to the Project property. During construction, new gates and fencing will be installed to prevent the general public from accessing the Project site during construction and operation. The request complies.

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

FINDING: The proposed Project property is not in close proximity to an airport and is outside of any airport control zone. The Prineville Airport, which does not have a designated airport control zone other than runway approach limits, is still approximately 6.5 miles north of the Project site as amended. The Redmond Municipal Airport, which has a 5-mile airport control zone, is approximately 10.5 miles

northwest of the proposed Project site. See Figure 5 (Airport Control Zones Map) of the application. The request complies.

(ix) Cleaning Chemicals and Solvents. During operation of the proposed solar energy project, all 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.

FINDING: The Applicant plans to wash or clean the panels as needed, which is expected to be infrequent (about once per year) due to its location, low annual rainfall, proximity to closest development, and distance to nearest active farming practices. When the panels are washed during operations, no cleaning chemicals or solvents will be used, only water. The request complies.

(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.

FINDING: The proposed Project site as amended is located on private and state property that is currently fenced and gated at the access roads. There is no public access to the Project property. During construction and operation, the Project property will continue to be fenced and gated. The request complies.

(xi) Where practicable the electrical cable collector system shall be installed underground, at a minimum depth of 3 feet; elsewhere the cable collector system shall be installed to prevent adverse impacts on agriculture operations.

FINDING: The above criterion requires the cable collector system to be installed underground at a minimum depth of three feet where practical. The applicant stated that where practical, underground electrical cable collector systems and conduits related to the Project would be buried 3 feet or more below ground surface. As described in Section 2.3.7 of the application, portions of the cable collector system may be constructed overhead where necessary to avoid especially rocky ground conditions or identified environmental avoidance areas, as consistent with industry standards. To ensure compliance a condition of approval is included requiring the cable collector system to be installed underground at a minimum depth of three feet where practicable. The request complies.

(xii) In EFU zones any required permanent maintenance/operations buildings shall be located off-site in one of Crook County's appropriately zoned areas.

(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 photovoltaic energy system consistent with the provisions of subsection (2)(e) of this section.

FINDING: The O&M building is a component of the solar generation facility, as defined by CCC 18.16.060(3)(e) and is allowed in the EFU-3 (Powell Butte Area) zoning district subject to conditional use review. Regardless, the O&M building will be a single-story structure consistent

with similar buildings used by commercial farmers or ranchers. As with other Project components, the O&M building will be decommissioned upon facility retirement. The request complies.

(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 sign the covenant listed above. A condition of approval has been included in this report requiring this document to be submitted to County Counsel for review, and then shall sign and record the document into the deeds records prior to any site clearing and grading. The request complies.

(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 applicant plans to access Millican Road, which is a county road. To ensure compliance, a condition of approval is included in this report requiring the applicant to enter into a road use agreement with the Crook County Roadmaster prior to site clearing or grading, if the Roadmaster deems it necessary. The criterion is met.

(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 (2)(e) of this section.

FINDING: The Applicant has prepared an Amended Retirement and Site Restoration Plan that addresses requirements set forth in CCC 18.161.010(2)(e). See Attachment 2 (Amended Retirement and Site Restoration Plan) of the application. The plan describes the decommissioning process as well as a schedule of estimated costs for decommissioning. The proposed plan incorporates the cost of scrap value, and excludes that value from the total cost of decommissioning. Staff notes that Crook County has not recognized the salvage value of materials in establishing the required amount of decommissioning bonds for other commercial solar projects permitted in the county. A condition of approval is included stating that the salvage value of materials shall not be incorporated into the final cost to decommission the facility. Prior to any development, the applicant shall submit an amended Retirement and Site Restoration Plan that excludes the cost of scrap value from the proposal, and identifies the required financial assurance without that component.

(xvi) An agreement and security in accordance with CCC 17.40.080 and 17.40.090 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. Upon approval of the planning commission, the agreement may allow that the security 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, letter of credit, or other form of security 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 states that as detailed in Attachment 2 (Amended Retirement and Site Restoration Plan) of the application, the Applicant will provide financial security on its own behalf. Credit support for the Applicant is provided by Avangrid Renewables Holdings, Inc. The Applicant's preferred form of financial security to fund the cost of decommissioning is a parent guarantee. The company has strong financials and self-finances its investments in renewable projects, evidencing its creditworthiness and ability to provide a parent guarantee.

The Applicant proposes to provide the parent guarantee, or other form of security, no later than the first day of the fifteenth year of commercial operations. From that point forward, the retirement and site restoration estimate will be adjusted to reflect inflation and fluctuations in market prices. The Project is expected to have a 40-year operating life.

The Applicant stated that if they utilize a parent guarantee or other form of security, the Applicant may include the estimated fair market value of the Project's equipment, thereby reducing the amount of retirement and site restoration security to be provided by the parent guarantee or other form of financial security. This credit shall not be in an amount exceeding 50 percent of total estimated decommissioning costs. The Applicant stated that the estimated fair market value of Project equipment, for either resale or scrap, would be estimates for the security funding date (at Year 15 of operation), and then would be updated as needed along with the retirement and site restoration estimates. The Applicant will provide the County with copies of its most recent financial statements upon request, and the Applicant will notify the County if at any time during the life of the Project its financial standing falls below the credit ratings/identified equity minimums listed above.

Crook County has not historically accepted the cost of scrap value into financial assurances or decommissioning plans, due to the fluctuating prices of materials. To ensure compliance, a condition of approval is included stating that all financial assurances and decommissioning plans shall be amended to not incorporate the cost of scrap value. With that condition, the request complies.

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

FINDING: The above criterion requires a summary provided to the county of any as built changes in the facility from the original plan, if any. The application submitted for review and approved through this application, will be considered the original plan. To ensure compliance, a condition of approval is included in this report requiring this summary to be provided prior to the facility being connected to the grid for power production. The request complies.

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

(A) A summary of changes to the facility that do not require facility requirement amendments.

(B) A summary of the wildlife monitoring program – bird injuries, casualties, positive impacts on area wildlife and recommendations for changes in the monitoring program.

(C) Employment impacts to the community and Crook County during and after construction.

(D) Success or failure of weed control practices.

(E) Status of the decommissioning bond or other financial mechanism.

(F) Summary comments of any problems with the projects, any adjustments needed, or any suggestions.

(G) The annual report requirement may be discontinued or required at a less frequent schedule by the county. The reporting requirement and/or reporting schedule shall be reviewed, and possibly altered, at the request of the facility owner/operator. For facilities under EFSC jurisdiction and for which an annual report is required, the annual report to EFSC satisfies this requirement.

FINDING: The above criterion provides Crook County an opportunity to require the owner/operator to provide an annual report of the facility at the end of each calendar year. A condition of approval has been included in this report requiring the annual report on a yearly basis. The criterion is met.

(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 18.170 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;

(iii) Increase generator output by more than 25 percent relative to the generation capacity authorized by the initial permit due to the repowering or upgrading of power generation capacity;

(iv) Changes to any roads or access points to be established at or inside the project boundaries;

(v) Notification by the facility owner/operator to the Crook County planning department of changes not requiring an amendment is encouraged, but not required. An amendment to a site certificate issued by EFSC will be governed by the rules for amendments established by EFSC.

FINDING: In accordance with the above criteria, the Applicant is seeking an amendment to its original CUP No. 217-16-000373-PLNG due to the proposed Project changes that expand the established facility boundaries and increase the footprint of the energy system by more than 20 percent (see Table 1 and Section 2 for a complete Project Description of the application). The Applicant may seek an amendment to the proposed Project in the future if warranted. However, any modifications of the Project design within the Project Site Boundary that do not exceed the identified permanent and temporary impacts would not trigger an amendment under this requirement. To ensure compliance, a condition of approval is included in this report recuing an amendment to the modified approval if the facility is again modified and meets any of the above thresholds. With that condition, the request complies.

(e) Decommissioning. Plan elements shall include:

(i) A plan for dismantling and/or decommissioning that provides for completion of dismantling or decommissioning of the facility without significant delay and protects public health, safety and the environment in compliance with the restoration requirements of this section.

(ii) A description of actions the facility owner proposes to take to restore the site to a useful, nonhazardous condition, including options for post-dismantle or decommission land use, information on how impacts on wildlife populations and the environment would be minimized during the dismantling or decommissioning process, and measures to protect the public against risk or danger resulting from post-decommissioning site conditions in compliance with the requirements of this section.

(iii) A current detailed cost estimate, a comparison of that estimate with present funds of the bond or other financial mechanism for dismantling or decommissioning, and a plan for assuring the availability of adequate funds for completion of dismantling or decommissioning. The cost estimate will be reviewed and be updated by the facility owner/operator on a five-year basis, unless material changes have been made in the overall facility that would materially increase these costs. If so, the report must be revised within 120 days of completion of such changes.

(iv) Restoration of the site shall consist of the following:

(A) Dismantling and removal of all photovoltaic energy system structures. Concrete pads shall be removed to a depth of at least four feet below the surface grade.

(B) The underground collection and communication cables need not be removed if at a depth of three feet or greater. Cables at a depth of three feet or greater can be abandoned in place if they are deemed not a hazard or interfering with agricultural use or other consistent resource uses of the land.

(C) Access roads in EFU zones shall be removed by removing gravel and restoring the surface grade and soil.

(D) In EFU zones after removal of the structures and roads, the area shall be graded as close as is reasonably possible to a condition compatible with farm uses or consistent with other resource uses. Revegetation shall include planting by applicant of native plant seed mixes, planting by applicant of plant species suited to the area, or planting by landowner of agricultural crops, as appropriate, and shall be consistent with the weed control plan approved by Crook County.

(E) Roads, fences, gates, and improvements may be left in place if a letter from the landowner is submitted to Crook County indicating said landowner will be responsible for and will maintain said roads and/or facilities for farm or other purposes as permitted under applicable zoning.

(v) The facility owner/operator shall submit to Crook County an agreement and security in accordance with CCC 17.40.080 and 17.40.090, acceptable to the county in form and amount and naming Crook County as beneficiary, obligee, or payee.

(A) The calculation of present year dollars shall be made using the U.S. Gross Domestic Product Implicit Price Deflator as published by the U.S. Department of Commerce's Bureau of Economic Analysis (hereinafter "the Index"), or any decommissioning standards established by a successor agency. The amount of the bond or other financial mechanism shall be increased at such time when the cumulative requirements in the Index exceed 10 percent from the last change. If at any time the Index is no longer published, Crook County and the applicant shall select a comparable calculation of present year dollars. The amount of the security shall be pro-rated within the year to the date of decommissioning.

(B) The decommissioning security shall not be subject to revocation or reduction before both the decommissioning of the photovoltaic energy system and the rehabilitation of the site.

(C) The facility owner/operator shall describe the status of the decommissioning security in the annual report submitted to Crook County, or upon request.

(D) If any disputes arise between Crook County and the landowner on the expenditure of any proceeds from the required security, either party may request nonbinding arbitration. Each party shall appoint an arbitrator, with the two arbitrators choosing a third. The arbitration shall proceed according to the Oregon statutes governing arbitration. The cost of the arbitration (excluding attorney fees) shall be shared equally by the parties, or as the parties may otherwise agree among themselves.

(E) For projects sited by EFSC, compliance with EFSC's financial assurance and decommissioning standards shall be deemed to be in compliance with the dismantling and decommissioning requirements of this section.

(F) Crook County may impose additional clear and objective conditions in accordance with the Crook County comprehensive plan, county zoning code and

state law, which Crook County considers necessary to protect the best interests of the surrounding area, or Crook County as a whole.

(G) Prior to commencement of any decommissioning work, all necessary permits shall be obtained, e.g., Crook County land use permits, road access and other permits from the Crook County road master and the Oregon Department of Transportation; or other entities. (Ord. 296 § 12 (Exh. J), 2016; Ord. 245 § 1, 2011; Ord. 229 § 1 (Exh. A), 2010)

FINDING: The applicant submitted a decommissioning plan (See Attachment 2 of the application), to address the County's requirements. The plan describes the decommission process and addresses the anticipated schedule and cost of dismantling project components and restoring the site. The decommissioning plan and financial security are subject to review by Crook County Legal Counsel. The plan and security must be approved prior to project site preparation and groundbreaking. The applicant shall receive all necessary permits including building permits, prior to commencing any decommissioning work. The request complies.

Oregon Revised Statutes

ORS 215.446

(1) As used in this section:

(a) "Renewable energy facility" means an electric power generating plant that generates electricity from a renewable energy source.

(2) An application for a land use permit to establish a renewable energy facility must be made under 215.416 (permit application). An applicant must demonstrate to the satisfaction of the county that the renewable energy facility meets the standards under subsection (3) of this section.

FINDING: The proposed Project is a renewable energy facility within the meaning of ORS 215.446(1)(a). Specifically, the proposed Project is an electric power generating plant with up to 103 MW of generating capacity from a solar resource. The proposed Project also includes an optional 103-MW BESS. The proposed Project considered with this CUP amendment application will occupy more than 320 acres but less than 1,920 acres of "any other land" within the meaning of Oregon Revised Statute (ORS) 469.300(11)(a)(D)(iii), and is subject to County review under ORS 215.446(2). The request complies.

(3) In order to issue a permit, the county shall require that the applicant:

(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;

FINDING: The original Wildlife Impact and Mitigation Plan (2016 Mitigation Plan) (MB&G 2016) was previously approved in CUP No. 217-16-000373-PLNG and covers an approximately 528-acre area within the proposed Project Site Boundary. The 2016 Mitigation Plan was developed in coordination with ODFW and addresses impact avoidance and minimization measures for big game as well as additional

mitigation approaches for unavoidable impacts on big game habitat that would occur within the previously approved 528-acre Project area. The Applicant will implement the 2016 Mitigation Plan for the previously approved Project area authorized under CUP No. 217-16-000373-PLNG.

The Applicant met with ODFW on April 15, 2021 and November 22, 2021 to discuss the proposed Project amendment, including the Applicant's habitat assessment and survey protocols, anticipated impacts on wildlife and habitat, and potential mitigation options. Documentation of the Applicant's meeting summaries and correspondence with ODFW is provided in Attachment 1 to the 2022 Mitigation Plan (Attachment 8 of the application). The Applicant received additional comments on the 2022 Mitigation Plan from ODFW on January 21, 2022. The Applicant incorporated ODFW's input and recommendations into the 2022 Mitigation Plan (Attachment 8). The request complies.

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

FINDING: The Applicant conducted a desktop review of available data and literature, consulted ODFW wildlife biologists, and conducted biological field surveys to determine the potential presence of special status wildlife species and Goal 5 resources within the previously approved 528-acre Project area. The results of this assessment are reported in the 2016 Mitigation Plan as previously approved with CUP No. 217-16-000373-PLNG.

The 2021 Survey Area for wildlife and habitat consisted of the 1,050-acre portion of the 1,553-acre proposed Site Boundary not surveyed in 2016 or where conditions had noticeably changed since 2016 (as was the case for a small, approximately 0.5-acre area in the northeast portion of the Site Boundary)(Attachment 7, Figure 1 of the application). The Applicant conducted a desktop review and wildlife and habitat field surveys April 19-22, 2021 to document the type and quality of wildlife habitat at the Project according to ODFW guidelines (i.e., OAR 635-415-0025), identify special-status species with the potential to occur at the Project, and identify the presence of raptor nests and nesting structures at the Project.

Methods and results of the Wildlife and Habitat Assessment are provided in Attachment 7 of the application and have been discussed with ODFW in order to confirm survey adequacy and inform Project mitigation needs. Meeting summaries and correspondence with ODFW is provided in Attachment 1 of the application to the 2022 Mitigation Plan (Attachment 8). Findings documented in the Wildlife and Habitat Assessment are consistent with previous findings for the Project identified in the 2016 Mitigation Plan (MB&G 2016). As described in Attachment 7 of the application, five habitat types are mapped within the approximately 1,050-acre survey area for the expanded Project Site Boundary: (1) developed/disturbed, (2) mature juniper woodland with shrub-steppe component, (3) shrub-steppe with intermediate juniper, (4) shrub-steppe with mature juniper component, and (5) shrub-steppe with removed juniper. These habitat types are identified on Table 1 and shown on Figure 3 to Attachment 7. The majority of these habitat types were also documented during previous surveys for the Project (MB&G 2016); the habitat type "developed/disturbed" was added during 2021 surveys to reflect habitat not present within the previously surveyed 528-acre area.

During the 2021 field surveys, biologists documented nine wildlife species and sign from five additional species (i.e., tracks and/or scat) within the approximately 1,050-acre survey area for the expanded Project Site Boundary (i.e., nine direct species observations and five species for which only sign was observed; Appendix C). Mammal (e.g., mule deer) sign was scattered throughout the Survey Area but most concentrated in the shrub-steppe with mature juniper and shrub-steppe with intermediate Juniper

habitats in the south of the survey area, where there was in particular an abundance of coyote, rabbit, and kangaroo rat tracks. Based on the availability of sagebrush shrub steppe and juniper woodland habitat there is potential for some special-status species to use the Survey Area (e.g., loggerhead shrike, sage thrasher, sagebrush sparrow, pinyon jay); however, no special status wildlife species were observed during surveys in mid-April, 2021 when species can be found in central Oregon during pre-breeding migration. Based on this information and that set forth in Attachment 7 of the application, the applicant has conducted a habitat assessment of the proposed development site, and the request complies.

(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

FINDING: ODFW retains a consulting role and is responsible for providing mitigation recommendations to the County. Accordingly, while the County must consider ODFW's comments regarding the Applicant's proposed mitigation strategy as part of the record, the County is not obligated to require the Applicant to implement all of ODFW's mitigation recommendations but rather must demonstrate that the mitigation plan is consistent with ODFW's mitigation policy. ODFW suggests that the County "may not be satisfied with a mitigation plan that is inconsistent with" ODFW's administrative rules. For local land use applications, ODFW's habitat mitigation policy requires ODFW to recommend mitigation consistent with the goals and standards of OAR 635-415-0025. (OAR 635-415-0020(3)).

Under ORS 215.446(3)(a)(C), the County retains the ultimate responsibility to determine, based on substantial evidence in the record, that the Applicant's final habitat mitigation plan is "consistent with" ODFW's habitat mitigation rules.

ORS 496.012 provides the State of Oregon's Wildlife Policy and OAR 635-415-0010, in turn, provides the ODFW Fish and Wildlife Habitat Mitigation Policy, which states:

OAR 635-415-0010 Fish and Wildlife Habitat Mitigation Policy

It is the fish and wildlife habitat mitigation policy of the Oregon Department of Fish and Wildlife to require or recommend, depending upon the habitat protection and mitigation opportunities provided by specific statutes, mitigation for losses of fish and wildlife habitat resulting from development actions. Priority for mitigation actions shall be given to habitat for native fish and wildlife species. Mitigation actions for nonnative fish and wildlife species may not adversely affect habitat for native fish and wildlife.

The recommended mitigation for the loss of wildlife habitat resulting from development actions is set forth in OAR 635-415-0025. This is the rule that contains the applicable habitat mitigation goals and standards for development actions under the Mitigation Policy.

OAR 635-415-0025 identifies six categories of habitat, ranging from Habitat Category 1 (most protected) to Habitat Category 6 (least protected). Consistent with the Mitigation Policy, the Applicant identified the categories of impacted habitat within the Project Site Boundary based on the results of the 2016 Mitigation Plan (MB&G 2016) within the previously approved 528-acre Project area and the Wildlife and Habitat Assessment (Attachment 7), which covers the 1,050-acre portion of the 1,553-acre expanded Project Site Boundary. The proposed Project Site Boundary has been mapped in the field as Category 3,

4, and 6 habitat (MB&G 2016, Tetra Tech 2021). However, the entire Site Boundary occurs within mapped ODFW big game winter range, and thus for purposes of implementing ODFW's habitat mitigation recommendations under OAR 635-415-0025, is treated as Category 2 except where developed (Tetra Tech 2021). Under the ODFW Habitat Mitigation Policy, Category 2 habitat is defined as follows (OAR 635-415-0025(2)):

(2) "Habitat Category 2" is essential habitat for a fish or wildlife species, population, or unique assemblage of species and is limited either on a physiographic province or site-specific basis depending on the individual species, population or unique assemblage.

(a) The mitigation goal if impacts are unavoidable, is no net loss of either habitat quantity or quality and to provide a net benefit of habitat quantity or quality.

(b) The Department shall act to achieve the mitigation goal for Category 2 habitat by recommending or requiring:

(A) Avoidance of impacts through alternatives to the proposed development action; or

(B) Mitigation of impacts, if unavoidable, through reliable in-kind, in-proximity habitat mitigation to achieve no net loss of either pre-development habitat quantity or quality. In addition, a net benefit of habitat quantity or quality must be provided. Progress towards achieving the mitigation goals and standards shall be reported on a schedule agreed to in the mitigation plan performance measures. The fish and wildlife mitigation measures shall be implemented and completed either prior to or concurrent with the development action.

ODFW's habitat mitigation recommendation for Category 2 habitat is "no net loss of either habitat quantity or quality and to provide a net benefit of habitat quantity or quality". The Applicant proposes to meet this mitigation goal by implementing one of the habitat mitigation options discussed in Attachment 8 of the application. ODFW recognizes payment in lieu mitigation as consistent with ODFW's Habitat Mitigation Policy (OAR 635-415-0020(7)). The Applicant provided a table with the application summarizing the habitat within the proposed Project Site Boundary and the potential permanent and temporary Project impacts based on the 2016 and 2022 Mitigation Plans.

Habitat Type	2022 Proposed Expanded Site Boundary					2016 Previously Approved Site Boundary (Category 2) ³		Total within Amended Site Boundary ^{3, 4}	
	Preliminary Habitat Category ¹	Acres by Final Habitat Category ^{2, 3}							
		2		6		Perm	Temp	Perm	Temp
		Perm	Temp	Perm	Temp				
Developed/disturbed	6	–	–	0.4	0.4	–	–	0.4	0.4
Mature juniper woodland with shrub- steppe component	3	41.3	0.1	–	–	1.0	0.1	42.3	0.2
Shrub-steppe with intermediate juniper	4	183.8	1.2	–	–	236.3	1.1	420.2	2.2
Shrub-steppe with intermediate juniper, dominated by tall sage (> 4-feet tall)	–	–	–	–	–	1.3	–	1.3	–
Shrub-steppe with mature juniper component	4	337.3	3.7	–	–	23.8	0.2	361.2	3.9
Shrub-steppe with removed juniper	3	1.0	1.1	–	–	8.1	0.2	9.1	1.3
Total	–	563.5	6.1	0.4	0.4	270.6	1.4	834.5	8.0

1. Preliminary category based primarily on vegetative characteristics, prior to the application of the Big Game Winter Range overlay.
2. Category following application of the Big Game Winter Range overlay.
3. Totals in this table may not be precise due to rounding.
4. The Applicant's wildlife and habitat assessments (MB&G 2016; Tetra Tech 2021) analyzed the largest anticipated Project footprint, about 1,553 acres within the proposed Project Site Boundary. While Project disturbances shown on Figure 2b will result in approximately 835 acres of permanent disturbance within the Site Boundary, the Project may impact areas anywhere within and up to the 1,553-acre Project Site Boundary and mitigation treatments in this 2022 Mitigation Plan will be adjusted to account for final Project disturbance areas prior to construction. While the Applicant does not anticipate the need to permanently disturb the entire area within the Site Boundary at final design, the Applicant is permitting the Project to allow for up to 1,553-acres of permanent disturbance within the Site Boundary to maintain Project design flexibility prior to construction.

The Applicant states that they will implement measures to avoid and minimize impacts to wildlife and habitat during the Project's design, siting, and construction, as identified in Attachment 8 of the application. The avoidance and minimization measures described in the original 2016 Mitigation Plan will also be implemented within the entire proposed Project Site Boundary, including environmental training and monitoring, weed control, pre-construction nest surveys and monitoring, and speed limits (see Section 3.0 in MB&G 2016).

Based on coordination with ODFW and Crook County (see Attachment 1 to Attachment 8 of the application), the acres of mitigation associated with the Project will be calculated based on the mitigation ratios for permanent and temporary impacts identified in Tables 2 and 3 of the 2022 Mitigation Plan, respectively (Attachment 8). The mitigation options include either payment in-lieu mitigation with the Land Trust (Option 1 – Preferred) or payment-in-lieu mitigation with the Crook County SWCD (Option 2 – Alternative). These compensatory mitigation options are described in Attachment 8 and are summarized below. In prior meetings with ODFW, the Applicant discussed a third

mitigation option where the Applicant would own the mitigation site near the Project area; however, the Applicant has yet to acquire or lease these lands. Therefore, the Applicant-owned mitigation site option is not considered viable at this time. If this option develops at a later time, the Applicant states that they would seek County approval, with ODFW input, to implement this option instead. Staff notes that this would need to be a formal public process to ensure public input is received.

As proposed by the Applicant, the options for mitigation include:

Option 1 (Preferred). Deschutes Land Trust Payment in-lieu Mitigation.

Under this option, the Applicant would partner with the Land Trust in funding habitat protection and restoration on a proposed conservation easement at Aspen Valley Ranch to mitigate for Project impacts. The Applicant is working with the Land Trust to address the mitigation needs of this Project through the Land Trust's proposed Aspen Valley Ranch Phase 2 Conservation Easement (Aspen Valley Ranch Phase 2). The Land Trust provided documentation of this coordination in a Letter of Participation sent to Crook County in December 2021 (see Attachment 2 to Attachment 8). To satisfy its habitat mitigation obligation for the Project, the Applicant plans to provide payment to the Land Trust in an amount determined by the mitigation formulas identified in Attachment 8. In turn, the Land Trust would commit to maintaining the specified acreage of mitigation habitat at Aspen Valley Ranch Phase 2, based on the final tabulation of impacts, associated mitigation, and complete habitat actions that will enhance the quality of this habitat.

Aspen Valley Ranch Phase 2 would conserve up to 4,374 acres of Category 2 upland habitat in the upper Crook River Watershed, 25 miles east of Prineville between Highway 380 and the southern foothills of the Ochoco Mountains (Figure 3). Aspen Valley Ranch Phase 2 exceeds the Project mitigation need for the maximum potential impact of 1,553 acres that could occur within the proposed Project Site Boundary. It is within big game winter range and allows for conservation of a large private parcel amongst BLM lands to maintain connectivity of important habitat for big game and other wildlife species. Aspen Valley Ranch Phase 2 provides for "in-proximity" mitigation because it is within the same ecoregion as the project and provides "in-kind" mitigation as it contains juniper and shrub-steppe habitat types within big game winter range. Attachment 8 describes the mitigation formulas being used to ensure a no net loss and a net benefit for impacts to Category 2 habitat.

Option 2 (Alternative). SWCD Payment in-lieu Mitigation

Under this option, the Applicant would partner with Crook County and the Crook County SWCD to implement wildlife habitat mitigation under the Memorandum of Understanding (MOU) between the County and the SWCD effective on November 1, 2020 (see Attachment 3 to Attachment 8 of the application). This MOU was specially developed to "support wildlife habitat mitigation recommended by the Oregon Administrative Rule 635-415" (ODFW's Fish and Wildlife Habitat Mitigation Policy).

The Applicant is treating Option 2 as the alternative option because the SWCD has not yet identified potential mitigation sites. SWCD, however, has indicated that mitigation activities may include western juniper treatment, rangeland seeding, noxious weed treatment, and monitoring, all of which could benefit wildlife habitat and could be acceptable "in-kind" mitigation actions to offset Project impacts. Mitigation by SWCD is limited to Crook County; therefore, the mitigation may be considered "in-proximity" because it is within the same ecoregion. This option was recommended by Crook County and ODFW during pre-application meetings on the Project (see Attachment 1 to Attachment 8 of the application). To ensure the mitigation occurs in proximity and in-kind to the project site, a condition of approval is included stating that the mitigation shall only occur within the boundaries of Crook County.

Mitigation measures are identified in Attachment 8 of the application. Rather than performing these mitigation measures, the Applicant will implement Option 1 (or alternatively, Option 2 subject to further County approval). To determine total payment-in-lieu cost the formulas in Attachment 8 will be used to calculate the total costs of property acquisition, mitigation actions, maintenance, monitoring, and any other actions for the habitat mitigation to offset project impacts. Two equations will be used depending on areas of the Project Site Boundary impacted:

- First, the County-approved formula from the 2016 Mitigation Plan will be applied to up to 320 acres of impact within the portion of the Project Site Boundary approved for development under the previously approved CUP No. 217-16-000373-PLNG.
- Second, the remaining areas will use the formula from the County-approved Millican Solar Energy Project Wildlife Conservation Strategy (WEST 2020).

Together, these two formulas combine to estimate mitigation payment to offset the Project's total impacts and satisfy the Category 2 habitat mitigation goal. The formulas also use the 2:1 mitigation ratio for permanent impacts in Category 2 habitat (Table 2) to fund enhancement measures to achieve a net benefit.

Attachment 8 of the application provides the equations and example amounts based on the solar layout depicted in the CUP amendment application. The final dollar amount will be based on the final acreage of Project impacts determined prior to construction. The Applicant will enter into a contractual agreement with the Land Trust for Option 1 (or alternatively, with SWCD for Option 2) prior to construction to document the final acreage number, units rates, and confirmation that the formula properly applied.

The Applicant's wildlife and habitat assessments (MB&G 2016; Tetra Tech 2021) analyzed the largest anticipated Project footprint, about 1,553 acres within the Site Boundary. While Project disturbances identified in Table 2 and shown on Figure 2b of the application would result in approximately 834.5 acres of permanent disturbance within the proposed Project Site Boundary, the Project may impact areas anywhere within and up to the 1,553-acre Site Boundary, and the Applicant states that mitigation treatments in the 2022 Mitigation Plan will be adjusted to account for final Project disturbance areas prior to initiating grading at Project construction. While the Applicant does not anticipate the need to permanently disturb the entire area within the Site Boundary at final design, the Applicant has analyzed 1,553-acres of permanent disturbance within the Site Boundary to maintain Project design flexibility prior to construction.

Prior to construction and consistent with Condition 9 of CUP No. 217-16-000373-PLNG identified below, the Applicant would provide Crook County with financial and legal assurances documenting that one of the compensatory mitigation options described in the 2022 Mitigation Plan have been implemented. The 2022 Mitigation Plan would be updated and/or supplemented prior to construction to identify the compensatory mitigation option selected, and the applicant proposed that compensatory mitigation would be implemented prior to or concurrently with Project construction and continue through the life of the Project (up to the start of Project decommissioning). A condition of approval is included requiring mitigation to occur up until the end of decommissioning, to ensure all impacts from the facility are addressed.

To ensure the cost of services is covered by the formula, a condition of approval is included stating that, the mitigation fee will be adjusted in the same percentage as the increase, if any, in the Consumer Price Index (the "Index") published by the United States Department of Labor, Bureau of Labor Statistics. The increase will be computed by comparing the schedule entitled "U.S. City Average, All Items, All Urban Consumers, 1982-84=100" for the year and month of the Approval Date and the latest figures preceding the Payment Date. All comparisons will be made using Index figures derived from the same base period. If the Index cited above is revised or discontinued during the Term, then the Index that is designated to replace it by BOMA Oregon will be used.

The Applicant proposed revisions to Condition 9 of CUP No. 217-16-000373-PLNG as identified in strike-through and underlined below to maintain consistency with the payment in-lieu mitigation options proposed in this 2022 Mitigation Plan, and with OAR 635-415-0025(2)(b), which would allow for mitigation to be implemented and completed either prior to or concurrent with the Project's development actions:

9. The Applicant has submitted a Wildlife impact and Monitoring Plan prepared in cooperation with ODFW, USFWS and Crook County in alignment with the County Comprehensive Plan. The Applicant and ODFW are cooperatively developing the fundamentals of final mitigation options. The Applicant has agreed to formally implement the plan in consultation with ODFW and USFWS. Any modifications to the Plan shall be submitted to Crook County prior to groundbreaking on the Project site unless an extension is agreed to by all parties. Any payment in-lieu of mitigation will be made ~~to the Oregon Department of Fish and Wildlife~~ either prior to or concurrent with the start of Project Construction and before site grading occurs ~~the initial clearing and grading of the site.~~

If the Project area is cleared of vegetation ahead of a final, executed wildlife implementation and monitoring plan and the Project is not constructed, the applicant will revegetate the site such that functional equivalency or better is returned in areas of temporary impact and temporary impacts will be mitigated.

Staff concurs with the above edited condition, with exception to the portion that amends the condition to state that the payment may be made concurrent with the start of the project. The condition of approval is amended in this report to reflect those changes.

The Applicant proposes payment in-lieu mitigation made directly to the Deschutes Land Trust or Crook County Soil and Water Conservation District because ODFW verified they no longer except direct payments for compensatory mitigation. The proposed amendments are justified, and shall be incorporated into the final decision.

Based on this information, the 2016 Mitigation Plan (MB&G 2016), and the 2022 Mitigation Plan (Attachment 8), the Applicant's proposed mitigation is consistent with the Mitigation Policy and satisfies ORS 215.446(3)(a)(C).

(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 Wildlife and Habitat Assessment Report (Attachment 7 of the application) demonstrates that the proposed Project does not have potential habitat for protected sage grouse. Therefore, ORS 215.446(3)(a)(D) and OAR 635-415-0025(7) do not apply.

(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 original 56-MW project area was surveyed by SWCA in 2016 and 2017 (State Historic Preservation Office [SHPO] Case #17-1428). That work is documented in Steinkamp and Heppner (2017). The Applicant completed the phase 1 Supplemental Cultural Resources Survey Report for the approximately 1,026 acres of the expanded Project Site Boundary that was not examined by Steinkamp and Heppner (2017) (see Attachment 14, provided to the County under confidential cover). Attachment 14 builds upon the initial cultural resource survey conducted in support of the original CUP submitted December 2016. No cultural resources listed on the National Register of Historic Places (NRHP) or inventoried in a local comprehensive plan were found within the proposed Project Site Boundary. However, several archaeological sites and objects identified within the proposed Project Site Boundary are unevaluated for listing in the NRHP and are therefore treated as significant and/or important archaeological sites and objects.

The Applicant prepared the Supplemental Cultural Resources Survey Report (Attachment 14) to document desktop research and the first phase of field surveys conducted for the proposed expanded Project Site Boundary in 2021. A total of 23 archaeological sites and 29 isolated finds were identified by the survey. Of the 23 archaeological sites, three were updates to previously recorded resources. The Supplemental Cultural Resources Survey Report (Attachment 14) was submitted to SHPO in January 2022 and is pending review.

Additional site investigation will be conducted in a forthcoming Cultural Resources Phase 2 Survey. Following preliminary review of the first phase survey results, the Applicant has identified sites that will be avoided by the Project. Results from the Cultural Resources Phase 2 Survey will be submitted to SHPO and incorporated into final design of the Project as needed prior to construction. Based on the results of the Cultural Resources Phase 2 Survey, the Applicant will prepare a Historic Property Management Plan (HPMP) for NRHP-eligible resources that cannot be avoided by Project development, if needed. The HPMP will outline the mitigation measures to be completed prior to disturbance of the unavoidable resources and will be drafted in coordination with the Confederated Tribes of the Warm Springs Reservation of Oregon, Burns Paiute Tribe, and SHPO. Given the nature of the cultural resources to be tested for NRHP-eligibility in the Phase 2 survey, it is anticipated that any mitigation will be limited to data recovery of pre-contact archaeological resources. As such, the HPMP will follow SHPO's Phase III Investigation: Data Recovery Study guidelines in SHPO's *State of Oregon Guidelines for Reporting on Archaeological Investigations* (2015).

No historic areas, sites, or structures listed in the Crook County Comprehensive Plan (Crook County 2008) are identified within the proposed Project Site Boundary. As such, the amended Project will not result in significant adverse impacts to historic, cultural and archaeological resources that are inventoried in the Crook County Comprehensive Plan.

For these reasons, taking into account mitigation, construction and operation of the Project will not result in significant adverse impacts to historic, cultural and archaeological resources. The request complies.

(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: The Applicant states that they will begin decommissioning the Project within 12 months of permanent cessation of construction or the end of commercial operation, unless otherwise agreed upon with the County. It is anticipated that most of the materials would be sold for scrap or recycled. Unsalvageable material will be disposed of at authorized sites.

Site reclamation procedures are described in Attachment 2 of the application. The Applicant states that site reclamation procedures will be based on the site-specific requirements and techniques commonly employed at the time the area will be reclaimed, and will include re-grading to restore soil and original contours, revegetation of disturbed areas with native plant seed mixes or plant species suitable to the Project area. They state that topsoil from decommissioning activities will be salvaged and reapplied during the final reclamation to the extent practicable. The vegetation cover, composition, and diversity will be restored to as close as reasonably possible to surrounding conditions. Best management practices will be employed during decommissioning activities to prevent soil erosion and control noxious weeds within the Project Site Boundary.

The retirement and site restoration estimate, including labor, materials, equipment, and disposal for the proposed 103 MW Project with the optional 103 MW BESS is \$3,647,254 (Attachment 2 of the application). As proposed by the Applicant, the actual retirement and site restoration costs will be determined prior to construction based on the final design of the Project and will take into account the scrap value associated with final design of the Project. As conditioned in this report, scrap value will not be considered in financial assurances or the decommissioning plan.

The Applicant proposes to provide the parent guarantee, or other form of security, no later than the first day of the fifteenth year of commercial operations. From that point forward, the retirement and site restoration estimate will be adjusted every 5 years to reflect inflation and fluctuations in market prices. At the Applicant's discretion, the retirement and site restoration estimate may include the estimated fair market value of the Project's equipment, thereby reducing the amount of retirement and site restoration security. This credit shall not be in an amount in excess of 50 percent of total estimated retirement and site restoration costs. Estimated fair market value of Project equipment, for either resale or scrap, would be estimates for the security funding date (at Year 15 of operation), and then would be updated as needed along with the retirement and site restoration estimates.

For these reasons, the Applicant demonstrates a reasonable likelihood of obtaining financial assurances to restore the proposed Project site to a useful, non-hazardous condition in agreement with the County. The Project meets ORS 215.446(3)(c) and the Applicant demonstrates the ability to meet subsection (e).

(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 Applicant completed a pre-application review conference with the planning staff on February 25, 2021. During the pre-application review conference, the Applicant and the staff identified and reviewed relevant procedures and standards which have been incorporated in this CUP amendment application. The County determined that review of additional Oregon Energy Facility Siting Council standards is not warranted. Therefore, additional standards under ORS 469.470 and 469.501 are not addressed, and the County's standards are appropriate for review of the Project in the EFU-3 (Powell Butte Area) zoning district. The request complies.

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

FINDING: As proposed, the Applicant would provide a financial guarantee for retirement and site restoration on the first day of the 15th years of commercial operations. To ensure this proposal is acceptable to the County, a condition of approval is included stating that the Applicant shall coordinate with the Crook County Counsel's office to determine an acceptable schedule in which the Applicant would Provide the financial assurances for retirement and site restoration of the facility. With that condition, the request complies.

(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.

FINDING: No agencies within the above listed criterion have contacted staff regarding cost estimates to this date. To ensure compliance, a condition of approval is included stating that upon receipt of a reasonable cost estimate from the State Department of Fish and Wildlife, the State Historic Preservation Office or any affected federally recognized tribes, or the State Department Energy, the county, applicant, and state agency or tribe shall enter into a cost reimbursement agreement administered by the county regarding the cost of receiving comments. With that condition, the request complies.

(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.*

FINDING: The portions of the Crook County Code addressed in this application provide the information necessary under the above requirements, for the County to provide on notices to persons listed under ORS 215.446(6). The contact information for the Applicant is provided in Section 1.1 of the application, a description of the tax lots subject to this CUP amendment application is provided in Section 3 of the application, and a description of the proposed Project is provided in Section 2 of the application. Subsection (c) is addressed through the notice sent to all parties that includes the dates, times and locations where public comments or public testimony on the permit application can be submitted. The request complies.

(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. [2019 c.650 §4]*

FINDING: The Applicant has coordinated with ODFW, ODSL, and federally recognized Indian tribes that may be affected by this CUP amendment application prior to submittal to the County. These coordination efforts are documented throughout this CUP amendment application and its supporting attachments. Meeting summaries and correspondence with ODFW are provided in Attachment 1 to Attachment 8 of the application. Personal telephone and email communications with Gary Curtis, ODSL Statewide Archaeologist, and Christian Nauer, Cultural Resource Manager for the Confederated Tribes of the Warm Springs Reservation of Oregon occurred during development of the Supplemental Cultural Resources Survey Report. Formal notice was provided by the county to all entities within the above criteria. The notice included all of the requirements addressed in ORS 215.446(6). The request complies.

IV. GOAL EXCEPTION

ORS 197.732 Goal Exceptions

(2) 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.

FINDING: The Applicant is requesting a goal exception to the proposed Empire facility, and the existing Gala facility. 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 subsections in ORS 197.732(2)(c) should be met. See findings below for OAR 660-004-0020(2)(a), which demonstrated compliance with ORS 197.732.

OAR 660-004-0020 Goal 2, Part II(c), Exception Requirements

(1) If a jurisdiction determines there are reasons consistent with OAR 660-004-0022 to use resource lands for uses not allowed by the applicable Goal or to allow public facilities or services not allowed by the applicable Goal, the justification shall be set forth in the comprehensive plan as an exception. As provided in OAR 660-004-0000(1), rules in other divisions may also apply.

FINDING: As demonstrated in this report, staff has determined there are reasons consistent with OAR 660-004-0022 to site the facility as a public facility or service not allowed by the applicable Goal. Once approved, the justification shall be set forth in the comprehensive plan as an exception. The request complies.

(2) The four standards in Goal 2 Part II(c) required to be addressed when taking an exception to a goal are described in subsections (a) through (d) of this section, including general requirements applicable to each of the factors:

(a) “Reasons justify why the state policy embodied in the applicable goal should not apply.” The exception shall set forth 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;

FINDING: The solar development area subject to this Goal 3 exception request is located entirely within the County’s EFU-3 Powell Butte Area zoning district where Goal 3 (Agricultural Lands) is the applicable statewide planning goal. The state policy embodied in Goal 3 is the preservation and maintenance of agricultural land for farm use. The proposed Project and corresponding solar development area will not result in significant adverse impacts on accepted farm practices in the surrounding area as

demonstrated in the Applicant's response to CCC 18.16.020(1) and (2) in the CUP amendment application (217-22-000373-PLNG). However, the Applicant must also demonstrate why the Goal 3 policy should not apply to the solar development area.

The Applicant's justification for not applying the Goal 3 nonarable land acreage limitation to the solar development area is based on necessary reasons under OAR 660-004-0022(1) and (3). OAR 660-004-0022(1) states:

For uses not specifically provided for in this division, or in OAR 660-011-0060, 660-012-0070, 660-014-0030 or 660-014-0040, the reasons shall justify why the state policy embodied in the applicable goals should not apply. Such reasons include but are not limited to the following: There is a demonstrated need for the proposed use or activity, based on one or more of the requirements of Goals 3 to 19; and either:

Within the application submitted, the Applicant identified that the applicable policies within the Crook County Comprehensive Plan are: Air, Water and Land Resource Policies 1 & 4; Economic Policies 1 & 3; Energy Policies 1, 4, & 7; Agricultural Policy 1; and Public Facilities and Services Policy 6. The following was provided in response to those portions of the Comprehensive Plan.

Air, Water and Land Resource Policies

1. Encourage non-pollutant industries to locate in Crook County (Industrial Element, Chapter III).

4. Encourage "design with nature" considerations in the design and engineering of all development proposals (Housing, Industrial, Commercial and Transportation Elements, Chapters VIII, III, III, and IV).

Photovoltaic solar power generation is an internationally recognized clean, renewable source of energy and considered a non-polluting industry. Solar development within the requested Goal 3 exception area will have temporary and localized low-level impacts to air quality in relation to the operation of construction equipment and generation of airborne dust. The Applicant states that best management practices (BMPs) will be implemented to minimize the effects of the dust. For example, the Applicant's contractor will implement measures during construction to reduce the potential for impacts to surrounding adjacent lands due to fugitive dust, including using water trucks to spray exposed soil down during dry and windy conditions, and leaving as much of the grass and other groundcover vegetation intact during construction as possible. Impacts to the area's water quality will be avoided and minimized through the implementation of the proposed Project's erosion control measures and BMPs. Solar development within the requested Goal 3 exception area will not alter the ability to comply with conditions of CUP No. 217-16-000373-PLNG or CUP No. 217-14-000069-PLNG. For example, the Applicant will submit a final erosion control plan to the County prior to the start of construction on the proposed Project (see Condition 13 to CUP No. 217-16-000373-PLNG). The Gala Solar Facility will continue to operate in compliance with the required conditions of CUP No. 217-14-000069-PLNG.

The proposed Project will be designed to blend in with the surrounding landscape to the greatest extent feasible. The Application states that the O&M building will be painted a neutral color consistent with the background viewshed. The proposed Project will be well screened by existing vegetation (primarily mature and intermediate juniper trees, 15 to 35 feet tall) and components of the operating Gala Solar Facility. Although the proposed Project components will modify the existing landscape, they will be

similar in nature to existing modifications (e.g. Gala Solar Facility, transmission line corridor) and will be setback from SW Millican Road between 0.2 and 0.5 mile to reduce contrast with the remote character of the area. In addition, the existing and proposed solar development is designed, sited, constructed, and operated to follow wildlife and habitat avoidance and minimization measures identified in each project's respective wildlife impact and mitigation plan. See the previously approved Wildlife Impact and Mitigation Plan (2016 Mitigation Plan; MB&G 2016), the Wildlife Impact and Mitigation Plan – 2022 Addendum (2022 Mitigation Plan) provided in Attachment 8 of the CUP amendment application (217-22-000373-PLNG), and the Gala Solar Facility Wildlife Impact and Mitigation Plan approved under CUP No. 217-14-000069-PLNG. For these reasons, the Goal 3 exception request is justified based on the needs identified in these policies.

Economic Policies

1. To diversify, stabilize and improve the economy of the county.

3. To require that development plans are based on the best economic information available and to take into account areas suitable for economic development, the effects on the existing economy, available resources, labor market factors, transportation and livability.

The Application states that solar development within the requested Goal 3 exception area would increase economic diversity within the County, which lends itself to a more stable and resilient economy. As discussed in the Applicant's CUP amendment application (217-22-000373-PLNG), the proposed Project is expected to result in substantial annual tax revenue for the County. The land would be taxed at a higher assessed value than it currently is taxed. As estimated for the previously approved CUP application, the Applicant states that the County is expected to receive over \$12 million dollars in property tax payments over the life of the proposed Project; this value will likely be substantially higher with the expansion of the proposed Project. Together, the existing and proposed solar development form a larger tax base which benefits the community by providing more funding for services such as public safety and education.

The Applicant anticipates that construction of the proposed Project would create an average of 250 temporary construction jobs for a period of up to 12 months. The Applicant will follow new House Bill (HB) 2021 labor standards passed by the Oregon Legislature in 2021. HB 2021 establishes Responsible Labor Standards requirements for developers, contractors, and subcontractors of large-scale energy projects of 10 megawatts or greater in Oregon (ODOE 2022). The Applicant will complete the attestation to implement the labor standards of HB 2021, or enter into a Project Labor Agreement. Operation of the proposed Project should also create two to four full-time permanent maintenance positions for local residents.

In addition to other benefits, job creation has a multiplier effect within the local community, increasing business for local restaurants, hotels, and retail establishments. Workers employed in service of the construction of the proposed Project would spend portions of their salaries in local communities, creating "induced" economic benefits at various local area businesses, especially retail, lodging, and food and entertainment establishments.

The existing and proposed solar development is consistent with the purposes of the EFU-3 Powell Butte Area zoning district, which allows for the development of commercial utility facilities as a conditional use. The Applicant's CUP amendment application demonstrates that the proposed Project would not

interfere with the overall agricultural productivity of the region. The additional revenues received by the landowner from project lease and easement payments associated with solar development would provide a steady source of income that would supplement revenues and help ensure that lessor-landowner operations would remain viable. Additional economic information related to the proposed Project is provided in response to CCC 18.161.010(2)(b)(x) in Section 4.3 of the CUP amendment application (217-22-000373-PLNG). EDCO has also written a letter of support for the proposed Project, included as Attachment 6 to the CUP amendment application (217-22-000373-PLNG). For these reasons, the Goal 3 exception request is justified based on the needs identified in these policies.

Energy Policies

- 1. To encourage renewable and/or efficient energy systems design, siting and construction materials in all new development and improvements in the county.*
- 4. To regulate any object from casting a shadow on an existing solar collecting unit.*
- 7. To encourage all systems and efforts for the collection, reuse and recycling of metallic and non-metallic wastes.*

As stated in the Crook County Comprehensive Plan, “Prineville and Crook County receive about 300 days of sunshine per year. Solar energy will be a very feasible source of energy”. The proposed Project site is ideal for siting a renewable solar generation facility, is uniquely positioned to take advantage of existing transmission infrastructure and shared facilities at the Gala Solar Facility, and will contribute to the design, siting and construction of renewable energy in Crook County.

The nearest solar collecting unit to the proposed Project would be the existing Gala Solar Facility, about 500 feet to the east. The Applicant’s parent company, Avangrid Renewables, LLC, is the owner and operator of the existing Gala Solar Facility. Both the relocated Project collector substation and O&M building and optional BESS (approximately 0.2 mile west of the existing Gala Solar Facility) will be limited to one story in height and the proposed solar modules themselves (approximately 500 feet west at the closet point) will not exceed a total height of 12 feet with the tallest possible panel configuration. The solar modules are anticipated to face south, parallel to the existing Gala Solar Facility. The tallest infrastructure associated with the proposed Project will be the upgraded 115-kV gen-tie line or previously approved overhead collector line support structures, which will not cast a shadow on the Gala Solar Facility. Therefore, the proposed Project and associated supporting components are not anticipated to cast shadows on existing solar collecting units.

Solid waste including metallic and non-metallic waste will be recycled to the extent practicable and disposed off-site. Applicable regulations governing the transport and disposal of BESS components identified in Attachment 1 to the CUP amendment application (217-22-000373-PLNG) will be followed by the Applicant or its licensed contractor. Therefore, the Goal 3 exception request is justified based on the need identified in these policies.

Agricultural Policies

- 1. It shall be the policy of Crook County, Oregon, to preserve agricultural lands, to protect agriculture as an economic enterprise, to balance economic and environmental considerations, to limit non-*

agricultural development, to maintain a “low” population density, and to maintain a high level of livability in the county.

This policy is implemented through CCC 18.16, 18.160, and 18.161, which are addressed in Sections 4.1, 4.2, and 4.3 of the CUP amendment application, respectively (217-22-000373-PLNG). While some agricultural land will be removed from low-intensity grazing use, the existing and proposed solar development will not adversely affect the agricultural land resources of the County, as it will not impact the ability of existing farms and ranches in the area (including the proposed Project’s landowners) to continue operation. The proposed Project will result in a net benefit to agricultural incomes, as the minimal loss of agricultural income due to the limited amount of land occupied by the proposed Project will be more than offset by revenue to local farmers/ranchers from Project leases. The additional revenues received by farmers from Project lease payments will provide a stable and predictable source of income that will supplement farm/ranch revenues and help ensure that landowners’ agricultural operations can remain viable in years with lower commercial productivity (see Attachment 10; 217-22-000373-PLNG). As described in the Applicant’s response to CCC 18.16.020(1) and (2) in the CUP amendment application (217-22-000373-PLNG), the proposed Project will not force a significant change in or significantly increase the cost of accepted farm practices on surrounding lands. The proposed Project will not contribute to local population density and through the economic benefits identified in response to applicable Economic Policies of the Crook County Comprehensive Plan, will support a high level of livability in the County. Therefore, the Goal 3 exception request is justified based on the need identified in this policy.

Public Facilities and Services Policies

6. All utility lines and facilities shall be located on or adjacent to existing public or private right-of-ways to avoid dividing existing farm units.

As demonstrated in the Applicant’s CUP amendment application (217-22-000373-PLNG), the proposed Project and corresponding solar development area are sited to take advantage of existing transmission line corridors and infrastructure. Per CCC 18.08.010 and ORS 469.300(Definitions), the proposed Project and solar development area use “associated transmission lines” to connect with the Northwest Power Grid. Section 2.3.9 of the CUP amendment application (Aurora Solar 2022) states that the upgraded 115-kV gen-tie line will connect the amended Project to a switch on the existing Gala Solar 115-kV gen-tie line which is the first point of junction with the transmission system. The existing Gala Solar 115-kV gen-tie line will then connect the proposed Project to PacifiCorp’s transmission system at the Ponderosa Substation, thereby connecting the proposed energy facility to the Northwest power grid. The upgraded 115-kV gen-tie line and existing Gala Solar 115-kV gen-tie line are allowed in the EFU-3 Powell Butte Area zoning district (CCC 18.16.010 Table 1).

In addition, pursuant to CCC 18.16.015(15)(b)(i), both the upgraded 115-kV gen-tie line and existing Gala Solar 115-kV gen-tie line parallel the existing PacifiCorp transmission line corridor with the minimum separation necessary for safety for the length of their respective routes (see Figures 2a and 2b to the CUP amendment application). To meet the need of this policy, the proposed Project and solar development area are reliant on their current location and proximity to the existing PacifiCorp transmission system and this Goal 3 exception request is justified based on the need identified in this policy.

Based on those factors and evidence, the request is warranted based on the needs identified which are consistent with the policies of the Crook County Comprehensive Plan.

As further required in OAR 660-004-0022(1)(a):

A resource upon which the proposed use or activity is dependent can be reasonably obtained only at the proposed exception site and the use or activity requires a location near the resource. An exception based on this paragraph must include an analysis of the market area to be served by the proposed use or activity. That analysis must demonstrate that the proposed exception site is the only one within that market area at which the resource depended upon can reasonably be obtained; or

Energy principles within the Crook County Comprehensive Plan state, “Prineville and Crook County receive about 300 days of sunshine per year. Solar energy will be a very feasible source of energy.” While the solar development area subject to this Goal 3 exception request is reliant on the solar resource within the County, the use (photovoltaic solar power generation facility) has special qualities that necessitate its location within the Goal 3 exception area shown on Figure 2. The Applicant identifies necessary reasons to locate the solar development area at the proposed exception site pursuant to Pursuant to OAR 660-004-0022(1)(b), which states:

The proposed use or activity has special features or qualities that necessitate its location on or near the proposed exception site.

In addressing that requirement, siting a photovoltaic solar power generation facility at a sufficient scale to produce 103 MW requires a large area of available land with abundant solar energy exposure. The solar development area is necessary for siting a photovoltaic solar power generation facility as demonstrated by the previous approval and successful operation of the Gala Solar Facility (CUP No. 217-14-000069-PLNG). The proposed Project within the solar development area is sited adjacent to the Gala Solar Facility to take advantage of a large enough lease area that can harness the solar resource while minimizing environmental and land use impacts through the use of existing solar and transmission infrastructure. As demonstrated above, to meet the need of Public Facilities and Services Policy 6 in the Crook County Comprehensive Plan, the solar development area is reliant on its current location and proximity to the existing PacifiCorp transmission system and corridor. In addition, reasons below further demonstrate that the solar development area allows access to the solar resource in a way that will result in a substantial economic benefit to the County with minimal loss of productive resource lands in the County’s EFU-3 Powell Butte Area zoning district.

The solar development area is sited to optimize the use of existing infrastructure, including regional electric transmission lines. Moreover, the proposed Project is sited adjacent to the existing Gala Solar Facility to use the existing Gala Solar 115-kV gen-tie line to the point of interconnection on PacifiCorp’s transmission system at the Ponderosa Substation. Approval of this Goal 3 exception will allow for efficient siting of the solar development area to both reduce the cost of energy by limiting the extent of supporting components, such as transmission infrastructure and access roads, and by minimizing resource impacts by avoiding the division of existing farm units. The solar development area is located directly off an existing County road (SW Millican Road) with capacity to provide access to the local and regional transportation network for construction and operations workers. Additionally, a solar array needs to be sited on a grade of 10 percent or less, in a location where the solar exposure is not obstructed by adjacent buildings or dense trees. The topography and existing development and vegetation pattern of the portion of Crook County where the solar development area occurs is well

suited for solar development. Based on the alternatives analysis discussed in Section 3.2 of the Comprehensive Plan Amendment application, no reasonable alternatives exist in Crook County where a Goal 3 exception would not be needed that could accommodate the solar development area. For these reasons, the proposed solar array development is locationally dependent and this Goal 3 exception request is justified pursuant to OAR 660-004-0022(1)(b).

As further required in OAR 660-004-0022(3):

Rural Industrial Development: For the siting of industrial development on resource land outside an urban growth boundary, appropriate reasons and facts may include, but are not limited to, the following:

(a) The use is significantly dependent upon a unique resource located on agricultural or forest land. Examples of such resources and resource sites include geothermal wells, mineral or aggregate deposits, water reservoirs, natural features, or river or ocean ports;

As described above in response to OAR 660-004-0022(1)(b), the solar development area is reliant on access to the County's unique solar resource. The solar resource is consistent with example resources listed under OAR 660-004-002(3)(a). Specifically, energy principles in the CCCP state, "Prineville and Crook County receive about 300 days of sunshine per year. Solar energy will be a very feasible source of energy." Siting a photovoltaic solar power generation facility at a sufficient scale to produce 103 MW requires a large area of available land with abundant solar energy exposure. The proposed Project within the solar development area is sited adjacent to the Gala Solar Facility to take advantage of a large enough lease area that can harness the solar resource while minimizing environmental and land use impacts through the use of existing solar and transmission infrastructure. Based on the need for proximity to existing transmission infrastructure, and based on the land area required, the solar development area must occur within the County's EFU-3 Powell Butte Area zoning district. Furthermore, the alternatives analysis discussed in Section 3.2 below demonstrates that no reasonable alternatives exist in Crook County where a Goal 3 exception would not be needed that could accommodate the solar development area. For these reasons, the proposed solar array development is significantly dependent on a unique resource located on agricultural land and this Goal 3 exception request is justified pursuant to OAR 660-004-002(3)(a).

(b) The use cannot be located inside an urban growth boundary due to impacts that are hazardous or incompatible in densely populated areas; or

The solar development area supports clean energy generation and no air emissions or hazardous waste will be generated as a result of operations in the solar development area. Because the proposed Project and existing Gala Solar Facility are clean energy generation facilities, neither would be considered incompatible with densely populated areas. However, the solar development area cannot be located inside an urban growth boundary (i.e. the City of Prineville Urban Growth Boundary) based on the size of the land area required and need for proximity to an existing transmission corridor. The alternatives analysis discussed in Section 3.2 below and shown on Figure 5 demonstrates that no other 1,879 acre sites occur within the City of Prineville Urban Growth Boundary that can accommodate the solar development area.

(c) The use would have a significant comparative advantage due to its location (e.g., near existing industrial activity, an energy facility, or products available from other rural activities),

which would benefit the county economy and cause only minimal loss of productive resource lands. Reasons for such a decision should include a discussion of the lost resource productivity and values in relation to the county's gain from the industrial use, and the specific transportation and resource advantages that support the decision.

The solar development area is locationally dependent and sited to optimize the use of existing infrastructure, including regional electric transmission lines and proximity to an existing energy facility (Gala Solar Facility). Based on these factors, the use has significant comparative advantage due to its location. The proposed Project and solar development area's benefits to the County economy, minimal impacts to productive resource lands, and additional resource advantages that support this Goal 3 exception request are addressed below.

Construction of the proposed Project will result in a substantial benefit to participating landowners income, as the revenue generated from the Applicant's lease and easement payments will provide a steady and predictable source of income that will supplement revenues and help ensure that landowners operations remain viable. The additional revenue will also offset any potential reduction in income from the low intensity cattle grazing that currently occurs. Through the lease between the Applicant and the Oregon Department of State Lands, state land included in the solar development area will generate higher revenue than current uses, which will benefit public services, such as schools and County services for the people of Oregon.

The property tax payments to the County from the proposed Project will generate an estimated \$14 million dollars over the life of the Project. These payments represent an increase over current tax revenues from the affected properties, and represent a substantial contribution to Crook County. As a result, the community can benefit from an increased, stable funding source for services such as public safety and education.

Up to 1,879 acres of solar generation promotes rural economic development by creating jobs and inducing spending in Crook County. EDCO's letter of support for the proposed Project is included as Attachment 6 to the CUP amendment application (217-22-000373-PLNG). For these reasons, the Goal 3 exception request will support economic benefits to the County.

The entire Goal 3 exception area is nonarable land that is not considered high-value farmland. The proposed Project does not eliminate any cropland or irrigated land, or land with associated irrigation water rights. According to the latest USDA Census of Agriculture data (USDA 2019), removing 1,879 acres of land from Goal 3 protection represents 0.2 percent of the total farmland (799,845 acres) in the County. As described in the Crook County Comprehensive Plan, only a relatively small portion of the County's agricultural lands, "approximately 5 percent are classified as agricultural cropland of which only 60 percent 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". Therefore, the Goal 3 exception area does not have attributes to be developed as productive farmland.

Furthermore, the Goal 3 exception does not seek to permanently remove land from agricultural use or grazing. Per the terms of the lease, the land will be returned to current use following Project retirement and restoration (see Attachment 2, 217-22-000373-PLNG). The Applicant will begin decommissioning the Project within 12 months of permanent cessation of construction or the end of commercial

operation, unless otherwise agreed upon with the County. For these reasons, the Goal 3 exception request will not impact productive resource lands in the County.

Oregon's Renewable Portfolio Standard (RPS) establishes a requirement for how much of Oregon's electricity must come from renewable resources like solar. The current RPS is set at 50 percent by 2040. In 2021, Governor Kate Brown signed House Bills 2021, 2165, 2475, and 3141 to address the climate crisis by accelerating the clean energy transition in Oregon by moving to 100 percent clean electricity sources by 2040 (State of Oregon 2021). In addition to Oregon's RPS and clean energy goals, private companies have their own renewable energy procurement policies, which increase the demand for renewable energy in Oregon. These public and private policies are intended to reduce greenhouse gas emissions, mitigate climate impact, and reduce reliance on carbon-based fuels. Solar generation, like that proposed in the solar development area, helps further these public and private policies and outweighs temporarily removing up to 1,879 acres from Goal 3 protection.

(b) Areas that do not require a new exception cannot reasonably accommodate the use; The exception must meet the following requirements:

(A) The exception shall indicate on a map or otherwise describe the location of possible alternative areas considered for the use that do not require a new exception. The area for which the exception is taken shall be identified;

(B) To show why the particular site is justified, it is necessary to discuss why other areas that do not require a new exception cannot reasonably accommodate the proposed use. Economic factors may be considered along with other relevant factors in determining that the use cannot reasonably be accommodated in other areas. Under this test the following questions shall be addressed:

i. Can the proposed use be reasonably accommodated on nonresource land that would not require an exception, including increasing the density of uses on nonresource land? If not, why not?

ii. Can the proposed use be reasonably accommodated on resource land that is already irrevocably committed to nonresource uses not allowed by the applicable Goal, including resource land in existing unincorporated communities, or by increasing the density of uses on committed lands? If not, why not?

iii. Can the proposed use be reasonably accommodated inside an urban growth boundary? If not, why not?

iv. Can the proposed use be reasonably accommodated without the provision of a proposed public facility or service? If not, why not?

(C) The "alternative areas" standard in paragraph B may be met by a broad review of similar types of areas rather than a review of specific alternative sites. Initially, a local government adopting an exception need assess only whether those similar types of areas in the vicinity could not reasonably accommodate the proposed use. Site specific comparisons are not required of a local government taking an exception unless another party to the local proceeding describes specific sites that can more reasonably accommodate the proposed

use. A detailed evaluation of specific alternative sites is thus not required unless such sites are specifically described, with facts to support the assertion that the sites are more reasonable, by another party during the local exceptions proceeding.

FINDING: The alternatives analysis discussed below demonstrates that there are no non-resource lands, or resource lands already irrevocably committed to non-resource uses, available that meet the siting criteria for the Goal 3 exception area pursuant to OAR 660-004-0020(2)(b)(B)(i) through (iv). Consistent with OAR 660-004-0020(2)(b)(C), the Applicant applies a broad review of similar types of areas rather than a review of specific alternative sites. Specifically, the Applicant followed an alternatives analysis methodology that examined available lands with a set of site selection criteria to determine the locations that could accommodate 1,879 acres of solar development. This method was verified by the County in pre-application conferences held on February 24, 2021 and July 27, 2021 and is consistent with methods approved in August 2019 for a Goal 3 exception requested for the Millican Solar Facility CUP amendment (No. 217-19-001228-PLNG). The method establishes a four-step screening process to identify potential alternative areas (Step 1-3) and demonstrate why the proposed use cannot be accommodated (Step 4), as follows:

1. Identify zones in Crook County and the City of Prineville that permit a commercial photovoltaic facility as a permitted or conditional use;
2. Identify lands that are 1,879-acres or greater, as a single-parcel tract, or continuous block under common ownership;
3. Identify parcels within two miles of an existing high-voltage transmission facility (115-kV or greater) or substation that allow for the shared use of an existing transmission facility, or to site a transmission facility in order to relay electricity to a substation;
4. Identify conflicts associated with the proposed use and surrounding land uses.

As required by OAR 660-004-0020(2)(b)(A), Figure 5 of the application submitted shows the location of possible alternative areas considered for the solar development area that do not require a goal exception in relation to the proposed Goal 3 exception area. The Applicant's analysis shows the Goal 3 exception area meets the first three screening criteria listed above. The County had previously confirmed in its review of Crook County Code for the Millican Solar Facility CUP amendment (No. 217-19-001228-PLNG) that commercial power generating facilities are not allowed as an outright, permitted use in any zone. This finding remains consistent with the most up to date version of the Crook County Code passed August 4, 2021. Instead, the County authorizes commercial power generating facilities as a conditional use in the following zones: EFU, Forest (F-1), Forest Recreation (FR-10), Powell Butte Rural Residential (PBR-20), Rural Residential (R-5 and R-10), Light Industrial (LM), Heavy Industrial (H-M), and Recreational Residential Mobile (RRM-5). Any other lots zoned EFU would also require an exception to Goal 3 and any site in the F-1 or FR-10 zone beyond 320 acres would necessitate an exception to Goal 4 (Forest Lands). For these reasons, no other lots within EFU, F-1, or FR-10 zoning districts were considered by the Applicant for further evaluation. Based on an assessment of current available County tax lot and zoning information downloaded from the County's ArcGIS portal on January 5, 2022, there are no other single or contiguous tax lots under common ownership within the PBR-20, R-5 and R-10, LM, and H-M zones that met or exceeded the 1,879 acre requirement, and are within 2 miles of an existing transmission system. Increasing the density of the solar development is also not feasible due to the constraints of the technology and its associated land area requirements per MW of electricity.

Therefore, no other lots with these zoning designations were considered for further evaluation under Step 4.

While contiguous areas exist in the County's Recreational Residential RRM-5 zone that could exceed the 1,879 acre requirement, no contiguous parcels under common ownership are within two miles of an existing high-voltage transmission line, 115-kV or greater (see Figure 5 of the application). Siting a solar development area of comparable size in the RRM-5 zoning district would require a new transmission line corridor to interconnect with an existing substation shown on Figure 5 of the application. Developing a new transmission corridor would likely require crossing a significant natural resource such as the Crooked River to the west, or could result in the division of farm units in EFU zones which is inconsistent with Public Facilities and Services Policy 6 of the Crook County Comprehensive Plan. Siting the solar development area on lands adjacent to an existing transmission corridor and approved renewable energy development allows for efficient use of infrastructure, while minimizing impacts to surrounding agricultural lands. Therefore, the Applicant states that no lots within the RRM-5 zoning district were considered for further analysis under Step 4.

Following the methodology above, no other 1,879 acre sites were located within the City of Prineville Urban Growth Boundary that meet the site selection criteria in Steps 1 through 3, and therefore no alternative exists to conduct the Step 4 conflict analysis. Pursuant to OAR 660-004-0020(2)(b)(B)(iii), no site is available that can reasonably accommodate the use inside an urban growth boundary in the County. In addition, the Applicant's finding to CCC 18.16.020(3)(d) in the CUP amendment application (217-22-000373-PLNG) demonstrates that the proposed Project will not require substantial public services (such as water, sewer, or road infrastructure) and can operate within the capacity of existing public services available to the solar development area.

The Goal 3 exception area is adequately sized, located near necessary utilities, and located in the EFU-3 Powell Butte Area zoning district, where commercial solar facilities are permitted through conditional use. Consistent with the previously approved Project CUP and Gala Solar Facility, there are minimal conflicts associated with the proposed and existing uses on surrounding land uses. The Goal 3 exception area also allows for shared use of an existing substation, rights-of-way, and the existing Gala Solar 115-kV gen-tie line to the point of interconnect on PacifiCorp's transmission system at the Ponderosa Substation. For the reasons described above, the Goal 3 exception is justified pursuant to OAR 660-004-0020(2)(b)(B)(i) through (iv).

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." The exception shall describe: the characteristics of each alternative area considered by the jurisdiction in which an exception might be taken, the typical advantages and disadvantages of using the area for a use not allowed by the Goal, and the typical positive and negative consequences resulting from the use at the proposed site with measures designed to reduce adverse impacts. A detailed evaluation of specific alternative sites is not required unless such sites are specifically described with facts to support the assertion that the sites have significantly fewer adverse impacts during the local exceptions proceeding. The exception shall include the reasons why the consequences of the use at the chosen site 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. Such reasons shall include but are not limited to a description of: the facts used to determine which

resource land is least productive, the ability to sustain resource uses near the proposed use, and the long-term economic impact on the general area caused by irreversible removal of the land from the resource base. Other possible impacts to be addressed include the effects of the proposed use on the water table, on the costs of improving roads and on the costs to special service districts;

FINDING: the Applicant conducted an alternatives analysis that applies a broad review of similar types of areas rather than a review of specific alternative sites. The alternatives analysis above demonstrates that there are no non-resource lands, or resource lands already irrevocably committed to non-resource uses, available that meet the siting criteria for the Goal 3 exception area pursuant to OAR 660-004-0020(2)(b)(B)(i) through (iv). Therefore, the following analysis of potential long-term environmental, economic, social and energy consequences is focused on the solar development area and Goal 3 exception area identified on Figures 1 and 2.

Environmental

The County has established environmental review standards under CCC 18.16, 18.160, and 18.161. The County may rely on findings to these standards presented in CUP No. 217-14-000069-PLNG (Gala Solar Facility), CUP No. 217-16-000373-PLNG (Empire Solar Project), and the Applicant's CUP amendment application (217-22-000373-PLNG) to determine that potential adverse environmental impacts associated with the solar development area are not significantly more adverse than would typically result from the same proposal being located in areas that do not require a Goal 3 exception other than the proposed site.

First, operation of the proposed Project and existing Gala Solar Facility in the solar development area will not result in any air emissions of pollutants. Photovoltaic solar power generation is an internationally recognized clean, renewable source of energy and considered a non-polluting industry. The proposed Project will have temporary and localized low-level impacts to air quality due to the operation of construction equipment and generation of airborne dust, and BMPs will be implemented to minimize the effects of the dust. For example, the Applicant's contractor will implement measures during construction of the proposed Project to reduce the potential for impacts to surrounding adjacent lands due to fugitive dust, including using water trucks to spray exposed soil down during dry and windy conditions, and leaving as much of the grass and other groundcover vegetation intact during construction as possible.

Second, potential impacts to the area's water quality will be avoided and minimized through the implementation of the Project's erosion control measures and BMPs. The Applicant states that the solar development within the requested Goal 3 exception area will not alter the ability to comply with conditions of CUP No. 217-16-000373-PLNG or CUP No. 217-14-000069-PLNG. For example, the Applicant will submit a final erosion control plan to the County prior to the start of construction on the proposed Project (see Condition 13 to CUP No. 217-16-000373-PLNG). The Gala Solar Facility will continue to operate in compliance with the required conditions of CUP No. 217-14-000069-PLNG. The Applicant has also demonstrated in CUP No. 217-14-000069-PLNG, CUP No. 217-16-000373-PLNG, and the CUP amendment application (217-22-000373-PLNG) that if panels are washed during operations, no cleaning chemicals or solvents will be used, and water will return to the water table through the underlying soils.

Third, the solar development area is within the County's inventoried big game winter habitat. Big game winter range within the County is based on Crook County's Wildlife Resources Map in the

Comprehensive Plan, and the Crook County and ODFW big game winter range spatial data. The existing and proposed solar development is designed, sited, constructed, and operated to follow wildlife and habitat avoidance and minimization measures identified in each project's respective wildlife impact and mitigation plan. See the previously approved Wildlife Impact and Mitigation Plan (2016 Mitigation Plan; MB&G 2016), the Wildlife Impact and Mitigation Plan – 2022 Addendum (2022 Mitigation Plan) provided in Attachment 8 of the CUP amendment application (217-22-000373-PLNG), and the Gala Solar Facility Wildlife Impact and Mitigation Plan approved under CUP No. 217-14-000069-PLNG. The Applicant has also coordinated with ODFW to develop the 2022 Mitigation Plan. This plan provides mitigation approaches to offset habitat impacts that cannot be avoided consistent with ODFW's Habitat Mitigation Policy. The Applicant will continue to coordinate with ODFW to select and implement one of the mitigation options identified in the 2022 Mitigation Plan. Prior to Project construction and consistent with Condition 9 of CUP No. 217-16-000373-PLNG, the Applicant will provide Crook County with financial and legal assurances documenting that one of the compensatory mitigation options described in the 2022 Mitigation Plan have been implemented. For these reasons, the Goal 3 exception request is justified based on the incorporation of measures designed to reduce adverse impacts to the County's inventoried big game winter habitat. The Applicant also seeks to begin construction activities for the proposed Project in December 2023, thereby reducing impacts on nesting migratory birds by conducting vegetation clearing prior to the onset of the general bird breeding season for the region (approximately April 1–August 31). The 2022 Mitigation Plan describes impact avoidance and minimization measures for raptors and other migratory bird species, including disturbance buffers for active nests. See Attachment 8 of the CUP amendment application (217-22-000373-PLNG).

Fourth, findings for the Gala Solar Facility (217-15-000069-PLNG), which includes the operating Gala Solar 115-kV gen-tie line to PacifiCorp's Ponderosa Station, and the previously approved Empire Solar Project (CUP No. 217-16-000373-PLNG), state that the proposed uses will have minimal impact on development of the surrounding area compared to the impact of development permitted outright and that the location is well suited for such development. The Applicant's CUP amendment application (217-22-000373-PLNG) demonstrates that the proposed Project in the solar development area will not change the County's previous findings.

Fifth, the Applicant cites that the region has warmed nearly 2 degrees Fahrenheit since 1900 because of increased greenhouse gas emissions. This warming includes warmer waters that affect both river and coastal ecosystems, threatening salmon runs and other important marine and freshwater species. Additionally, in eastern Oregon, large mountain areas have suffered mountain pine beetle infestations, wildfires, or both, causing widespread shifts in forest ecosystems. A mission of Oregon's Climate Action Plan is to achieve a reduction in greenhouse gas emissions levels to at least 45 percent below 1990 emissions levels by 2035 and at least 80 percent below 1990 emissions levels by 2050. One of the measures identified to accomplish this is through supporting renewable energy development such as solar facilities (Oregon Legislative Assembly 2019). Therefore, the proposed Project contributes to the reduction of greenhouse gas emissions, which thereby may result in a beneficial environmental impact.

Economic

Economic impacts and benefits associated with the solar development area are identified in Section 3.1 of the application, in the Applicant's response to Economic Policies of the Crook County Comprehensive Plan. Overall, the proposed Project is not anticipated to have adverse economic impacts; rather, the proposed Project will have substantial direct and indirect economic benefits to participating landowners, Crook County, and the broader central Oregon region. The existing Gala Solar Facility within the solar development area already contributes economic benefits realized by the County. Development of the

proposed Project would increase economic diversity within the County. As discussed in the Applicant's CUP amendment application (217-22-000373-PLNG), the proposed Project is expected to result in substantial annual tax revenue for the County. The land would be taxed at a higher assessed value than it currently is taxed. As estimated for the previously approved CUP application (CUP No. 217-16-000373-PLNG), the Applicant states that the County is expected to receive over \$14 million dollars in property tax payments over the life of the Project; this value will likely be substantially higher with the expansion of the Project. A larger tax base benefits the community by providing more funding for services such as public safety and education. According to Economic Development for Central Oregon (EDCO), demand for renewable energy is increasing, and efforts are underway at the state and regional levels to increase capacity. EDCO has written a letter of support for the Project as amended. (see Attachment 6, Aurora Solar 2021).

The Applicant anticipates that construction of the proposed Project would create an average of 250 temporary construction jobs for a period of up to 12 months. The Applicant would hire as many local experienced contractors/workers as possible and commercially feasible during the construction phase of the Project and would obtain necessary goods and services from local businesses within the County whenever reasonably possible. Operation of the Project should create two to four full-time permanent maintenance positions for local residents in addition to those already working at the Gala Solar Facility. Job creation has a multiplier effect within the local community, increasing business for local restaurants, hotels, and retail establishments. Workers employed in service of the construction of the proposed Project would spend portions of their salaries in local communities, creating "induced" economic benefits at various local area businesses, especially retail, lodging, and food and entertainment establishments.

In addition, the Amended Retirement and Site Restoration Plan (Attachment 2, 217-22-000373-PLNG) demonstrates that no economic burden will be placed on area landowners or the County because the Applicant is obligated to retire and restore the site and will have a financial assurance in place to guarantee such work. The retirement and site restoration estimate, including labor, materials, equipment, and disposal for the proposed 103 MW Project with the optional 103 MW BESS is identified in Attachment 2 to the CUP amendment application (217-22-000373-PLNG). The actual retirement and site restoration costs will be determined prior to construction based on the final design of the proposed Project. For these reasons, the Applicant states that they demonstrate a reasonable likelihood of obtaining financial assurances to restore the proposed Project site to a useful, nonhazardous condition in agreement with the County. Therefore, the Goal 3 exception request is justified based on the substantial economic benefits and limited economic risks associated with the solar development area.

Social

The County has established review standards that address potential impacts to public services, safety, and cultural resources under CCC 18.16, 18.160, and 18.161. The Applicant demonstrated compliance with these standards in CUP No. 217-14-000069-PLNG (Gala Solar Facility), CUP No. 217 16-000373-PLNG (Empire Solar Project), and in the CUP amendment application (217-22-000373-PLNG) to determine that the potential social consequences of the proposed Project are not more adverse than would typically result from the same proposal being located in areas requiring a goal exception other than the proposed site.

The proposed Project and existing Gala Solar Facility are consistent with the purposes of the EFU-3 Powell Butte Area zoning district, which allows for the development of photovoltaic solar power generation facilities as a conditional use. The Applicant states that the solar development area will not

interfere with agricultural productivity on surrounding lands or within the County. The additional revenues received by the landowner from the project lease and easement payments would provide a steady source of income that would supplement revenues and help ensure that lessor-landowner operations would remain viable. Supporting landowner letters are provided with Attachment 10 to the CUP amendment application (217-22-000373-PLNG).

The Applicant states that the proposed Project and existing Gala Solar Facility will not substantially impact local or regional public services. The existing Gala Solar Facility operates in the solar development area with an onsite well that serves the O&M building (CUP No. 217-14-000069-PLNG). The proposed Project within the solar development area will not require substantial public services. Water for the O&M building will be supplied via an on-site exempt groundwater well. Wastewater will be managed with an on-site, County permitted septic system. Standard electric power and telephone services will be provided by local service providers, consistent with service provided to the existing Gala Solar Facility. During operations, the Project will be primarily unoccupied using passive technology, such as the SCADA system, for remote operation. This means little to no noise, traffic, or other offsite impacts will be generated from Project operations. No known or proposed public facilities are located or planned in the vicinity of the proposed Project, and none (such as water, sewer, or roads) are required for the proposed Project. The solar development area will not result in costs to special service districts.

The Applicant states that other than reducing potential hunting opportunities by the underlying landowners, the solar development area will not impact recreational opportunities on surrounding lands or within the County. The solar development area will not impact the ability to develop allowable uses in the County's Destination Resort Overlay zone to the west.

At full build-out the solar development area will generate fewer than 20 daily trips and less than 10 weekday p.m. peak hour trips. These estimates are based on the combined trips identified in the Traffic Assessment Letters approved under CUP No. 217-14-000069-PLNG (Gala Solar Facility) and CUP No. 217 16-000373-PLNG (Empire Solar Project). The CUP amendment application demonstrates that the amended Project is consistent with the previously approved trip assessment provided in CUP No. 217 16-000373-PLNG. There are no anticipated long-term adverse traffic impacts associated with the solar development area.

The solar development area is subject to provisions for wildfire prevention and control. The County previously approved Emergency Management Plans for the operating Gala Solar Facility under CUP No. 217-14-000069-PLNG and for the previously approved Project under CUP No. 217 16-000373-PLNG. The proposed Project, and solar development area, continue to be within the Powell Butte Risk Assessment Area and within the jurisdiction of the Crook County Fire & Rescue Department. The Crook County Fire & Rescue Department responds to structural and natural vegetation fires in Crook County Rural Fire Protection District No. 1. The Applicant previously coordinated with the Crook County Fire & Rescue and the Crook County Sheriff's Department to develop the previously approved Emergency Management Plan to describe Project-specific response procedures to fires and other emergencies for all phases of the Project. The Applicant has developed an Amended Emergency Management Plan (see Attachment 5 to the CUP amendment application) to address wildfire concerns. Section 7 of the Amended Emergency Management Plan identifies specific safety and prevention practices to minimize accidental fire ignition at the proposed Project site (Attachment 5; 217-22-000373-PLNG).

Consistent with previously approved Conditions 11 and 12 to CUP No. 217-14-000069-PLNG and CUP No. 217 16-000373-PLNG, respectively, the Applicant will enter into a road use agreement with the Crook County Road Master prior to the start of Project construction, if required.

The Applicant states that they have conducted a first phase of desktop and field investigations to evaluate the Project's potential to impact significant historical or cultural resources and a second phase is planned prior to construction (see Attachment 14 Supplemental Cultural Resources Survey Report of 217-22-000373-PLNG). If significant resources are discovered and determined to be unavoidable at final Project design, then the Applicant will consult with the State Historical Preservation Office and area tribes regarding suitable mitigation.

In addition, within the County's approved findings for the Gala Solar Facility (CUP No. 217-14-000069-PLNG) state that the facility will have positive social impacts by creating both temporary and permanent employment. The findings also stated that the location will minimize any impacts on neighboring properties and that the project will not be visible from any public roadways and will not impact any recreational amenities. Similarly, the proposed Project will be designed to blend with the surrounding landscape to the greatest extent feasible. For example, the O&M building will be painted a neutral color consistent with the background viewshed. The proposed Project will be well screened by existing vegetation (primarily mature and intermediate juniper trees, 15 to 35 feet tall) as well as the currently operational Gala Solar Facility. Although the proposed Project components will modify the existing landscape, they will be similar in nature to existing modifications (e.g., Gala Solar Facility, transmission lines) and will be set back from SW Millican Road between 0.2 and 0.5 mile to reduce contrast with the remote character of the area. For these reasons, the Goal 3 exception request is justified based on minimal adverse social consequences associated with the solar development area.

Energy

As discussed above, the solar development area will support the generation of reliable renewable energy for sale to the public and, while doing so, promote the goals of the Crook County Comprehensive Plan, as well as Oregon's RPS and commitment to rural economic development. As stated in the Crook County Comprehensive Plan, "Prineville and Crook County receive about 300 days of sunshine per year. Solar energy will be a very feasible source of energy." Therefore, the solar development area is ideal for the proposed and existing photovoltaic solar power generation facilities and Crook County will see benefits from the proposed Project in addition to the existing benefits generated from the Gala Solar Facility.

Staff finds that the environmental, economic, social, and energy consequences associated with the proposed Project, with its proposed mitigation measures, are not more adverse than the same proposed Project sited in areas without a goal exception. No adverse impacts have been identified for the solar development area that would be significantly more adverse than if the proposal was sited elsewhere in Crook County. The request complies.

(d) "The proposed uses are compatible with other adjacent uses or will be so rendered through measures designed to reduce adverse impacts." The exception shall describe how the proposed use will be rendered compatible with adjacent land uses. The exception shall demonstrate that the proposed use is situated in such a manner as to be compatible with surrounding natural resources and resource management or production practices. "Compatible" is not intended as an absolute term meaning no interference or adverse impacts of any type with adjacent uses.

FINDING: The Applicant considers adjacent uses as uses occurring on property adjacent to the requested Goal 3 exception area (Figure 2). Existing and proposed solar development will be located within 1,879 continuous acres of private and state property. The Applicant stated that adjacent uses on adjacent lands generally consist of the following:

- Properties north of the Goal 3 exception area owned by Powell Butte Vistas LLC, the Raasch Family Trust, and a portion of the parcel owned by the Oregon Department of State Lands (ODSL) that is not leased by the Applicant. These properties are undeveloped and have been or are currently used for periodic or seasonal cattle grazing.
- Properties east of the Goal 3 exception area include portions of the existing BPA and PacifiCorp transmission line corridor, BLM property, and an undeveloped parcel owned by Raasch Family Trust. There is no known accepted farming practices on the BLM land east of the Goal 3 exception area. The Raasch Family Trust property is undeveloped and used for periodic cattle grazing.
- Properties south and west of the Goal 3 exception area owned by Sage Brush Ventures LLC and RMG Destination LLC. Uses on this surrounding land to the south and west are primarily cattle grazing operations.

The Applicant stated that the solar development within the Goal 3 exception area is compatible with existing adjacent land uses. Adjacent lands, including abutting properties described above, are either unused, used for light grazing rangeland, or include existing transmission and local road infrastructure. Adjacent surrounding lands are also within the County's EFU-3 Powell Butte Area zoning district (Figure 4; 217-22-000373-PLNG) where, per CCC 18.16.010, uses similar in nature to the proposed Project are allowable and include wind power generation facilities, transmission towers, or other commercial utility facilities.

The existing and proposed solar development is a largely passive use that is operated remotely, with a limited staff of two to four personnel for daily onsite operations and maintenance. This means little to no noise, traffic, or other offsite impacts will be generated from Project operations. In addition, the proposed Project will not preclude access to the surrounding area, will not limit the ability to develop other allowed uses in the surrounding area, and will not change accepted practices for existing cattle grazing operations on lands in the surrounding area.

The construction and current operation of the Gala Solar Facility is compatible with the few nearby residences, the closest of which is approximately 0.2 miles from the Goal 3 exception area boundary. Given the lack of active farming or other resource practices on surrounding lands, the remote location of the area away from population centers, and the minimal impacts associated with the proposed Project's construction and operation, the County may continue to conclude that the proposed solar development is compatible with other adjacent uses and the Goal 3 exception is warranted.

V. STAFF RECOMMENDATION

1. Approval of the Conditional Use Permit and Goal Exception for the proposed solar facility, with the proposed amendments to findings and conditions as presented by staff.

2. Approval of the Conditional Use Permit and Goal Exception for the proposed solar facility, with amendments to the findings and conditions as proposed by the Planning Commission.
3. Denial of the Conditional Use Permit and Goal Exception for the proposed solar facility , based on specific grounds identified by the Planning Commission.

VI. CONDITIONS OF APPROVAL

The Conditions of Approval identified below are the original conditions from decision 217-16-000373-PLNG, as well additional conditions necessary for the proposed modification. The original conditions have been edited to reflect any necessary changes with ~~striketroughs~~ and underlines. Newly proposed conditions are also underlined.

1. The Applicant shall sign and record in the deed records for Crook County, prior to receipt of any building permits, a document binding the Project owner and the Project owner's successors in interest, prohibiting them from pursuing a claim for relief or cause of action alleging injury from farming practices as defined in ORS 30.930(2). (Non-remonstrance agreement)
2. The Applicant shall acquire all necessary building permits prior to construction.
3. The Applicant agrees to provide an annual report, ~~upon request~~ on a yearly basis, to the County including:
 - A summary of changes to the facility that do not require amendments
 - A summary of the wildlife monitoring plan
 - Employment impacts during and after construction
 - Success or failure of weed control practices
 - Status of decommissioning bond or other financial mechanism
 - A Summary comments of any problems with the project, any adjustments needed, or any suggestions.
4. The Applicant shall meet all requirements of Crook County Code 18.161.010(2)(d) regarding amendments to the facility including those changes that would:
 - Require an expansion of the established facility boundaries;
 - Increase the footprint of the photovoltaic system by more than 20%;
Increase generator output by more than 25% relative to the generation capacity authorized by the initial permit due to the repowering or upgrading of power generation capacity.
 - Change any road or access points

Notification by the facility owner/operator to the Crook County Planning Department of changes not requiring an amendment is encouraged, but not required.

5. The solar field and connector line will be placed within the site boundary on the site plan submitted with the application. It is possible that the exact configuration of the solar field array and accessory structures (e.g., substation, operation and maintenance building) may change as the Project design is finalized. If the Applicant opts to construct the modified Project design (Option B), the proposed modification shall be subject to review by the Crook County Planning

Commission as an amendment to the existing conditional use permit. Otherwise, a revised site plan shall be filed with and approved by the Crook County Community Development Department. The Applicant will provide a final site plan showing the location of project components, including the gen-tie line, prior to beginning site clearing and grading.

6. The Applicant agrees that the Project materials selected will be in substantial conformance to those submitted with the applicant's "burden of proof" statement.
7. The Applicant agrees to establish a bond, letter of credit or other financial assurance, as required by CCC 18.161.010(2)(xvi). Implementation of final decommissioning and financial assurance will be provided entirely at the cost of Avangrid. 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 deconstruction work will be completed in accord with the decommissioning plan.
8. The 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 ground-breaking on the Project site. The financial assurance shall give consideration to the cost estimate and phasing schedule in the decommissioning plan, shall provide adequate funding to restore the site, regardless of when construction or operation ends, and shall be maintained for the life of the facility and adjusted annually to account for inflation.
9. The solar field enclosure will be completely fenced at a minimum height of 8 feet. A secured gate will be in place at entrances to the Project from both the primary access and the secondary access. The fence shall be a chain link fence, without slats. Corner gates will be provided to allow removal of wildlife trapped within the enclosed area.
10. The Applicant has submitted a Wildlife impact and Monitoring Plan prepared in cooperation with ODFW, USFWS and Crook County in alignment with the County Comprehensive Plan. The Applicant and ODFW are cooperatively developing the fundamentals of final mitigation options. The Applicant has agreed to formally implement the plan in consultation with ODFW and USFWS. Any modifications to the Plan shall be submitted to Crook County prior to groundbreaking on the Project site unless an extension is agreed to by all parties. Any payment in-lieu of mitigation will be made to the Oregon Department of Fish and Wildlife prior to the start of Project Construction and before site clearing and grading occurs ~~the initial clearing and grading of the site.~~

If the Project area is cleared of vegetation ahead of a final, executed wildlife implementation and monitoring plan and the Project is not constructed, the applicant will revegetate the site such that functional equivalency or better is returned in areas of temporary impact and temporary impacts will be mitigated.

11. 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.

12. Prior to initiation of clearing and grading, the Applicant shall consult with the Crook County Road Master. If required, the applicant will enter into a road use agreement with the Crook County Road Master prior to the start of clearing/grading.
13. The road approach permit for the secondary access road from Millican Road shall be applied for and approved prior to the start of construction.
14. The Applicant will submit a final stormwater management/erosion control plan to the Crook County Community Development prior to the start of clearing and grading the Project site.
15. Prior to the commencement of any decommissioning work, all necessary permits shall be obtained, (e.g., Crook County Land Use Permits, road access and other permits from the Crook County Road master and the Oregon Department of Transportation; or other entities).
16. The Applicant shall provide evidence of a signed "Large Generator interconnection Agreement" from PacifiCorp prior to any clearing/grading of the site.
17. This approval authorizes the Applicant to construct the 2.6 mile 115 kV gen-tie line as a component of the proposed project, if necessary. This construction shall be done in a manner that ensures that the acreage of permanent disturbance does not exceed 320 acres.
18. County approval of the Goal 3 exception for the Project shall be obtained prior to construction in order to exceed 320 acres of development on nonarable land.
19. The applicant shall adhere to the "Bird Avoidance and Mitigation Measures" within Attachment 8 of the application submitted.
20. The cable collector system to be installed underground at a minimum depth of three feet where practicable.
21. The salvage value of materials shall not be incorporated into the final cost to decommission the facility. Prior to any development, the applicant shall submit an amended Retirement and Site Restoration Plan that excludes the cost of scrap value from the proposal, and identifies the required financial assurance without that component. This applies to all financial assurances submitted to the county as well.
22. A summary of any as built changes in the facility from the original plan, shall be provided by the owner/operator to the Crook County Community Development Department prior to the facility being connected to the grid for power production. The Applicant shall provide a legal description of the Project Site, including the transmission corridor prior to issuance of building permits. Necessary easements shall be acquired and recorded for the gen-tie line prior to any clearing and grading.
23. Upon receipt of a reasonable cost estimate from the State Department of Fish and Wildlife, the State Historic Preservation Office or any affected federally recognized tribes, or the State Department Energy, the county, applicant, and state agency or tribe shall enter into a cost reimbursement agreement administered by the county regarding the cost of receiving comments.

24. The Applicant shall submit a letter from Crook County Fire and Rescue approving the Emergency Management Plan prior to the start of clearing and grading the Project site.
25. 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.
26. The Applicant shall coordinate with the Crooked River Watershed Council prior to the removal of any juniper trees at the facility site, or the mitigation sites. The Applicant shall allow the watershed council to utilize any juniper trees wanted for rehabilitation projects throughout the county at no cost.
27. 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.
28. Any mitigation which occurs through proposed Option 1 or 2 shall only occur within the boundaries of Crook County.
29. Mitigation to occur up until the end of decommissioning.
30. The Applicant shall coordinate with the Crook County Counsel's office to determine an acceptable schedule in which the Applicant would Provide the financial assurances for retirement and site restoration of the facility.
31. The mitigation fee will be adjusted in the same percentage as the increase, if any, in the Consumer Price Index (the "Index") published by the United States Department of Labor, Bureau of Labor Statistics. The increase will be computed by comparing the schedule entitled "U.S. City Average, All Items, All Urban Consumers, 1982-84=100" for the year and month of the Approval Date and the latest figures preceding the Payment Date. All comparisons will be made using Index figures derived from the same base period. If the Index cited above is revised or discontinued during the Term, then the Index that is designated to replace it by BOMA Oregon will be used.

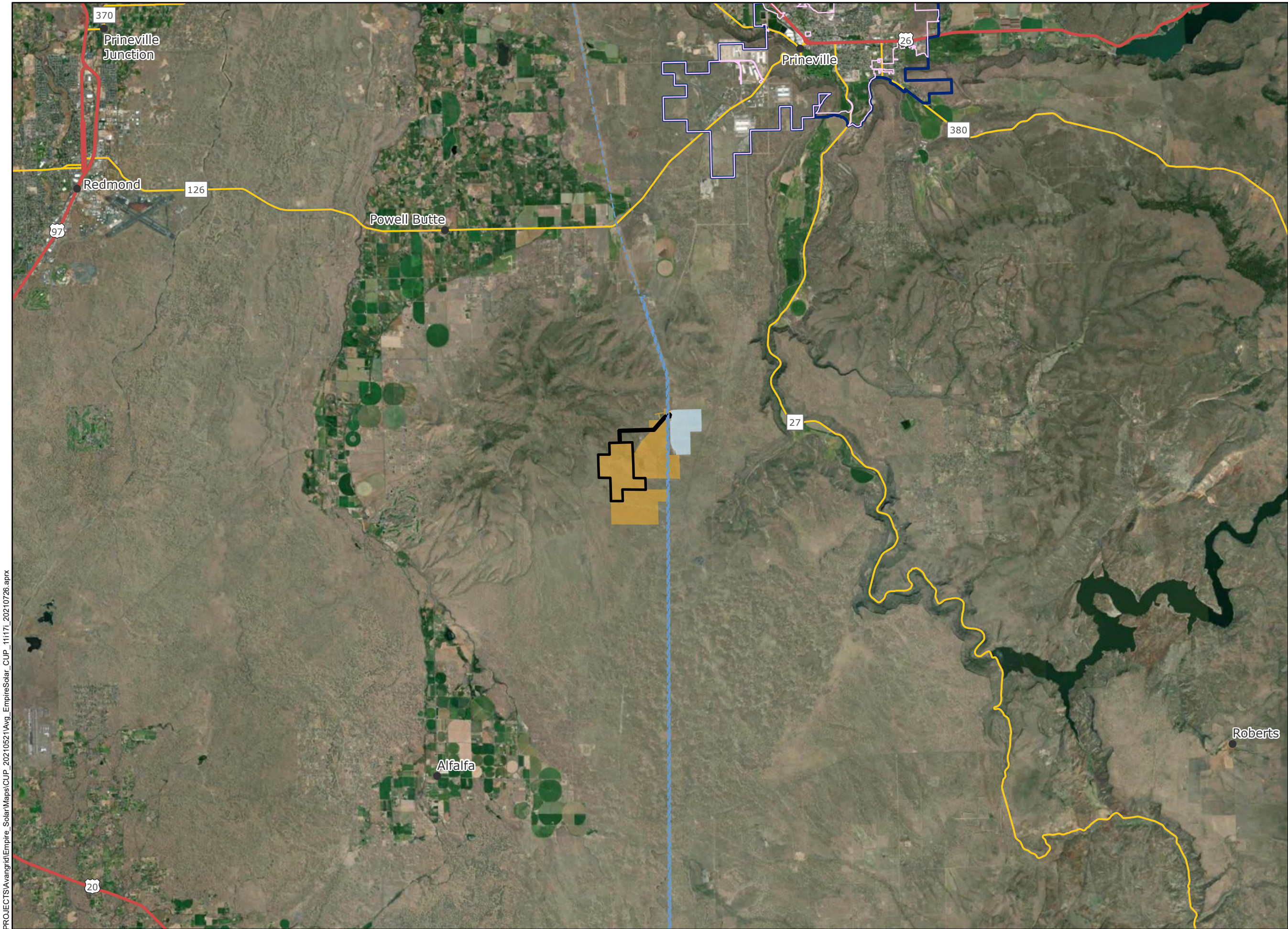
Respectfully submitted



Brent Bybee, Planning Manager
Crook County Community Development

Notice of the July 21, 2022 public hearing was sent to property owners within 750' of the subject properties.

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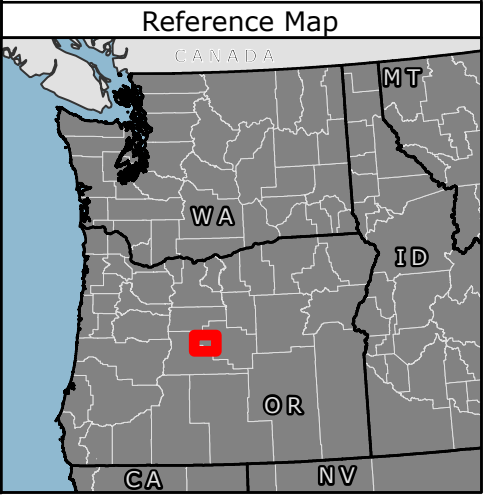


Empire Solar Project

Figure 1 Project Overview Map

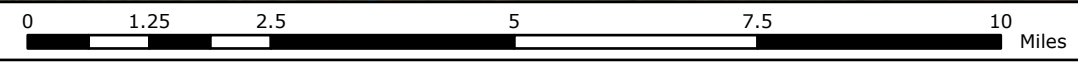
CROOK COUNTY, OR

- Existing Gala Solar Facility (319 acres)
 - Permitted Project Site Boundary (528 acres)
 - Proposed Project Site Boundary (1,553 acres)
 - Existing Transmission Line
 - US Highway
 - State Highway
 - City/Town
 - Urban Growth Boundary
 - City of Prineville Boundary
- TETRA TECH AVANGRID RENEWABLES



1:125,000

WGS 1984 UTM Zone 10N



NOT FOR CONSTRUCTION

