

PERMIT No.

217-20-000375-PLNG



FEES: (Conditional Use)

Modification of Conditions "without" Public Hearing: \$400

Modification of Conditions "with" Public Hearing: \$ 825

**Crook County Community Development Department
Planning Division**

300 NE 3rd Street, Room 12, Prineville Oregon 97754

Phone: 541-447-8156 / Fax: 541-416-3905

Email: plan@co.crook.or.us / Website: www.co.crook.or.us

MODIFICATION REQUEST - CONDITIONAL USE

(Modification of Conditions "with" or "without" Public Hearing)

NOTICE TO ALL APPLICANTS

The Crook County Community Development Department is required to review all applications for accuracy and to determine whether the staff and/or Planning Commission have the information needed to make a decision. County Ordinances allow the County 30 days to determine whether the application is complete. If it is determined that your application is incomplete, you will be requested, in writing, to provide the necessary missing information, and a decision on your application will be postponed until the information is received. State Law requires that information to support an application be available for public inspection at our office 20-days before a public hearing. Any information submitted after this date may require a postponement of the hearing date if necessary. **Please make sure your application is complete.** The burden of proof lies with the applicant.

PROPERTY OWNER INFORMATION

Last Name: Sproat First Name: Bryan
Mailing Address: PO Box 77
City: Powell Butte State: OR Zip: 97753
Day-time phone: (541) 123-4567 Cell Phone: (541) 480-9606

Email (Please print clearly): georges@bendbroadband.com

AGENT/REPRESENTATIVE

Last Name: West Prineville Solar Farm LLC First Name: Jacob Stephens, Manager
Mailing Address: 2033 E Speedway Blvd., Suite 200
City: Tucson State: AZ Zip: 85716
Day-time phone: (520) 261-8094 Cell Phone: (520) 981-7303

Email (Please print clearly): jstephens@newsunenergy.net

Tax Map # 15-15 2900 & 3000

State what the original approval was for:

Conditional use approval to construct and operate a solar photovoltaic power generating facility on up to 320 acres.

Explain your request for the modification: what, where, why:

Expand the area within the approved project site boundary up to 654 acres. Please refer to the attached burden of proof statement and exhibits.

Please attach any exhibits to better explain your reasons of modification.

SIGNATURES

I agree to meet the standards governing the laws for "Site Plan Reviews" as outlined in the State of Oregon's OAR, ORS, Crook County Code, and Crook County - Prineville Comprehensive Plan. I agree that all the information contained in this application is true to the best of my knowledge.

Property Owner Signature: _____ Date _____

Print name clearly: _____

Property Owner Signature: See Attached Agent Authorization _____ Date _____

Print name clearly: _____

Agent/Representative Signature: J H Stephens Date 4/1/2020

Print name clearly: Jacob H. Stephens

(Note: If an agent/representative is submitting your application on behalf of the property owner, the "Authorization Form" must be completed and attached to this application.



Community Development Department

300 NE 3rd Street, Prineville, OR 97754

Phone: (541) 447.8156 / Fax: 541-416-2139

Email: plan@co.crook.or.us / Website: www.co.crook.or.us

AUTHORIZATION FORM

Let it be known that

JACOB H STEPHENS
(Print name clearly)

has been retained to act as my authorized agent to perform all acts for development on my property noted below: These acts include: Pre-application conference, filing applications and/or other required documents relative to all Permit applications.

Physical address of property: 8140 SW Hwy 126 Powell Butte OR 97753 and described in the records of CROOK COUNTY as:

Township 15 South, Range 15 East, Section 28, 33, Tax lot _____
Township _____ South, Range _____ East, Section _____, Tax lot _____

The costs of the above actions, which are not satisfied by the agent, are the responsibility of the undersigned property owner.

PROPERTY OWNER

(Please Print Clearly)

Signature: Bryan L Sproat / Shanna G Sproat Date: 8/17/2018

Print Name: Bryan L Sproat / Shanna G Sproat

Mailing address: PO Box 77

City: Powell Butte State: OR Zip: 97753

Home Phone: () _____ Cell Phone: (541) 480-9606

Email: georges@bendbroadband.com

Individual(s)

Corporation;

Limited Liability Corporation;

Trust

IMPORTANT NOTE: Indicate whether property is owned in individual name(s), or by a business or other entity (e.g. Corporation, Limited Liability Company; or Trust). If property is owned by an entity, include names of all authorized signers. For Example:

If the owner is a Corporation, Limited Liability Corporation or Trust, the following information is required as part of this form.

- If a Corporation ~ please provide the name of President or other authorized signor(s).
- If a Limited Liability Corporation ~ provide names of **ALL** members & managers.
- If a Trust ~ provide the name of current Trustee(s)

In addition, you will need to include a copy of Bylaws (Corporations); an Operating Agreement (Limited Liability Company); or Certificate of Trust (Trusts) that verifies authority to sign on behalf of the entity.

AGENT

Signature:  Date: _____

Print Name: JACOB H STEPHENS

Mailing address: 2033 E SPEEDWAY BLVD, SUITE 200

City: TUCSON State: AZ Zip: 85716

Home Phone: (520) 261-8094 Cell Phone: () _____

Email: _____

**BEFORE THE CROOK COUNTY COMMUNITY DEVELOPMENT
PLANNING DIVISION**

APPLICANT: West Prineville Solar Farm LLC
3500 S. Dupont Hwy
Dover, DE 19901

PROPERTY OWNER: Bryan Sproat
P.O. Box 77
Powell Butte, OR 97753

LOCATION: 8140 SW Hwy 126, Powell Butte, Crook County, OR

REQUEST: Applicant requests approval to modify Permit 217-19-000029-PLNG for a photovoltaic power generating facility in the EFU-3 zone from 320 to up to 654 acres.

SUMMARY: Applicant requests approval to modify the permit within the same property boundary to up to 654 acres rather than 320 acres. A Goal 3 Exception is required. Analysis of other properties in the county show there are no other suitable sites of this size that would not require a Goal 3 exception. The site is unique and ideal for a solar PV facility given that it is comprised of primarily nonarable, non-irrigated, uncultivated land outside of any Goal 5 resource areas, uniquely situated directly under four major transmission lines owned and operated by two regional utilities (both BPA and PAC) and is also immediately adjacent to three major substations (BPA Ponderosa, PAC Ponderosa, and PAC Corral substations). It would be difficult to find a more ideally suited site anywhere for a solar PV facility.

1. APPLICABLE CRITERIA:

Crook County Code (CCC)

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

Chapter 18.160 Conditional Uses

Chapter 18.161 Commercial Power Generating Facilities

Chapter 18.172.100 Revocation or modification of permit

Crook County Comprehensive Plan

Oregon Revised Statute (ORS)

ORS 197.732 Goal exceptions

ORS 215.416 Permit application

Oregon Administrative Rules

OAR 660-033-0120 Uses Authorized on Agricultural Lands

OAR 660-033-0130 Minimum Standards Applicable to the Schedule of
Permitted and Conditional Uses

OAR 660-004 Interpretation of Goal 2 Exception Process

Oregon Enrolled House Bill (HB) 2329

II. EXHIBITS:

- A. Original Permit 217-19-000029-PLNG
- B. Modified Site Plan

III. PROPOSAL:

Applicant requests approval to modify Permit 217-19-000029-PLNG to up to 654 acres rather than 320 acres. The subject property is still located within T15S, R15E, Sections 28 and 33, Crook County, Oregon on land owned by Bryan Sproat (Tax Lot No. 1515000002900 and No. 1515000003000) in the Exclusive Farm Use Zone, EFU-3 (Powell Butte Area).

IV. PROPOSED FINDINGS:

1. AMENDMENT REQUIREMENTS

CCC 18.161.010(2) Commercial Photovoltaic Energy Systems Criteria.

(d) Amendments. The photovoltaic energy system requirements shall be facility specific, but can be amended as long as the facility does not exceed the boundaries of the Crook County land use permit where the original facility was constructed. An amendment to the specific requirements of the land use permit shall be subject to the standards and procedures found in Chapter 18.170 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;

FINDING: The proposal increases the footprint of the solar PV Facility from 320 to up to 654 acres (104% increase) and therefore requires an amendment.

CCC 172.100 Revocation or modification of permit.

(3) The commission shall hold a public hearing on any proposed revocation or modification after giving written notice to the permittee and other affected persons as set forth in this title. The hearing on the decision, which is subject to revocation

or modification, is subject only to the standards, criteria and conditions that were applicable when the original permit was issued. The commission shall render its decision within 45 calendar days after the conclusion of the hearing.

FINDING: The planning commission will review the proposed amendment, hold a public hearing and issue a decision.

2. COUNTY CONDITIONAL USE STANDARDS AND CRITERIA

CCC 18.160.050(19) Standards governing conditional uses.

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

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

(1) The proposal will be consistent with the comprehensive plan and the objectives of the zoning ordinance and other applicable policies and regulations of the county.

(2) Taking into account location, size, design and operation characteristics, the proposal will have minimal adverse impact on the (a) livability, (b) value and (c) appropriate development of abutting properties and the surrounding area compared to the impact of development that is permitted outright.

(3) The location and design of the site and structures for the proposal will be as attractive as the nature of the use and its setting warrant.

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

(5) The applicant has a bona fide intent and capability to develop and use the land as proposed and has some appropriate purpose for submitting the proposal, and is not motivated solely by such purposes as the alteration of property values for speculative purposes.

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

FINDING: As demonstrated in the Permit, which is incorporated herein by this reference, the Application for a commercial photovoltaic energy system meets the applicable criteria in CCC 18.160.020 and 18.160.030. Expanding the footprint of the Project by up to 104% is consistent with the findings set forth in the Permit.

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

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

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

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

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

FINDING: The project description, schedule, legal description, and transmission interconnection all remain the same. The sole change is that the project will now occupy up to 334 additional acres of the originally permitted area as shown on **Exhibit B**. As demonstrated in the Permit, the Application for a commercial photovoltaic energy system meets the applicable criteria in CCC 18.161.010(2)(b)(i). Expanding the footprint of the Project by up to 104% is consistent with the findings in the Permit.

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

(A) Accepted farming practices as defined in ORS 215.203(2)(c) on adjacent lands devoted to farm uses;

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

FINDING: The project will continue to have limited potential conflicts with accepted farming practices on adjacent lands devoted to farm use. The Applicant has already agreed to sign and record a covenant not to sue owners, operators, contractors, employees, or invitees of property zoned for farm use for generally accepted farming practices (as defined in Oregon Revised Statute 30.930[2]) for this property.

The up to 334 additional acres will primarily be to the east; see **Exhibit B**. After limited impacts during construction, operation of the project is not expected to impact resource operations and practices, including photovoltaic energy system facilities, on this land to the east.

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

FINDING: A transportation assessment letter was provided to support the Permit. Expanding the footprint of the Project by up to 104% does not change transportation impacts. There are no additional trips than were previously identified and analyzed.

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

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

FINDING: The Project site is not located in an area identified in the County Comprehensive Plan's Goal 5 inventory of big game habitat, nor is it within Oregon Department of Fish and Wildlife (ODFW) mapped big game winter range for deer, elk or pronghorn antelope. The Applicant conferred with ODFW and the U.S. Fish and Wildlife Service to address their concerns and continues to do so. The Applicant discussed concerns with USFWS regarding owl/raptor nesting sites and migratory bird nesting. They agreed to adopt proper procedures to avoid nesting periods or to monitor for nest sites if construction occurs during normal nesting period. The Applicant will provide a more detailed wildlife study prior to property clearing and grading. This information will be provided to the County, ODFW and USFWS. Additional avoidance, mitigation or monitoring provisions may be adopted. Expanding the area of the solar PV facility within the original permitted project boundary will not materially impact any additional inventoried wildlife resources.

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

FINDING: An emergency management plan was provided to Crook County Fire and Rescue to support the Permit and will be updated to reflect the amended project boundary. Expanding the footprint of the Project by up to 104% does not change emergency response impacts.

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

FINDING: The Applicant addressed erosion control and mitigation in the original application and provided an erosion control plan. The Applicant agrees to have appropriate state and local agencies (Oregon Department of Agriculture and Oregon Department of Environmental Quality and Crook County Soil and Water Conservation District or the Crook County Watershed Council) review final aspects of the plan, or the facility engineering design, as part of ongoing site development. Expanding the footprint of the Project by up to 104% does not change erosion impacts.

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

FINDING: A weed control plan was provided to Crook County to support the Permit and will be updated as necessary to reflect the increased area of the solar PV facilities.

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

(A) Wetlands and streams

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

(C) Wildlife habitat

FINDING: There are no known wetlands or streams in the original or amended project boundary. Prior to clearing and grading, the Applicant will conduct site-surveys that may include a Phase I ESA, wetlands delineation, wildlife and cultural resources surveys. Based on findings of these reports, the facility layout may be modified to avoid impacts to any natural or cultural resource. The subject property has not been identified as big game habitat for pronghorn, mule deer or elk in the County's Goal 5 big game habitat inventory. The property is also not identified as Sage Grouse Habitat.

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

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

FINDING: The plan to avoid criminal activity includes fencing and gates and will not need to be amended as part of this application.

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

FINDING: As a condition of approval in the original permit of March 2019, the Applicant agreed to establish a bond, letter of credit or other financial assurance, as required by CCC 18.161.010(2)(xvi). The proposed expansion of the solar PV facility does not change the basic elements of this condition and a final decommissioning plan and financial assurance, acceptable to Crook County Counsel, shall be in place prior to project site clearing and grading.

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

FINDING: As found in the original permit, facilities shall be designed to minimize adverse socioeconomic impacts to the County, including, but not limited to, increased demands for governmental services or capital expenditures. The facilities are expected to generally result in net positive socioeconomic impacts to the County, particularly as relates to positive local economic benefits. The County's findings in the Permit are applicable to the expanded solar PV facilities area.

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

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

(i) Setbacks. No portion of the facility shall be within 100 feet of properties zoned residential use or designated on a comprehensive plan as residential. If the facility

is located in a residential zone then this restriction does not apply to the lot or parcel that the facility is located on, or any adjacent property in common ownership. Structures shall not be constructed closer than 100 feet of an existing residence unless a written waiver is obtained from the landowner, which shall become a part of the deed to that property. New electrical transmission lines shall not be constructed closer than 500 feet to an existing residence without prior written approval of the owner, said written approval to be made a part of the deed to that property.

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

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

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

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

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

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

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

(vi) 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.

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

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

() 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.

(i) 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.

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

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

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

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

FINDING: The project as originally approved and the project as modified under the expanded area has been designed and will be constructed and operated to meet these criteria. The County's findings in the Permit are applicable to the expanded solar PV facilities area.

3. OREGON ENERGY FACILITY RULES

HB 2329 Subsection 3 provides that in order to issue a permit, the county shall require that the applicant to:

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

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

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

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

FINDING: Applicant consulted with the State Department of Fish and Wildlife prior to submitting this amendment application regarding fish and wildlife impacts. A site-specific habitat assessment conducted by a qualified professional biologist has been initiated and will be submitted to the county. The property is not identified as Sage Grouse Habitat. The Project site is not located in an area identified in the County Comprehensive Plan's Goal 5 inventory of big game habitat, nor is it within Oregon Department of Fish and Wildlife (ODFW) mapped big game winter range for deer, elk or pronghorn antelope. The Applicant conferred with ODFW and the U.S. Fish and Wildlife Service to address their concerns and continues to do so. The Applicant discussed concerns with USFWS regarding owl/raptor nesting sites and migratory bird nesting and agrees to adopt proper procedures to avoid nesting periods or to monitor for nest sites if construction occurs during normal nesting period. The Applicant will provide a more detailed habitat assessment prior to property clearing and grading. This information will be provided to the County, ODFW and USFWS. Additional avoidance, mitigation or monitoring provisions may be adopted. Expanding the area of the solar PV facility within the original permitted project boundary will not materially impact any additional inventoried wildlife resources.

(b) Demonstrate that the construction and operation of the renewable energy facility, taking into account mitigation, will not result in significant adverse impacts to historic, cultural and archaeological resources that are:

(A) Listed on the National Register of Historic Places under the National Historic Preservation Act (P.L. 89-665, 54 U.S.C. 300101 et seq.);

(B) Inventoried in a local comprehensive plan; or

(C) Evaluated as a significant or important archaeological object or archaeological site, as those terms are defined in ORS 358.905.

FINDING: The Applicant has initiated consultation with the State Historical Preservation Office (SHPO) to review issues and perform a database review and will coordinate appropriate confirmation that there are no sites of cultural or historical significance in accordance with SHPO policies and procedures. No historic, cultural or archeological resources that are listed on the National Register of Historic Places or are inventoried in a local comprehensive plan have been identified. To the extent that during investigation or the construction process any issue or cultural resource of material significance is identified, such issues/resources will either be 1) avoided through project design or 2) mitigation will be implemented which conforms to applicable current regulation and subject to SHPO's reasonable concurrence on such plans.

(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: As a condition of approval in the original permit of March 2019, the Applicant agreed to establish a bond, letter of credit or other financial assurance, as required. The proposed expansion of the solar PV facility does not change the basic elements of this condition and a final decommissioning plan and financial assurance, acceptable to Crook County Counsel, shall be in place prior to project site clearing and grading.

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

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

This proposal does not require an EFSC site certificate because the project's total acreage is less than what EFSC has determined to require additional review standards. For example, certain type of solar energy facilities require site certificates and certain facilities are exempt from requiring a site certificate. A solar project that would require an EFSC site certificate would be a project located on greater than 1,920 acres of non-irrigated, low value farmland. This acreage standard has been adopted by the Oregon legislature and will be implemented in ORS 469.300(11)(D)(3), as amended by HB 2329. This proposal will be located on land less than 1,920 acres of non-irrigated, non-arable land.

Additionally, the County has determined what EFSC standards are applicable; the County's established review standards for commercial photovoltaic facilities are addressed in Section 2 of this document. This amendment application and burden of proof demonstrate that the county's renewable energy facility standards have been met.

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

FINDING: The financial assurance for the decommissioning plan has been put in place as discussed above under (c).

4. OREGON ADMINISTRATIVE RULES

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

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

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

FINDING: Crook County is the governing body of this application and will review the use of agricultural land as part of the conditional use approval review. The county will provide the requisite notice and opportunity for a hearing for conditional use approval modification.

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

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

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

FINDING: The project will continue to be compatible with accepted farming practices on adjacent lands devoted to farm use. The Applicant has already agreed to review and file a Farm Covenant Not to Sue releasing liability against farming practices (as defined in Oregon Revised Statute 30.930(2)) for this property; see Exhibit K of original application. The up to 334 additional acres of solar PV facilities are still within the original project site. No new neighboring properties are impacted by the amended proposal.

OAR 660-033-130(38) provides that a proposal to site a photovoltaic energy system is subject to certain definitions and provisions. For this application, only certain subsections require a response.

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

FINDING: The soil resource report for the project site is the same as in the original approved permit. The majority of site soils are classified as Class 6 or 7 (non-arable). Approximately 9 acres along the western edge are classified as Class 4 (arable) non-irrigated, as well as 35 acres in the southwest corner of Lot 3000. This latter portion of Class 4 is largely excluded from the PV Facility siting area. Please see Exhibit F of the original permit for additional information derived from currently available NRCS data and website. All of these soil types have no history of irrigation and are currently not being cultivated. The facility will be designed such that no more than 20 acres of arable soils will be impacted. Neither the original nor the proposed expanded solar PV facilities area consist of high-value farmland.

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

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

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

For a use located within an EFU zone, the "applicable statewide planning goal" is Goal 3, which is the State's Agricultural Lands goal. As expressed in Oregon's Statewide Planning Goals and Guidelines, Goal 3 is to preserve and maintain agricultural lands. Agricultural
Amendment to West Prineville Solar Farm LLC Permit p.14

lands shall be preserved and maintained for farm use, consistent with existing and future needs for agricultural products, forest and open space and with the state's agricultural land use policy expressed in ORS 215.243 and 215.700.

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

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

(c) The following standards are met:

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

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

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

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

The applicable administrative rules set forth in OAR Chapter 660 Division 4, Interpretation of Goal 2 Exception Process, and in particular OAR 660-004-0020(2), Exception Requirements, outline how each of the four standards in ORS 197.732(2)(c) should be met. This addressed in the following numbered responses 1-4.

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

Both the original and amended proposal have demonstrated that the subject property, while zoned agriculture, does not have the soil quality or water rights to be developed as productive farmland and therefore the goal to protect agricultural land should not apply to this property. In general, as noted in the County's Comprehensive Plan Agriculture Section 7 (p41), while agriculture is an important part of the county's economy, "only a relatively small portion, approximately 5% [of the County's Agricultural lands] are classified as agricultural cropland of which only 60% are under irrigation, the remaining cropland being dry land farming....agricultural cropland in the county is restricted generally by soil capabilities, a short growing season, and limited sources and supplies of water for irrigation." The subject property is rangeland and per the Comprehensive Plan (p46) can be developed through the goal exception process.

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

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

To identify areas to consider, the applicant reviewed and incorporates below, recent analysis provided by Crook County Planning with the Community Development Department and the County's GIS department to identify suitable lands in all of Crook County for a similar solar PV facility expansion. This analysis used a four-phased process to identify a site for a new solar generating facility: (i) Identify the zones both in Crook County and the City of Prineville that authorize a commercial photovoltaic facility as a permitted or conditional use; (ii) Identify lands that are 400 acres or greater, whether as a single parcel or as a contiguous block; (iii) Identify parcels within proximity to a high-voltage transmission facility or substation or be able to site a transmission facility in order to relay electricity to a substation¹; and (iv) Identify conflicts as to the use proposed and the surrounding land uses.

Review of Crook County Lands

A review of Crook County Code reveals that commercial power generating facilities are not allowed as an outright, permitted use in any zone.² Instead, the county authorizes commercial power generating facilities as a conditional use in the EFU zone, Forest Recreation (FR-10), Powell Butte Rural Residential Zone (PBR-20), Rural Residential Zone (R-5), Light Industrial Zone (LM), Heavy Industrial Zone (H-M), Recreational Residential Mobile Zone (RR(M)-5) and Rural Residential Zone (R-10).

Any other lot zoned EFU would also require an exception to Goal 3. Similarly, any site over 320 acres in the FR-10 would require an exception to Statewide Land Use Planning Goal 4. Thus, no other lots with these zoning designations were further analyzed.

¹ As discussed herein, the City of Prineville code would allow solar arrays in many zones but would not allow the transmission lines which are deemed an associated major utility facility.

² In contrast, non-commercial solar energy facilities are authorized as an outright, permitted use in the Light Industrial Zone, L-M zone, in CCC 18.68.010(17) (with some limits imposed). A non-commercial power generating facility operates as a standalone power generator and is not connected to a utility grid. CCC 18.08.140 N Definitions. In this case, the applicant will connect the power generated from the solar PV facility into one of the utility grid systems in the area. Thus, Crook County lands carrying this zone designation do not allow the requested use, which is defined as a commercial power generating facility.

There are no single or contiguous lots within PBR-20, R-5, LM and H-M that met or exceeded the 400-acre requirement. Thus, no lots within this zoning designation were further analyzed.

There are certain lots within RR(M)-5 that are larger than 400 acres. These are located in the southeastern part of the county, south of Prineville and east of the Crooked River in the Juniper Canyon area. However, none of the parcels are contiguous to a high-voltage transmission line. There are some low-voltage transmission lines in the area owned by Central Electric Cooperative, however a project of this size needs to interconnect to a high-voltage (115 kV or 230 kV) transmission line or substation. Therefore, connecting to existing high-voltage transmission would be costly and produce additional impacts. Furthermore, all of these large parcels are located within Mule Deer Winter Range. The Oregon Department of Fish and Wildlife and Crook County have both discouraged solar development in mapped big game habitat. Thus, no lots within this zoning designation were further analyzed.

There is a single lot within R-10 that is larger than 400 acres, Map and Tax Lot #1516000000800. It is located on a butte in the Juniper Canyon area north of the RR(M)-5 zoned lands and due south of Prineville and the Urban Grown Boundary. While there appears to be a high-voltage transmission line through this property, this line as shown is an approximate location and the physical line is not actually through or adjacent to the property. However, this land was further analyzed to demonstrate how it is not a suitable alternative due to conflicts with the proposed use and surrounding land uses. There are a number of issues that make this alternative site unsuitable for a solar PV facility.

Access Issue

The only existing access to this alternative site is off SE Davis Loop, which is a residential street. During construction of the solar project, a high volume of vehicles would make use of the residential road. The Comprehensive Plan states that any industry that generates more than 20 auto-truck trips a day shall not locate in a residential neighborhood. P. 61.

Additionally, SE Juniper Canyon Road provides residential access to Crook County residents and the limited access to the Juniper Canyon area is of concern for emergency purposes. Earlier this year, the County considered an alternate access to serve the residents of this area south of Prineville. Local newspapers illustrated a proposed secondary emergency access road that would cross this R-10 property and connect Crooked River Highway to SE Davis Loop. The article indicated that the emergency access road would serve for emergencies only and would not be open to the public.

Rimrock Issue

The alternative site is surrounded on the north, west, and east sides by rimrock. The Comprehensive Plan seeks to protect natural rimrock per this excerpt:

"7. Rimrocks from the intersection of Elliot Lane and O'Neil Highway, including Westwood Subdivision and Ochoco Wayside Viewpoint, to Stearns Ranch; and those rimrocks paralleling Juniper Canyon, Combs Flat Road and Ochoco Creek to Ochoco Reservoir shall be protected against manmade structures by such zoning restrictions as deemed necessary. Restrictions addressing setbacks and building restrictions shall be applied to protect scenic values." P. 109.

The County's Supplementary Provisions require that any structure located on the rimrock shall be set back 200 feet from the edge of said rimrock. CCC 18.124.100. The setback requirement would reduce the usable and developable size, potentially limiting the solar facility to site closer to the residential properties and the aggregate site located south of the property.

Housing Issue

The Comprehensive Plan details the projected need of housing in an effort to ensure enough land is earmarked for housing. See e.g. P. 16. And one of the County's Energy Policies is to encourage high density residential development in close proximity to high employment areas and commercial areas. P. 34. This alternative site is in close proximity to and in fact overlooks downtown Prineville where Crook County High School and the Fairgrounds are located. The site is already zoned for rural residential development, has existing residential development nearby, and is likely intended to serve future residential needs of the County.

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

City of Prineville Lands

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

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

There are several large M-1 parcels, however the largest contiguous parcels comprise two 160-acre parcels which even when combined do not meet the 400-acre requirement. Further, it is the City's policy to protect industrial lands as they produce more employment in comparison to other lands, such as agricultural lands located in the county. The City's Urban Growth Boundary (UGB) is developed, in part, to provide for the development of lands that cannot be built outside the UGB in the County. To remove lands within the City's UGB for a solar facility is counterintuitive to the very purpose of building solar facilities to generate power to serve businesses and residents. Thus, these industrial zoned lands were not further analyzed.

Also, the City's Planning Director confirmed that there are no single or contiguous lots in R-1 through R-5, C-1, C-2, C-5 and IP that meet or exceed the 400-acre requirement. Thus, no lots within these zoning designations were further analyzed.

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

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

Environmental

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

The subject property is ideal in that it is comprised of primarily (> 93 percent) nonarable land and soil types, is non-irrigated, and is otherwise nonproductive. The site is currently being used as an alkali stabilized domestic septage site, which further reduces the probability of it being cultivated. The site is outside of any Goal 5 resource areas and is not within mapped big game winter range for deer, elk, or pronghorn antelope. Furthermore, it is uniquely located near existing transmission infrastructure and large energy users. As can be seen in the site plan (Exhibit B), the project is directly located under and around four major transmission lines owned and operated by three regional utilities (BPA, PGE, and PAC) and is also immediately adjacent to three major substations

(BPA Ponderosa, PAC Ponderosa, and PAC Corral substations). It would be difficult to find a more ideally suited site for a solar PV facility.

Potential adverse environmental impacts include temporary construction impacts, soil erosion, and consideration of the existing water table. Although this site is not known to be used by notable avian or bat species, mitigation measures designed to reduce adverse impacts include conditions of approval in the original permit such as conducting vegetation pre-clearing activities prior to the onset of the nesting season and or ensuring that pre-construction surveys for migratory bird species occur if clearing is to occur during nesting season and maintaining adequate disturbance buffers in consultation with the appropriate wildlife agencies. Using the existing soils and perimeter vegetation wherever reasonably possible to reduce erosion, and to make partial use of City water if needed to minimize impacts to the water table. Eight-foot fencing will assist to keep big game on the perimeter of the site.

City water could be used in addition to using water from a permitted, existing well on the property during construction for dust control and to keep clean the solar panels to optimize the energy produced. Water will be returned to the water table through the soils that filter water quickly. The same type of soils that make the subject property not ideal for agricultural production make the subject property ideal for return of water to the water system through quick filtration.

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

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

Economic

The original and amended proposal do not require extension of public services such as water, sewer or roads. The project will be accessed via an existing access road in the Northwest Corner off of Hwy 126, which is an ODOT permitted access point. The project will not generate additional traffic that would warrant improving any additional roads in the area. There are no costs to special service districts.

The facts used to determine which resource land is least productive included reviewing properties that were not irrigated as a first measure and then performing a soil resource

study to ensure the soil type would not be otherwise deemed high-value farmland. Since the subject site has not been utilized as a commercial agricultural operation, has not been farmed, does not receive irrigation, and sees little cattle grazing due to its present use as an alkali stabilized domestic septage facility, there is little long-term economic impact on the general area caused by the removal of land from the resource base. The project is not irreversible; the solar PV facility may be removed per the submitted Decommissioning Plan and used for farming or other operations in the future.

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

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

Social

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

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

Energy

Energy efficiencies are realized by transmitting the energy production to growing energy users in the immediate Prineville area. New energy consuming services for water and sewer do not need to be constructed.

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

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

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

The findings for Section 2 of this document support the fact that the proposed use is compatible with other adjacent uses or will be rendered through measures such as a Farm Covenant Not to Sue, which the Applicant agrees to sign and record.

V. CONCLUSION:

Applicant believes that its amended proposal meets all of the applicable criteria, with conditions, and hereby requests approval to construct and operate a commercial solar photovoltaic energy facility on up to 654 acres, rather than 320 acres, in the EFU-3 zone.

EXHIBITS

Exhibit A — Original Permit 217-19-000029-PLNG

Exhibit B — Modified Site Plan

Exhibit A — Original Permit 217-19-000029-PLNG



Crook County

Community Development Department

Planning Division

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**BEFORE THE CROOK COUNTY PLANNING COMMISSION
CONDITIONAL USE REQUEST – WEST PRINEVILLE SOLAR ENERGY FACILITY**

FINAL DECISION

April 9, 2019

APPLICATION: 217-19-000029-PLNG

**APPLICANT: Jake Stephens
2033 E Speedway Blvd. Suite 200
Tucson, Arizona 85716**

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

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

APPLICATION RECEIVED: February 4, 2019

PUBLIC NOTICE: March 8, 2019

PROPERTY OWNER NOTICES: March 6, 2019

PUBLIC HEARING: March 27, 2019

REQUEST: The Applicant requested conditional use approval to construct and operate a solar photovoltaic power generating facility on up to 320 acres. The facility will generate approximately 50 Megawatts (MW) and is located in the County's Exclusive Farm Use – Powell Butte Area (EFU-3) zone. The Applicant also sought approval for an associated transmission line, the gen-tie line from the solar facility to the utility substation.

THE ABOVE ENTITLED MATTER came before the Crook County Planning Commission at its regular meeting on March 27, 2019. After consideration of the staff report, application materials, findings, facts and testimony, the application received seven (7) votes in favor from the Planning Commission members.

FINAL DECISION: Approved subject to conditions:
 Denied

 X

The Applicant's request (217-19-000029-PLNG) to construct and operate a solar photovoltaic facility on up to 320 acres of the subject properties (T15 R15, tax lots 2900 and 3000) is APPROVED subject to the following conditions:

1. 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 and shall sign and record the agreement prior to site clearing and grading.
2. The Applicant shall acquire all necessary building permits prior to commencing construction.
3. The Applicant agrees to provide an annual report, upon request, to the County including:
 - a. A summary of changes to the facility that do not require amendments;
 - b. A summary of the wildlife monitoring plan;
 - c. Employment impacts during and after construction;
 - d. Success or failure of weed control practices; and
 - e. Status of decommissioning bond or other financial mechanisms.
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:
 - a. Require an expansion of the established facility boundaries;
 - b. Increase the footprint of the photovoltaic energy system by more than 20%;
 - c. 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.

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 transmission 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 these changes occur within the approved site footprint, the Applicant does not need to request an amendment. Otherwise, a revised site plan shall be filed with and approved by the Crook County Community Development Department.

6. If applicable, the Applicant will work with the County Road Department and Oregon Department of Transportation to determine the specific location of any proposed additional access points. Any new road approach permit will be approved prior to the start of clearing and grading.

7. The Applicant agrees that the Project materials selected will be in substantial conformance with those described in the Applicant's "burden of proof" statement.

8. 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 the Applicant/Project developer to Crook County. The financial assurance will be one of the following: an irrevocable letter of credit, a surety bond or a trust fund in accordance with the approved financial assurances to guarantee the project decommissioning work will be completed in accord with the decommissioning plan.

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

9. The solar field enclosure will be completely fenced at a minimum height of 8 feet using a chain-link fence. Secured gates will be in place at the Project entrance(s).

10. The Applicant will continue survey work to assess natural resources (e.g., wetlands and waterways), wildlife issues (e.g., raptor nesting sites) and cultural and historic resources. The Applicant will submit survey reports to Crook County Community Development and the appropriate agencies (e.g., ODFW, USFWS, and the State Historic Preservation Office). If the project site layout changes to avoid identified resources, the Applicant shall submit a revised site plan to the Community Development Department.

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. The Applicant shall submit a final stormwater management/erosion control plan to Crook County Community Development prior to the start of clearing and grading the site.

13. The Applicant shall submit a letter from Crook County Fire and Rescue approving the final Emergency Management Plan prior to the start of clearing and grading the site.

14. Prior to commencement of any decommissioning work, all applicable permits shall be obtained, (e.g., Crook County Land Use Permits, road access and building permits from the Crook County Road master or other entities).

15. The Applicant shall provide a legal description of the Project Site, including the transmission corridor prior to issuance of building permits. Any necessary easements shall be acquired and recorded for the gen-tie line prior to any clearing and grading.

16. Cultural and Historic Resources. The Applicant will engage with Oregon's State Historic Preservation Office as part of the development process to ensure that requirements related to cultural and historic resources are met. This may require the Applicant to provide on-site surveys of the property. The Applicant agrees that procedures to address best management practices for cultural discoveries will be in place during construction. Information regarding historic resources will be shared with Crook County Community Development and the Crook County Museum.

17. The Applicant will implement the US Fish and Wildlife Service guidance regarding migratory bird avoidance and mitigation. Specifically, the Applicant will conduct vegetation pre-clearing activities prior to the onset of the nesting during the period from September 1 through March 31). If clearing is to occur during nesting season, the Applicant will ensure that pre-construction surveys for nesting migratory bird species occur in consultation with USFWS. The Applicant shall maintain disturbance buffers for active nests as recommended by USFWS.

18. The Applicant shall meet the requirements of the Oregon Department of Transportation (ODOT) outlined in a March 28, 2019 memo submitted to Crook County Community Development (Attachment D) regarding the access to the subject property from State Highway 126. The Applicant shall submit an ODOT "Application to Upgrade an Existing Highway Approach" and shall submit a drainage study prepared by an Oregon Registered Professional Engineer, if required by ODOT.

PROJECT BACKGROUND

NOTE: The Planning Commission staff report and attachments and the application and exhibits, are incorporated by references.

A. **Project Summary:** The Applicant has provided a complete project description in their burden of proof statement. The proposed facility will consist of photovoltaic panels, mounting infrastructure (using either a fixed tilt or single axis tracker system), an electrical collection system, inverters, a substation, an energy storage system, an operation and maintenance facility, private access roads, fencing, and associated transmission lines to connect to the utility facility. The Applicant has included a detailed description of the facility in their application. The Applicant is currently proposing an interconnection with the Bonneville Power Administration's (BPA's) Ponderosa substation. The substation is immediately adjacent to tax lot

2900 (Attachment B1 and B2– site plan). If the interconnection point changes, the Applicant shall notify Crook County Community Development and modify the site plan, if necessary.

According to the Applicant, the overall design and construction of the project will be carried out in accordance with all applicable building and engineering codes and standards, including consideration of any wildlife impact mitigation findings and recommendations, wetland and riparian area studies, and cultural surveys as required by Crook County and other state and local agencies.

The Applicant states that construction will be performed by licensed and qualified contractors and their subcontractors following an extensive vetting and bid process. Following construction, all on-site disturbances will be restored with native vegetation pursuant to applicable State stormwater management requirements and consultation with the Crook County Weedmaster.

B. Zoning: The property is zoned EFU-3 (Exclusive Farm Use, Powell Butte Area).

C. Project Size: The Project, in its entirety, including all components of the facility, will not occupy more than 320 acres.

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

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

E. Surrounding Land Uses: The proposed project will be developed on less than 320 acres. The main part of the project will be located on tax lot 3000. All adjacent properties are in private ownership and are zoned Exclusive Farm Use (EFU). Property directly north is a thirty-seven acre property without irrigation water rights. Property to the east and south of tax lots 3000 and 2900 is part of a large, active cattle ranch with two pivots and cattle grazing as the primary farm use. There is an existing residence on that property. Property south of tax lot 2900 and southeast of tax lot 3000

is the BPA Ponderosa substation. Property to the northeast of tax lot 3000 is an approximately 160-acre dryland parcel with an existing residence. Directly east of tax lot 3000 are two approximately 20-acre parcels, each with a dwelling. Property to the southeast of tax lot 3000 is approximately 127-acres with a dwelling.

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

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

H. Wildlife – Sensitive Bird Habitat: The subject property has not been identified as big game habitat for pronghorn, mule deer or elk in the County's Goal 5 big game habitat inventory. The property is also not identified as Sage Grouse Habitat.

There is a spring on the subject property that may be used by wildlife. In addition, the existing BPA 500kV transmission line easement may operate as a migration corridor for deer, antelope and other wildlife. The applicant is proposing to avoid issues of concern (e.g., the spring fed pond) and will follow ODFW and USFWS guidance regarding raptor nests and migratory bird habitat. Ground clearing and construction activities will be scheduled to avoid nesting seasons or the Applicant will agree to monitor the site to minimize impacts to nesting birds.

I. Cultural Resources: The Applicant will engage with Oregon's State Historic Preservation Office as part of the development process to ensure that requirements related to cultural and historic resources are met. This may require the Applicant to provide on-site surveys of the property. The Applicant agrees that best management practices for cultural discoveries will be in place during construction. This will be a condition of approval.

J. Access: The proposed solar facility will be accessed by an existing driveway extending south from State Highway 126. The access has been permitted by the Oregon Department of Transportation (ODOT) (Permit number 10435306 issued in 1995). An alternate access is proposed via BPA's access to the Ponderosa substation (SW Three Springs Ranch Road). The Applicant will work with the County and ODOT to obtain additional road access permits, if necessary.

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

L. Soils: According to the National Resources Conservation Service (NRCS), soils on the subject property are generally classified as Class 6, with some soils classified as Class 4 and Class 7. Major soil types are summarized in Table 1.

Table 1

Map Unit	Soil Type	Classification Non-irrigated	Acres	Percent of acres
066	Ayres cobbly loam	7s	15.0	2.3%
104Am	Redmond ashy sandy loam	6s	28.9	4.4%
109	Meadowridge –Era Complex	4e	9.4	1.4%
143	Stukmond-Lickskillet Redmond Complex	6e	40.6	62%
144	Redmond-Stukmond Complex	6e	309.9	46.9%
147	Ayresbutte-Ayres Complex	6s	171.8	26%
156	Ginserly-Hatrock Complex	4e	34.9	5.3%
157	Ginserly Cobbly Ashy Loam	6e	9.2	1.4%
162	Searles-Lickskillet complex	6e-7s	10.8	1.6%
172	Lickskillet-Bakeoven Complex	7s	29.6	4.5%

M. Fire Protection: The subject property is located inside the Crook County Fire and Rescue District. Provisions for wildfire prevention and control are included in the Emergency Management plan (Exhibit J of the application). The Emergency Management plan has been submitted to Crook County Fire and Rescue (CCF&R) for their review. CCF&R provided comments on the draft and the Applicant will finalize the plan to reflect the final design, layout and location of ingress and egress points.

N. Construction Office: The Applicant proposes establishing temporary construction facilities on the site in accordance with state and County regulations. Temporary buildings will house construction management and site personnel offices adjacent to a parking area and laydown yards. Two areas are proposed: one near the driveway off Highway 126 and one near an existing residence on Tax lot 3000.

O. Timeline and Construction: The Applicant states that they have commenced project development including conducting on-site studies and investigations, establishing interconnection agreements, and negotiating rights of way. The Applicant will be working on site design and engineering. Once a qualified EPC (Engineering, Procurement and Construction) firm is contracted and mobilized, construction may take approximately 4-8 months.

APPLICABLE CRITERIA: The Planning Commission considered the following criteria in evaluating the proposed project:

CCC Title 18, Chapter 18.24 EFU-3 zone
18.24.020 (Conditional uses permitted – ORS 215.283(2))
18.24.025 (Commercial and non-commercial energy)
18.24.040 (Limitations on specific conditional uses)

Oregon Revised Statutes
ORS 215.274 (Associated transmission lines)
ORS 215.283 (Uses authorized on agricultural lands)

Oregon Administrative Rules
OAR 660-033-0120
OAR 660-033-0130(5),(38) (Minimum standards for allowed uses)

CCC Title 18, Chapter 18.160 (Conditional Uses)
18.160.010 (Authorization to grant or deny a conditional use)
18.160.020 (General criteria)
18.160.030 (General conditions)
18.160.050 (Standards governing conditional uses)
18.160.050(19) (Commercial power generating facilities)

CC Title 18, Chapter 18.161 (Commercial power generating facilities)
18.161.010(2) (Commercial solar photovoltaic facilities)

Crook County Comprehensive Plan
Crook County Transportation System Plan

RESPONSE TO CRITERIA:

The criteria that apply to this request for conditional use approval to site a commercial photovoltaic energy facility in Crook County's Exclusive Farm Use Zone are shown in standard font. Information from the Applicant's burden of proof statement is shown in ***bold/italics***.

The following is a summary of the responses to applicable criteria. A more detailed analysis is found in the March 20, 2019 staff report prepared for the March 27, 2019 public hearing before the Crook County Planning Commission. The staff report and attachments and the application and exhibits are incorporated by reference into the Findings presented in this document.

Crook County Code 18.24 outlines requirements for development in the County's EFU-3 zone.

CCC 18.24.010 In an EFU-3 zone, the following uses and accessory uses thereof are permitted outright: all uses authorized by ORS 215.283(1), in conjunction with any other applicable provisions in this chapter.

ORS 215.283(1)(c) allows "Utility facilities necessary for public service, including wetland waste treatment systems but not including commercial facilities for the purpose of generating electrical power for public use by sale or transmission towers over 200 feet in height. A utility facility necessary for public service may be established as provided in:

(A) ORS 215.275; or

(B) If the utility facility is an associated transmission line, as defined in ORS 215.274 and 469.300.

The proposed gen-tie line, the line connecting the project substation to the utility substation, meets the definition of "utility facilities necessary for public service" as an "associated transmission line." The project's transmission towers will be less than 200 feet tall (75 feet to 130 feet depending on topography).

ORS 215.274 Associated transmission lines necessary for public service; criteria; mitigating impact of facility. (1) As used in this section, "associated transmission line" has the meaning given that term in ORS 469.300.

ORS 469.300(3) states "Associated transmission lines" means new transmission lines constructed to connect an energy facility to the first point of junction of such transmission line or lines with either a power distribution system or an interconnected primary transmission system or both or to the Northwest Power Grid.

The proposed gen-tie line will connect a commercial solar energy facility to an interconnected primary transmission system or distribution center and meets the definition of an associated transmission line necessary for public service.

(2) An associated transmission line is necessary for public service if an applicant for approval under ORS 215.213 (1)(c)(B) or 215.283 (1)(c)(B) demonstrates to the governing body of a county or its designee that the associated transmission line meets:

- ✓ (a) At least one of the requirements listed in subsection (3) of this section; or
- (b) The requirements described in subsection (4) of this section.

(3) The governing body of a county or its designee shall approve an application under this section if an applicant demonstrates that the entire route of the associated transmission line meets at least one of the following requirements:

- (a) The associated transmission line is not located on high-value farmland, as defined in ORS 195.300, or on arable land;
- (b) The associated transmission line is co-located with an existing transmission line;
- (c) The associated transmission line parallels an existing transmission line corridor with the minimum separation necessary for safety; or
- (d) The associated transmission line is located within an existing right of way for a linear facility, such as a transmission line, road or railroad, that is located above the surface of the ground.

The proposed gen-tie line meets the requirements of (3)(a). The line is not located on high-value farmland and is not located on arable lands (See discussion below). The Applicant submitted soils data from the Natural Resources Conservation Service (NRCS) (summarized in Table 1). A detailed analysis is found in Exhibit F of the application. The Gen-tie line will extend from the southeastern corner of the photovoltaic facility on tax lot 3000 across tax lot 2900 to BPA's Ponderosa substation. Soils on that part of the subject property are Class 6 if non-irrigated, according to the NRCS. Class 6 soils are non-arable by definition.

For purposes of ORS 215.274, the portion of the transmission line on property zoned EFU is a permitted use necessary for public service within the meaning of OFS 215.283(2).

CCC18.24.020 In an E FU-3 zone, the following uses and their accessory uses are permitted when authorized in accordance with the requirements of Chapter 18.160 and in conjunction with any other applicable provisions of this chapter: all uses authorized by ORS 215.283(2) and (3). ***ORS 215.283(2) (g) allows a local government to approve commercial utility facilities for the purpose of generating power for public use by sale.***

CCC18.24.025 In addition to the uses permitted under CCC 18.24.010 and 18.24.020, noncommercial and commercial wind and photovoltaic energy systems are permitted in the zone to the extent they are consistent with current state law and the applicable criteria in Chapters 18.160, 18.161 and 18.162 CCC. ***(CCC 18.162 applies to noncommercial energy systems and does not apply to this request.)***

The Applicant has demonstrated that the Project will meet the requirements of state law and the applicable criteria in CCC 18.160 and 18.161 as demonstrated below.

CCC 18.24.040 Limitations of specific conditional uses. "...A use allowed under CCC 18.24.020 may be approved where the county finds that the use will not:

- (1) Force a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest use; or
- (2) Significantly increase the cost of accepted farm or forest practices on surrounding lands devoted to farm or forest use.

The Planning Commission found that the project will not significantly change accepted farming or forest practices on surrounding lands. All properties surrounding the proposed facility are in

agricultural use (primarily for grazing) with some dispersed farm dwellings. None of the surrounding lands are in forest use. Once construction is complete, there will be little activity associated with the facility. There will be minimal maintenance required. The subject property is part of a larger property and agricultural activities, such as grazing, may continue. Because the site has no irrigation water rights and will not require water during operation, the Project will not impact irrigated agricultural practices on nearby properties. The Applicant has submitted a vegetation management plan that includes noxious weed control management practices to help avoid the spread of noxious weeds to adjacent agricultural operations. Traffic impacts will be limited to construction traffic, which will be minimized because of the relatively compressed construction schedule.

The Planning Commission also found that the proposed solar facility will not have a significant impact on the cost of surrounding agricultural practices. The facility will be self-contained and will not limit access to surrounding farm lands. The proposed use of the property to generate solar energy will not compete for water rights or other equipment and services that support on-going agricultural uses of surrounding lands. Once construction is complete, the project will have little to no impact on surrounding lands.

OREGON ADMINISTRATIVE RULES (OAR) - USE OF AGRICULTURAL LAND

Commercial photovoltaic energy systems in EFU zones are subject to OAR 660-033-0120 and 660-033-0130.

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

The Crook County Planning Commission reviewed the proposed project as a conditional use in an EFU zone. The County provided the requisite notice and opportunity for a hearing to the public and adjacent property owners.

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

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

The property where the solar array is proposed is vacant, uncultivated land. There has been limited grazing on the subject property but there is no evidence that the property has been cultivated in the past. The property does not have irrigation water rights.

660-033-130(38)(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.

Based on information from the Natural Resources Conservation Service, approximately 93% of the soils on the subject property are classified as NRCS Class VI and VII soils (non-irrigated). These areas are non-arable by definition.

Approximately 7% of soils on the subject properties are class IV (Approximately 45 acres on the east and southeast side of the subject property – tax lot 3000). There are currently no irrigation water rights on the property and no evidence that the property has ever been irrigated or cultivated. . The Applicant is not proposing development on the southwestern area of tax lot 3000 with approximately 34 acres of class IV soils (156-Ginserly-Hatrock Complex). The Applicant is proposing to use an area of less than 9 acres of Class IV soils (109-Meadowridge era-complex). The facility will impact less than 20 acres of arable lands as required by OAR 660-033-0130(38).

OAR 660-033-130(38)(e) defines "Photovoltaic solar power generation facility."

The Applicant provided a complete description of the project and the individual components. The Planning Commission finds that the project, as defined, meets the definition of a "photovoltaic solar power generation facility." The Applicant does not own or control any existing or proposed facility within 1,320 feet of the subject tract. This is a stand-alone solar generation facility and will be operating independently from other approved or existing projects' in this area of the County.

The proposed use is within Crook County's jurisdiction. The project area and transmission line facility will not permanently occupy more than 320-acres of nonarable land. Less than 20 acres of arable land will be disturbed by the Project. This rule provision has been met.

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

The Project site does not meet the definition of high value farmland in ORS 195.300. Soils on the project site are class IV, VI and VII. The soils are not prime or unique.

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

The photovoltaic system, including the solar array and all related and supporting facilities, will permanently impact less than 320 acres of nonarable land. The project will not be located on high-value soils or arable soils so provisions of OAR 660-033-0130(38)(h)(A)-(C) do not apply. As stated above, soils on the Project site are class IV, VI and VII. The Applicant is not proposing to develop the part of the property with Class IV Ginserly-Hatrock soils (approximately 35 acres). At most, 9 acres or less of Class VI Meadowridge-Era Complex soils will be impacted. Based on the lack of water rights and no history of cultivation, the County has determined that the Class IV Meadowridge-Era Complex soils are non-arable based on the evidence in the record. There is no history of use of the subject property as a commercial agricultural enterprise. No exception is required.

(D) Construction or maintenance activities will not result in the unabated introduction or spread of noxious weeds and other undesirable weed species. This provision may be satisfied by the submittal and county approval of a weed control plan prepared by an adequately qualified individual that includes a long-term maintenance agreement. The approved plan shall be attached to the decision as a condition of approval;

The requirements of OAR 660-033-0130(38)(f)(D) have been satisfied. The Applicant consulted with the Crook County Weed Master and prepared a Weed Control Plan (Exhibit H of the application).

(E) 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 (continue to (F))

There are no Goal 5 resources that have been identified and protected under the Crook County Comprehensive Plan located on the subject property.

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

The proposed solar power generation facility is not located on land that the Oregon Department of Fish and Wildlife (ODFW) or US Fish and Wildlife (USFWS) have determined has the potential for adverse effects to state or federal special status species. ODFW has identified the BPA transmission line easement as a corridor for wildlife migration. The Applicant will engage a consultant to complete a detailed wildlife survey prior to the start of

clearing and grading the subject property. A representative of the US Fish and Wildlife Service met on site with the Applicant. The Applicant will conduct nesting surveys for raptors, including great horned owls. The Applicant will also avoid migratory bird nesting season or will conduct site monitoring during site clearing. ODFW has submitted comments recommending that the BPA transmission line corridor be left for wildlife passage and that access to the on-site spring/pond be maintained for wildlife, including pronghorn. The Applicant agrees to enclose the project area with "wildlife friendly" fence to a height of 8 feet.

(I) The county governing body or its designate shall require as a condition of approval for a photovoltaic solar power generation facility, that the project owner sign and record in the deed records for the county a document binding the project owner and the project owner's successors in interest, prohibiting them from pursuing a claim for relief or cause of action alleging injury from farming or forest practices as defined in ORS30.930(2) and (4).

The Applicant agrees to sign and record an agreement not to pursue relief or actions related to farm use surrounding the subject property substantially similar to current farm uses. This is included as a condition of approval.

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

The Applicant addresses the County financial security and project obligations in the discussion of Crook County Code 18.161.010.

CONDITIONAL USE STANDARDS CCC 18.160

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

(1) The proposal will be consistent with the comprehensive plan and the objectives of the zoning ordinance and other applicable policies and regulations of the county.

The proposed Project is consistent with the comprehensive plan and objectives of the zoning ordinance. Specifically, Crook County's Comprehensive plan includes the following policies:

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

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

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

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

The Project is allowed as a conditional use in the County's exclusive farm use (EFU) zones. In addition, the Crook County Court adopted specific standards in the zoning code (Chapter 18.161) for commercial wind and photovoltaic energy systems in June 16, 2010 to help promote development of renewable energy systems in the County and to address potential impacts associated with such developments. CCC 18.161 requires that an applicant evaluate potential adverse impacts to accepted farming practices, natural environments, and residential development, and that the development avoid, minimize, and mitigate impacts to the extent necessary. The Applicant states that the proposed Project will comply with all applicable criteria and standards, and in doing so, will further promote the development of renewable energy in the County. As such, the County may find that the Project is consistent with the applicable comprehensive plan goals and policies. The proposed location of the solar PV facility adjacent to existing transmission and interconnect facilities, such as the Ponderosa substations, support the County's goals to maximize use of existing infrastructure.

(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.

The Applicant considered the abutting and surrounding properties when siting the proposed Project. Most of the surrounding lands are marginally used rangeland and many are vacant. The Applicant states that solar facilities, once constructed, are quiet and will have little to no impact on neighboring properties. Sound may come from inverter cooling system fans that may activate during warm days at peak generation. These sounds are typically undetectable from more than 100 feet away. Road noise from highway 126 traffic will far exceed noise from the facility. The Applicant states that setback requirements will be maintained and that they will work to reasonably address concerns of nearby residents. They will work to maintain existing natural vegetation (juniper and sagebrush) where possible in the setback areas consistent with existing vegetation on adjacent properties. The Applicant states that views for neighbors to the north and west are already impacted by the presence of the three BPA 500 kV lines that cut through the subject properties. These lines have been in place for several years. The Applicant states that the solar facility should have a minimal impact on views due to the low elevation profile of the panels and racking systems. The project construction schedule is relatively condensed, minimizing the duration of potential impacts due to construction (e.g., noise, dust...). The Applicant will work to minimize construction impacts by controlling dust and by adjusting hours of construction.

The Applicant states that the impact of the proposed solar facility on surrounding property values will be minimal relative to impacts of certain permitted uses (e.g., intensive agricultural practices). The proposed use will have minimal, if any, adverse impact on the livability, value, or appropriate development of abutting properties and the surrounding area, given

the general remoteness of this area, the limited number of residences, the setbacks and existing vegetation surrounding the project, and the low level of potential adverse impacts from the proposed use.

(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.

The Project area will be visible from Highway 126. The property is already host to large transmission lines that traverse the property, three of which cross the highway and continue north. These transmission lines and poles dominate the current view and will likewise dominate the ground-mounted racking systems and panels. The Applicant notes that the amount of time one actually sees the facility from the road while travelling at about 55 miles per hour will be about 12-15 seconds, much less time than the transmission towers are in the view shed.

The tallest structures closest to the highway will be the safety and security fencing (about 8 feet tall) and the PV module equipment, also about 8 feet tall – depending on the type of tracking equipment. The project is designed so the tallest structures (gen-tie line poles) and largest structure (the project substation) will be located at the southeast end of the project, farthest away from Highway 126 and from residential development.

While fencing is necessary for safety and security purposes, there may be other concerns such as roadside views and wildlife ingress and egress. The Applicant will work to balance these concerns in its choice of fencing materials and any landscaping in areas close to the highway. The Planning Commission included a condition of approval requiring that an eight (8) foot tall chain link fence enclose the project.

According to the Applicant, issues of glare and misdirection of light are not a concern with current solar panel technologies. The panels are black and designed to absorb sunlight, not reflect it.

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

The project will further the County's interest in renewable energy development, and will not have adverse impacts on other County interests, such as big game habitat or important farm land. The Applicant will consult with the State Historic Preservation Office to ensure protection of any historic and cultural resources found on the site.

(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.

The Applicant, Jake Stephens, states that he has extensive experience in solar development in Arizona and California and has successfully permitted projects in Harney and Lake County, in Oregon. These projects are progressing to the construction phase in 2019-2020. The Applicant has sufficient expertise and capitalization to ensure the ability of the project to be developed, constructed, and operated.

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.

As discussed previously, the proposed use will not cause negative environmental impacts from noise, vibration, air pollution, glare or odor. Restoration and revegetation of temporary disturbance areas and corridors will commence once construction and installations are completed. Environmental effects that may occur during construction will be avoided or mitigated by limiting the hours of construction and controlling airborne dust with use of watering trucks in order to protect surrounding land uses and interests.

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

No special setback, yard or open space is required. The Applicant has identified locations on the site plan for construction laydown areas.

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

The panels will generally be about 8 feet tall with the tallest possible panel configuration. The operation and maintenance building will be limited to one story in height. The transmission line pole structures will range from 75 feet to 130 feet tall, depending on topography.

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

The proposed solar facility will be accessed by an existing driveway extending south from State Highway 126. The access has been permitted by the Oregon Department of Transportation (ODOT) (Permit number 10435306 issued in 1995). The Applicant may explore a secondary access.

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

No new street or public right-of-way dedication is required for the Project. The access road(s) will be entirely on private lands.

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

An area adequate for construction parking, materials delivery and unloading will be provided within the solar project footprint. Once operational, parking spaces will be provided for employees engaged in facility inspection and maintenance near the existing residences.

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

The Applicant says that there will be signage along Highway 126 for construction traffic. Once

the project is operational, there will be a small, permanent sign at the entry point to the facility. The sign will not be lighted.

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

The Applicant anticipates limiting the amount of lighting at the Project site and agrees to shield lighting and direct lighting downward (unless these requirements conflict with safety requirements).

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

The Applicant states that the proposed solar power generating facility will be set back from Highway 126. The Applicant will work to retain existing natural vegetation to screen residences to the west and other neighboring properties.

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

The Applicant will fence the Project site for security and will incorporate recommendations from the County, ODFW and USFW regarding fence design that minimizes impacts to wildlife and provides site security. The Applicant is anticipating a fence around the property perimeter and is proposing to enclose the project area with chain link fencing to a height of 8 feet.

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

The Applicant has chosen a site to minimize impacts to trees, vegetation, water resources and wildlife habitat. There is an existing spring on the property. This is a water source for pronghorn and other wildlife that use the subject property. It is recommended that this area not be disturbed or fenced so that wildlife can continue to access this water source.

Vegetation will be removed for the solar arrays but temporary impacts will be restored through revegetation following best management practices (e.g., use of native seed mix) and by noxious weed control practices.

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.

The Planning Commission can consider other conditions as necessary.

18.160.050(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.

Crook County Code, Chapter 18.161 Commercial Power Generating Facilities,

18.161.010 (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.

As discussed earlier in the staff report, the subject property and proposed energy facility meet or exceed the requirements of OAR 660-033-0120 and 0130.

(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:

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

(B) A route and permitting plan for transmission lines connecting the project to the grid. ***The Applicant provided a description of the proposed solar facility and its components in the application. A legal description is included in the Applicant's Exhibit C. The Applicant also provided evidence of an active utility transmission interconnection request.***

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

(A) Accepted farming practices as defined in ORS 215.203(2)(c) on adjacent lands devoted to farm uses;

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

The Applicant states that the construction and operation of the Project would not affect accepted farming and practices on adjacent lands. These findings are discussed under CCC 18.24.040 above and provisions of OAR 660-033. There are no photovoltaic energy facilities or other resource operations within one-mile of the subject property.

(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.

The Applicant has submitted an informal traffic assessment letter (Exhibit L). (The Exhibit was corrected to remove the reference to "Gunsmoke Solar"). A formal transportation assessment was submitted on April 5, 2019 by Joe Bessman, PE, Transight Consulting (Attachment E). The letter outlines anticipated construction traffic and estimates that during peak construction, approximately 3-5 truck per day for material delivery and 40 to 80 passenger car trips per day for site laborers. Once operational, the facility will generate approximately 4 trips per day. The access will be from an existing approved Oregon Department of Transportation (ODOT) access from Highway 126. ODOT submitted a letter dated March 28, 2019 that outlined requirements for an upgraded ODOT road approach and requirements for a drainage plan. The Applicant agrees to work with ODOT to provide appropriate signage on Highway 126 alerting traffic to construction vehicles.

(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 18.161.010(2)(b)(8) and 18.161.010(2)(c)(4).

The Project is not located in an area identified in the County Comprehensive Plan's Goal 5 inventory of big game habitat. The Applicant conferred with Oregon Department of Fish and Wildlife and the U.S. Fish and Wildlife Service to address their concerns. The Applicant discussed concerns with USFWS regarding owl/raptor nesting sites and migratory bird nesting. They agreed to adopt proper procedures to avoid nesting periods or to monitor for nest sites if construction occurs during normal nesting period. The Applicant will provide a more detailed wildlife study prior to property clearing and grading. This information will be provided to the County, ODFW and USFWS. Additional avoidance, mitigation or monitoring provisions may be adopted.

Representatives from ODFW noted that the BPA transmission line corridor that crosses the site and continues to the north and south, is used as a corridor for larger wildlife (e.g., deer and pronghorn) (See correspondence in Exhibit E). The transmission line corridor will remain open after constructions because the project will not encroach on existing transmission line easements and ROW already in place. The Applicant discussed fencing options to allow wildlife passage.

(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.

The Project is within the jurisdiction of the Crook County Fire & Rescue Department (CCF&R). CCF&R responds to structural and natural vegetation fires in Crook County Rural Fire Protection District No. 1. The Emergency Management Plan is included as Exhibit J to the application. The plan discusses the procedures that may be implemented in the event of an emergency during the construction and long-term operation of the facility. It includes a fire prevention plan as well as other emergency response measures and addresses concerns the CCFRD may have including design for fire prevention, access, internal roads, and potential hazards specific to solar facility projects and high voltage equipment concerns. Crook County Fire and Rescue requires a final Emergency Management and Response plan for this facility and will assess an impact fee consistent with their Board Policies for projects of this nature. The impact fee is due to CCF&R prior to clearing and grading. The final plan will be reviewed under the Oregon Fire Code and shall include a full site plan and information on MW capacity.

(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.

Erosion control and mitigation during construction are addressed in Exhibit G of the application. The Applicant states that erosion control shall be addressed during facility development, including civil engineering for the Project's final site plan. A Construction, Mitigation and Decommissioning document will be developed that will discuss erosion control and other mitigation measures to be undertaken by the EPC contractor chosen for site design and construction. The Applicant agrees to have appropriate state and local agencies (Oregon Department of Agriculture and Oregon Department of Environmental Quality and Crook County Soil and Water Conservation District or the Crook County Watershed Council) review aspects of the plan, or the facility engineering design, as part of ongoing site development.

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

The Applicant has submitted a Noxious Weed Control Plan for the Project that has been reviewed by the County Weedmaster. (See Exhibit H of the application).

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

(A) Wetlands and Streams;

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

(C) Wildlife Habitat;

These criteria relate to resources identified as significant natural resources on the County's Goal 5 inventory, required by the State's land use planning laws.

The proposed solar power generation facility is not located on land that is inventoried as wetland or as wildlife habitat in the Crook County Comprehensive Plan. See also Applicant's response to OAR 660-033-0160(38)(h)(F). Prior to clearing and grading, the Applicant will conduct site-surveys that may include a Phase I ESA, wetlands delineation, wildlife and cultural resources surveys. Based on findings of these reports, the facility layout may be modified to avoid impacts to any natural or cultural resources.

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

According to the Applicant, access to the facilities will be restricted by perimeter fencing and the facility entrances will be gated and locked. The fence will be an eight foot tall chain link fence. There will be secured, gated entry points at each access point. During construction and prior to perimeter fencing being installed, lay down yards will be secured with temporary fencing to minimize potential for criminal activity. It is possible that 24/7 on-site security may be employed during construction and prior to fencing

Installation. Public safety is also addressed as part of the Emergency Management plan.

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

The Applicant has provided a decommissioning plan. A final plan shall be provided prior to clearing and grading and shall reflect the final site layout. The plan will address the anticipated schedule and cost of dismantling Project components and restoring the site. The decommissioning plan will be subject to review and approval by the Crook County Counsel, prior to ground breaking. The Applicant will provide a decommissioning surety (a bond, letter or credit, cash deposit, or other financial mechanism acceptable to the County).

(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.

The Applicant states that facilities shall be designed to minimize adverse socioeconomic impacts to the County, including but not limited to not causing an increase in demand for governmental services or capital expenditures. Facilities are generally expected to result in net positive socioeconomic impacts in the communities that they locate in. The Applicant identified several socioeconomic impacts to the County and listed several positive local economic benefits.

During Project Development: Frequent trips to Crook County by the developers and project consultants will generate visits to local hotels, eateries, retail and other businesses as well as occasional support from local service providers.

During Construction: Construction will take place over a 4-8 month period, with peak activity during 2-4 months. Dozens of workers will be required though general and subcontractors using various skilled and unskilled labor including manual labor, equipment operators, electricians and apprentices, management and supervisors. It is expected that labor will be a mix of local and non-local workers depending on the types, and availability of contractors. Local food and lodging support will be needed and will result in positive economic impacts to local businesses.

During Operation: Routine maintenance will occur from time-to-time for the facilities. The facilities are generally low maintenance but will require routine visits and minor repairs and property maintenance. There may be limited personnel needed to perform these functions. In addition, local property tax revenues will increase when the facility is operational. The facility is not likely to require any public services or capital support with the exception of services provided by Crook County Fire & Rescue.

As discussed earlier, the project should not negatively impact adjacent property values and will not increase costs associated with area farm practices. The Applicant will survey the site for cultural and historical resources to minimize potential negative impacts. Neither the subject property nor

adjacent properties are used for public recreation so there will be minimal impacts to recreational activities.

CCC 18.161.010 (2)(c) Commercial Photovoltaic Energy Systems Criteria. The following requirements and restrictions apply to the siting of a photovoltaic energy system facility:

(i) **Setbacks.** No portion of the facility shall be within 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.

No facilities will be located within 100 feet of any property zoned for residential use. Property surrounding the facility is zoned for Exclusive Farm Use. While some of these properties include residential structures that are close to the property line, the Applicant agrees that facility equipment will be setback to meet 100 foot setback requirements. The facility substation is proposed to be in the southeast corner of the site and there are no residences anywhere near that portion of the subject property. The transmission lines are located in the southeast corner of the subject property, away from residential development. No transmission lines will be located closer than 500 feet of an existing residence without prior written consent of the owner.

(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.

The Applicant commits to providing a 25 to 100 foot buffer around any waterway, wetland, or natural resources on the subject property. The Applicant will conduct a more complete survey to assess waterways and wetlands and will provide the survey to the Crook County Community Development Department prior to clearing and grading the site. There is an existing pond on the southwest side of the subject property (tax lot 3000). The Applicant proposes avoiding this area. The Applicant will work with ODFW and USFW to protect and preserve trees and native vegetation as well as wildlife habitat and other natural resources.

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

According to the Applicant, any earthwork or grading will be minimized to just what is necessary for the PV racking to function as designed, and to provide access roads into the array areas. The site is relatively level so minimal ground leveling will be needed.

(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.

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

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

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

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

Although the proposed use is outside designated Goal 5 wildlife habitat, the Applicant has agreed to consult with ODFW on fence design. The Applicant proposes enclosing the project area with 8 feet tall fences and will design a fence that provides both project security and safety to big game animals.

Based on additional survey work, the Applicant will work with ODFW and USFWS to ensure that any existing raptor nest sites be avoided during nesting season and that facilities do not enhance raptor prey habitat. The Applicant will implement best management practices to reduce the likelihood of significant impacts to wildlife and wildlife habitat.

(v) A finding by the Energy Facility Siting Council that a proposed energy facility meets the Council's Fish and Wildlife Habitat standard, OAR 345-022-0060, satisfies the requirements of paragraph (4).

Not applicable. The Applicant will meet the requirements of the standards in (4).

(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.

The Applicant states that the proposed facility shall be designed, constructed and operated to prevent the misdirection of solar radiation to nearby properties, roads or other areas accessible to the public. Fixed tilt and single axis tracking systems with reflection absorbent PV modules neither concentrate nor misdirect solar radiation when properly installed.

(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.

Gates and fencing will be installed to prevent the public from accessing the site during construction and for the life of the solar facility. All possible hazards (e.g., high voltage components) within the facility shall be appropriately signed according to NEC safety standards and other appropriate high voltage guidelines. The Emergency Management Plan discusses public safety issues in detail.

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

The subject property is not located adjacent to, or within, the control zone of any airport. The

facility is not near or located within the portion of the Redmond Airport Control Zone located in Crook County. The Prineville Airport does not have a Control Zone. The project and associated transmission lines are outside the Prineville Airport approach zones. The Applicant received an email from Kelly Coffelt, Prineville airport manager dated March 25, 2019 stating that he didn't see any issues. He requested additional information on the height of the structures, including associated transmission line poles and the Applicant provided that information to the airport manager.

(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.

According to Applicant, the panels will be washed only as needed, no more than once per year, using materials that are low in volatile organic compounds. Biodegradable products will be used to the extent possible. The Applicant states that water alone is often sufficient to clean panels and is preferred. During construction and operation, site personnel and their subcontractors will be required to conform to site safety plans, including plans for spill prevention and containment of commonly used chemicals.

(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.

According to the Applicant, the property would be fenced and gated during construction and operation to protect the facility from illegal activities.

(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.

The Applicant states that all electrical cables within the solar array area that will be underground will be at a depth of three feet minimum, where possible. Several stations shall be located above ground and will be used for AC breakers, transformers and other required energy collection. Above ground stations will be appropriately signed and secured.

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

There will be a project office/maintenance office on site. If the structures are permanent, they will be consistent with the character of other farm buildings on the site and will be removed or converted to farm use upon project decommissioning.

(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.

The Applicant agrees to sign and record a covenant not to sue. The Applicant and County Counsel will review and approve the document prior to the Applicant signing and reviewing the document.

(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.

The Applicant plans to access the project from Highway 126 under an approved access permit from Oregon Department of Transportation (ODOT). The Applicant will consult with the County Roadmaster and ODOT regarding any secondary access. The Applicant will meet the requirements of ODOT outlined in a March 28, 2019 memo submitted to Crook County Community Development. The memo requires the Applicant to submit an ODOT "Application to Upgrade an Existing Highway Approach" and to submit a drainage study prepared by an Oregon Registered Professional Engineer, if required by ODOT.

(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 18.161.010(2)(e).

The Applicant states that a decommissioning plan per CCC and OAR standards will be provided to Crook County for review and shall be implemented as part of project development. The Applicant states that, in general, compared to industrial facilities, decommissioning of a solar PV project is relatively simple, does not require specialized labor and does not result in the generation of hazardous waste. In addition, the Applicant notes that many of the system components can be sold for scrap value (e.g., aluminum frames, racking...) and such residual value is typically estimated to exceed the cost of decommissioning. In addition, the ground lease between the Applicant and property owners includes requirements for removal of system components at the end of the lease term and requires site restoration and reseedling.

(xvi) A Bond or other financial mechanism acceptable to the County shall be established to cover the cost of dismantling of uncompleted construction and/or decommissioning of the facility, and site rehabilitation; see 18.161.010(2)(e). A Bond or other financial mechanism may be phased throughout the proposed project. If phasing is proposed the applicant shall submit a phasing schedule. For projects being sited by the State of Oregon's Energy Facility Siting Council (EFSC), the bond or letter of credit required by EFSC will be deemed to meet this requirement. For non-EFSC projects the EFSC requirements on bonds shall serve as a guideline for the amount of the bond or other financial mechanism.

The Applicant will provide financial security or credit in a form acceptable to the County to cover the cost of dismantling any uncompleted construction and/or decommissioning the facility. The financial security shall be reviewed and accepted by Crook County prior to facility ground breaking.

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

The Applicant will provide a summary of "as-built" changes from the original plan, if any, to the County upon completion of construction.

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

The Applicant agrees to provide an annual report to the County, upon reasonable request.

The Applicant may in the future request that certain informational requirements and/ or scheduling of reporting be altered (or discontinued) once the facility is fully operational.

(d) Amendments. The requirements are facility specific, but can be amended as long as the facility does not exceed to boundaries of the Crook County land use permit where the original facility was constructed. An amendment shall be required if the facility changes would:

- (i) require an expansion of the established facility boundaries;
- (ii) increase the foot print 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 repowering or upgrading of power generation capacity;
- (iv) any changes to roads or access points to be established at or inside the project boundaries.

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

The Applicant may seek an amendment to the approved conditional use permit if a facility change would be to expand the facility, increase the footprint and/ or output, or change access pursuant to these requirements.

(e) Decommissioning. Plan elements shall include:

- (1) 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 this section.
- (2) A description of actions the facility owner proposes to take to restore the site to a useful, non-hazardous 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.
- (3) 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 5 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.
- (4) 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. Re-vegetation 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 land owner is submitted to Crook County indicating said land owner will be responsible for, and will maintain said roads and/or facilities for farm or other purposes as permitted under applicable zoning.

(F) The applicant shall submit to Crook County a bond or other financial mechanism to the County in form and amount and naming Crook County and the landowner as beneficiary or payee. Specific requirements are found in subsections (A) – (G).

The Applicant has submitted a decommissioning plan to address the County's requirements. The plan describes the decommissioning 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 Counsel. The plan and security must be approved prior to Project ground breaking. The Applicant will receive all necessary permits including building permits, prior to commencing any decommissioning work.

Public Comments

The Crook County Planning Commission held a public hearing on March 27, 2019. Several Planning Commissioners visited the site prior to the hearing to get a perspective of the site characteristics and adjacent land uses. Jake Stephens, the Applicant, provided testimony in support of the Project. He described his experience with solar development and answered questions regarding the site. He discussed how the specific gen-tie route is not yet fixed and would depend on the final interconnection location.

No federal, state or local agencies provided testimony at the hearing. The Applicant provided emails from Russ Deboodt, Crook County Fire and Rescue regarding the need for CCF&R review of the final emergency management plan and comments from Kelly Coffelt, Prineville Airport, stating that he had no comments on the proposal because it was not located in the airport approach zone. Greg Jackle of Oregon Department of Fish and Wildlife provided comments on the application that are discussed above.

Ron Raasch offered testimony in support of the project. Mr. Raasch owns property to the east and south of the subject property. He stated that he had no problems with the proposed use of the property.

Kristy Cooper testified in opposition to the proposed solar facility. She raised concerns about the reflectivity impact of the solar panels, specifically the impact to planes using the Prineville Airport. She stated that the County needed to get input from the Federal Aviation Administration (FAA) and the Prineville Airport to demonstrate that there would be no impact to pilots using the Airport. The Applicant contacted Kelly Coffelt, Prineville Airport Manager, to get comments on the proposed solar facility. Mr. Coffelt responded by asking about the location and height of transmission lines. He raised no concerns regarding reflectivity. The Crook County Code and State law have no requirements regarding input from the Federal Aviation Administration.

Mrs. Cooper asked why the County would approve facilities prior to final plans being submitted. She specifically requested the opportunity to review the final emergency management plan. Staff responded that the final emergency plan would not be required until the Applicant had a final site layout and location of all facility components. The plan would be subject to review by Crook County Fire and Rescue; not the Planning Commission. Approval of the emergency management plan would be required prior to site clearing and grading. Mrs. Cooper requested that the record be kept open.

Russ Cooper also offered opposition testimony. He mentioned that other pilots who use the Prineville Airport had not been notified of the proposed use. He mentioned concerns about reflectivity of the solar panels and impacts from glare to pilots using the Prineville Airport. Staff confirmed that Prineville Airport does not have an approach zone and that the proposed facility is not located in the approach zone to the Airport. Mr. Cooper requested that the record be kept open.

John Aniello testified on behalf of PacifiCorp. PacifiCorp is neutral concerning the application but wanted to work with the Applicant and Bonneville Power regarding the interconnect location for the proposed solar facility. He requested an extension to allow PacifiCorp's land use team to review the project.

Mr. Stephens offered rebuttal testimony regarding the reflectivity of solar panels. He stated that panels have an anti-reflective coating and are designed to absorb light, not to reflect light. He mentioned that several large airports have solar facilities located on their properties.

Mrs. Cooper responded to the rebuttal testimony. She stated that if the Prineville Airport had a control zone, the proposed site would be within it. She said that she had a right to testify about other issues and that residents who were affected by the proposed use were not notified.

In addition to testimony at the hearing, the Planning Department received a memo from the Oregon Department of Transportation dated March 28, 2019. They also received a formal transportation assessment on April 5, 2019. Although this correspondence was received after the hearing was

closed, it does address ODOT requirements for the road approach from the facility in response to criteria related to facility access and transportation impacts and the information is attached to this decision.

FINDINGS AND SUPPORTING EVIDENCE

The Applicant provided a burden of proof statement describing the proposed use of the property. Exhibits attached to the application showed the site location, property zoning, soils, a noxious weed control plan, a draft emergency management plan, and a traffic assessment. Additional survey work will be conducted for wildlife, cultural and historic resources prior to site clearing and grading. The Planning Commission finds that based on information provided by the Applicant, the staff report and findings, demonstrate that the applicable criteria of the Crook County Comprehensive Plan, the Crook County Code, the Oregon Revised Statutes and the Oregon Administrative Rules have been met.

DATED THIS 10th DAY OF APRIL, 2019.


Michael Warren II, Planning Commission Chair


Ann Beier, Planning Director

NOTICE TO PERSONS PROVIDING TESTIMONY

The above approval may be appealed in writing to the Crook County court no later than 4:00 p.m. on April 23, 2019 (twelve working days from the effective date of this approval) on payment of an appeal fee of \$2000.00 plus 20% of the initial application fee. The appellant must also provide written transcripts of the relevant meeting tapes at the appellant's expense.

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

Attachment A – Site Location

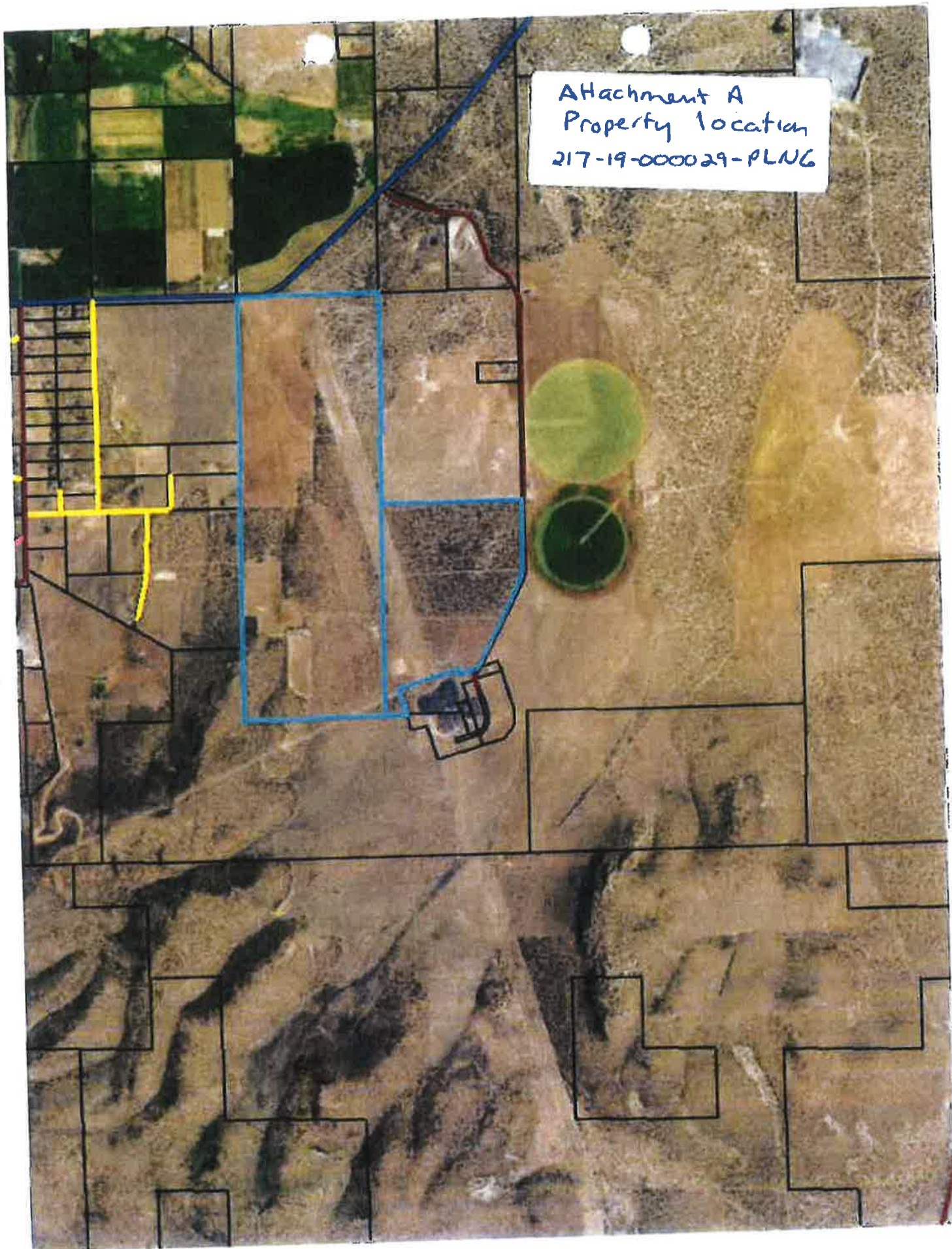
Attachment B-1 and B-2 – Facility layout

Attachment C – Soils

Attachment D – March 28, 2019 memo from Oregon Department of Transportation

Attachment E – April 5, 2019 memo from Joe Bessman, Transight Consulting

Attachment A
Property location
217-19-000029-PLNG





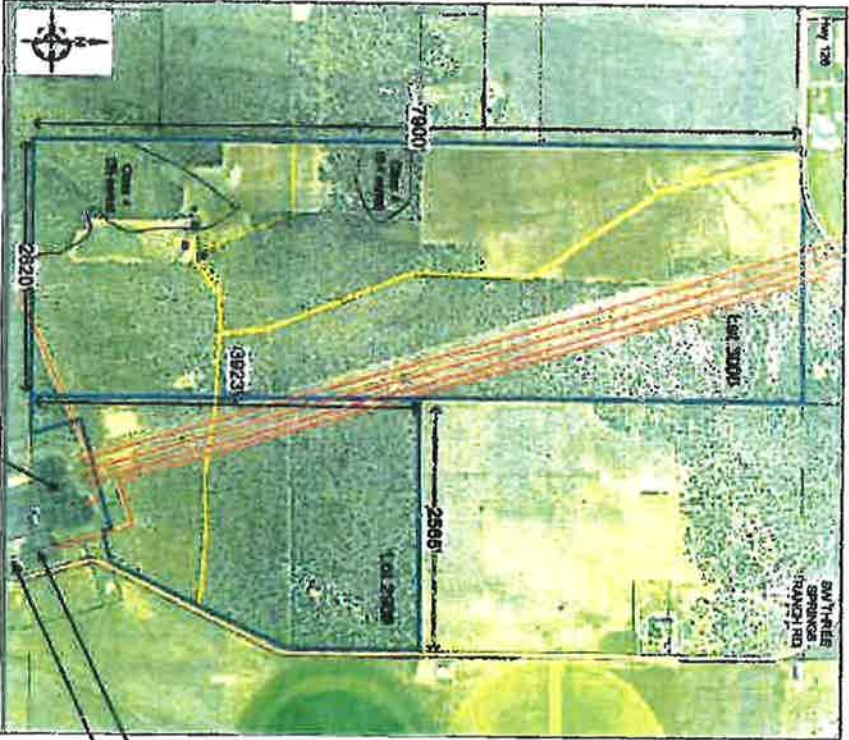
Site Plan: Present Overview TL 2900 & 3000

Attachment B-1
217-19-000029-PLAN

GENERAL NOTES

1. DISTANCES, LOCATIONS, AND ROUTING OF ASSOCIATED TRANSMISSION LINES AND ACCESS ARE APPROXIMATE AND SUBJECT TO APPLICANT'S FINAL DESIGN.
2. SOLAR PV FACILITIES SUBJECT TO APPLICABLE ACREAGE RESTRICTIONS. SOIL RECLASSIFICATION STUDIES UNDERWAY WITH APPROVED SOIL SCIENTIST.
3. TOTAL FACILITIES SITING AREA CONSIDERED IS LESS THAN 320 ACRES. TOTAL ARABLE LANDS CONSIDERED ELIGIBLE LESS THAN 20 ACRES. NO HIGH VALUE FARMLAND.
4. SETBACK REQUIREMENTS SHALL CONFORM TO CROOK COUNTY STANDARDS FOR PARCELS ZONED EFU-3 INCLUDING TAX LOT BOUNDARIES.
5. LOT 3000 CONTAINS EXISTING RESIDENCE AND BUILDINGS USED IN SUPPORT OF EXISTING PERMITTED USES.

- Legend**
- Tax Lot Boundaries
 - Existing Access/Driveways
 - Existing State and County Roads
 - Existing BPA/PAGE and PAC 115 and 500kV Transmission lines and associated easements
 - Existing residential power line
 - Existing Buildings



Existing BPA Ponderosa Substation

Existing PAC Ponderosa Substation

New PAC Cornal Substation
(under construction)

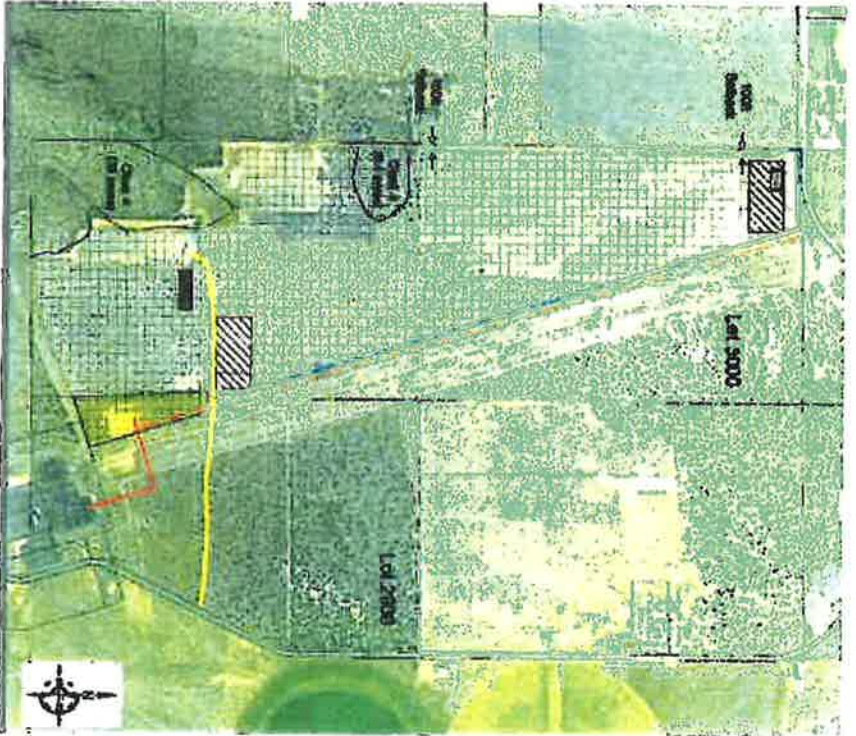
Address: Ponderosa Highway	TITLE: Site Plan Overview
Prepared for: West Ponderosa Solar Farm LLC	Drawn by: and Checked by: P. K. H.



Legend

- Modified Access Road
- Existing Access Road
- PV Facility Siting Area
- Temporary Laydown Yard(s)
- Temporary Construction Trailer Options
- Substation Facility Transmission Line
- Future Gap-Tie Routing
- Substation Facility Siting Area

Site Plan: PV Facility Siting Area



Attachment B-2
217-19-00049-PLUG

GENERAL NOTES

1. DISTANCES, LOCATIONS, AND ROUTING OF ASSOCIATED TRANSMISSION LINES AND ACCESS ARE APPROXIMATE AND SUBJECT TO APPLICANT'S FINAL DESIGN.
2. SOLAR PV FACILITIES SUBJECT TO APPLICABLE ACREAGE RESTRICTIONS. TOTAL PV FACILITIES SITING AREA CONSIDERED IS LESS THAN 320 ACRES AFTER SETBACK RESTRICTIONS APPLIED. TOTAL ARABLE LANDS CONSIDERED ELIGIBLE LESS THAN 20 ACRES. NO HIGH VALUE FARMLAND.
3. SETBACK REQUIREMENTS SHALL CONFORM TO CROOK COUNTY STANDARDS FOR PARCELS ZONED EFU-3.

Author: Revision History		TITLE: BFE PLUG ORIGINAL		
		DESIGN BY: MRS. BARNETT	NOV.	PAGE:
Prepared for: West Prairie Bio Solar Farm LLC				

217-19-00029-PLNG





Oregon

Kate Brown, Governor

Oregon Department of Transportation
Region 4 Headquarters
63055 N. Highway 97
Bend, OR 97703
(541) 388-6180
FAX (541) 388-6231

DATE: 3/28/19

ANN BEIER, COMMUNITY DEVELOPMENT DIRECTOR
CROOK COUNTY COURTHOUSE
300 NE 3RD STREET, ROOM 12
PRINEVILLE, OR 97754

Project Name: West Prineville Solar Farm	Applicant: West Prineville Solar Farm, LLC
Jurisdiction: Crook County	Jurisdiction Case #: 217-19-000029-PLNG
Site Address: N/A	Legal Description: 15S-15EWM Tax Lot(s): 2900 and 3000
State Highway: Adjacent to US 126	Milepost(s): 11.85

ODOT Response

Thank you for sending agency notice of a conditional use permit to construct and operate the West Prineville Solar Farm, LLC, a photovoltaic (PV) solar power generation facility on up to 320 acres. Commercial energy facilities are allowed as conditional uses under Crook County Code 18.24.020 and Oregon revised Statutes (ORS 215.283) and are subject to review under Crook County Code 18.160 (Conditional Uses) and 18.161 (Commercial Power Generating Facilities). The property is identified as 15S-15EWM, TLs 2900 and 3000.

Permits and Agreements to Work in State Right of Way

- ☒ An ODOT Application to Upgrade an Existing Highway Approach must be submitted for the approach located at Mile Point 11.85 along OR 126. Please contact either Permit Specialist, Aaron Smith, at 541-388-6054 or Permit Specialist, Tyler Swanson, at 541-388-6426 to obtain this.
- ☒ A drainage study prepared by an Oregon Registered Professional Engineer is usually required by ODOT if the development has the potential to impact ODOT highway drainage, to assure life, safety and that Oregon Drainage Law is being upheld. The applicant must provide ODOT District 10 with a preliminary drainage plan showing impacts (or lack of impacts) to the highway right of way. If it can be determined from preliminary drawings there will be no impacts to the highway drainage system then a drainage study will not be required. If a drainage study is required, all requirements for drainage studies can be found in the ODOT Hydraulics Manual.

An ODOT Miscellaneous Permit is required for connection to state highway drainage facilities. Connection will only be considered if the site's drainage naturally enters ODOT right of way.

You may contact me at 541-388-6046 if you have any further questions or require additional information on our response to this proposal.

Thank you,



Don Morehouse
Senior Transportation Planner, Development Review

Please send any further project related correspondence to:

**ODOT Region 4 Planning
Development Review
63055 N. Highway 97, Bldg M
Bend, OR 97703**

Donald.Morehouse@odot.state.or.us

Development Review Planner: Don Morehouse	541.388.6046
District Contact: Aaron Smith	541.388.6054
District Contact: Tyler Swanson	541.388.6426



Date: April 5, 2019
To: Mark Boissevain, EASE LLC
From: Joe Bessman, PE
Project Reference No.: 1305
Project Name: West Prineville Solar Facility



This letter provides an assessment of the transportation impacts anticipated with the proposed 320-acre solar farm located at 8140 SW Highway 126 in Powell Butte, Oregon (tax lot 1515000003000). The proposed solar facility will be located near the Bonneville Power Administration route and will be able to produce over 50 MW of power. Access to the project is provided directly from OR 126 at a permitted access at highway milepost 11.857. Figure 1 provides a photo of the property.



Figure 1. View of BPA alignment through subject property as viewed from OR 126.

PROJECT DESCRIPTION

The proposed solar farm site is on the south side of OR 126 with the property bisected by the western BPA transmission alignment. The property is located near the intersection of OR 126 and Three Springs Ranch Road near the horizontal curve in OR 126, as shown in Figure 2. The property is zoned for Exclusive Farm Use (EFU-3), which per CCC 18.24.025 allows commercial photovoltaic energy systems to the extent permitted by State law. The specific location of the property is illustrated in Figure 2.

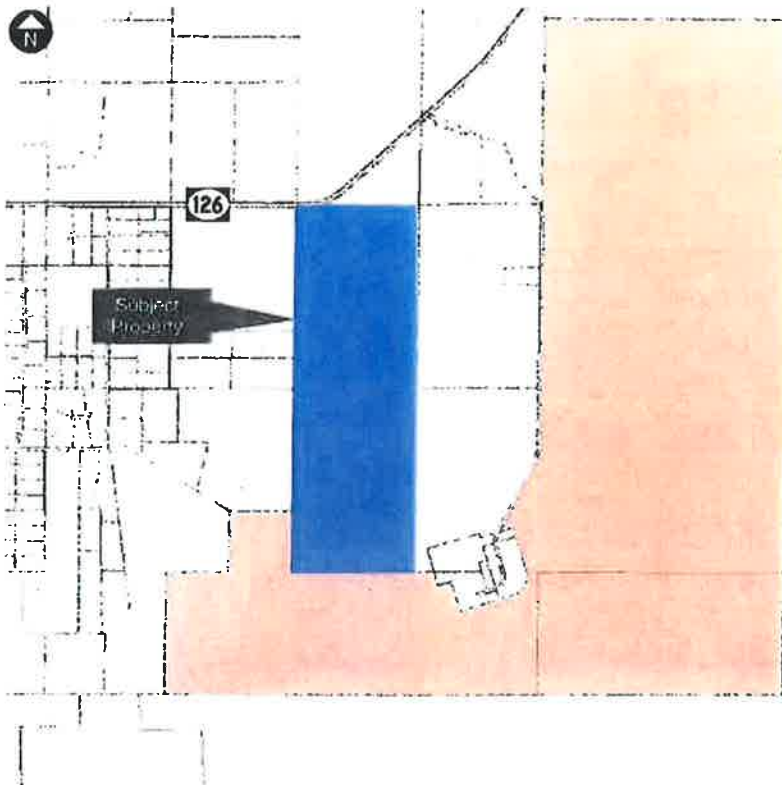


Figure 2. Site Vicinity Map. *Image Source: Crook County GIS*

The proposed site currently supports a residence and various outbuildings in support of existing permitted EFU land uses.

Access to the property is proposed from the permitted access onto OR 126. Secondary access onto Three Springs Road is desirable, but as this is a private road it will require that access easements be obtained to allow use of this facility for construction trips. Figure 3 illustrates the proposed site layout.

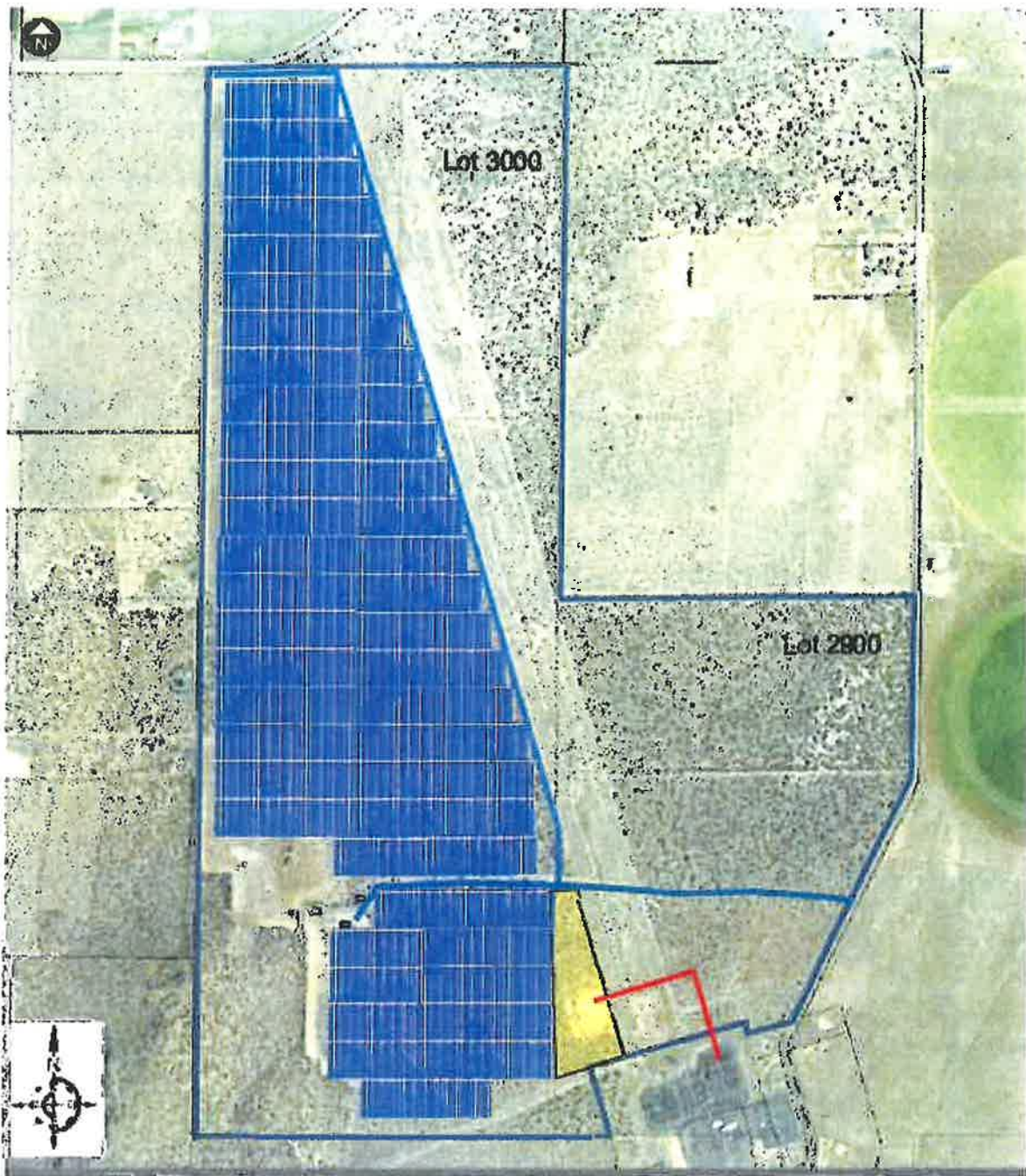


Figure 3 illustrates the proposed site layout.

TRIP GENERATION

Trip generation estimates are typically prepared using the standard reference Trip Generation, 10th Edition, published by the Institute of Transportation Engineers (ITE). However, this manual generally contains information applicable only in suburban and urban areas. Trip generation data for solar facilities is not available, and so in most jurisdictions is based on estimates of employee/maintenance trips once fully built-out.

Based on information from other solar facilities, only nominal trip generation occurs with full build-out. These trips are typically associated with security, on-site maintenance of equipment, and inspections. Inspections and maintenance occur throughout the year on both a scheduled and an as-needed basis. Accounting for both inbound and outbound trips, a solar facility will typically generate about four trips per day (one to two vehicles per day both in and out), with average weekday daily trip generation likely closer to a single trip per day (one inbound and outbound trip).

Crook County Code 18.180 identifies the thresholds for when a formal Transportation Impact Analysis is required. This identifies the following conditions:

- The development generates 25 or more peak hour trips (or more than 250 daily trips)
- An access spacing exception is required for the site access driveway and the development generates 10 or more peak hour trips (or 100 or more daily trips)
- The development is expected to impact intersections that are currently operating at the upper limits of the acceptable range of level of service during the peak operating hour.
- The development is expected to significantly impact adjacent roadways and intersections that have previously been identified as high crash locations or areas that contain a high concentration of pedestrians or bicyclists (such as school zones)
- A change in zoning or a plan amendment designation.
- ODOT requirements.

The proposed solar facility generates less than the County trip thresholds, is allowed outright in the zoning, and is proposing access in conformance with an approved deeded access onto OR 126. None of the County thresholds are met to require a Transportation Impact Analysis, and with the limited trip generation of the site conduct of a study would not identify capacity needs. Accordingly, this transportation assessment focuses on construction needs to maintain safety at the access for the development of the site. This will conform with the County's Transportation Assessment Letter (TAL) requirements.

CRASH HISTORY REVIEW

Intersection crash records were obtained from the ODOT crash database for all of Crook County for the period between January 1, 2012 and December 31, 2016. This reflects the most recent (complete) five-year period available. Crashes that are required to be reported to ODOT during this period includes any collision that involves one or more motor vehicle, results in more than \$1,500 in property damage, or results in any level of personal injury.

There were 10 crashes near the property access along OR 126 during this analysis period, one of which was associated with the OSU research facility entrance and eight were related to the OR 126 curve. Further review of the crashes showed the following characteristics:

- Three crashes were associated with animals on the highway;
- One crash occurred as a result of a lost or shifted load;
- Three crashes occurred during icy conditions;
- Excess speed, reckless or otherwise improper driving were cited in eight of the reported collisions.

Review of the crash patterns and crash types indicates that drivers may not be anticipated the surface or curve conditions while traveling along OR 126. Potential safety mitigations to address the curve could include widened shoulders that increase the available recovery space, additional roadway centerline

widening to further separate eastbound and westbound travel directions, and review of curve warning/animal crossing signage. None of the crash patterns appear to be associated with the existing property access, but along this two-lane expressway facility temporary construction signage will be required to warn drivers on either approach of the new conflicts while the facility is being constructed. Any signage along OR 126 will need to be coordinated with and approved by ODOT.

ACCESS CHARACTERISTICS

Access to the property will be provided from the permitted access location that is located west of the BPA powerline easement, as shown in Figure 4. This access occurs at an approximately 75-degree angle from the highway and contains a wide turning radius to support the turning maneuvers. These radii will need to be reviewed to ensure that the trucks bringing in materials and supplies can safely maneuver through the access, or if additional widening near the entrance will need to occur.



Figure 4. Existing OR 126 permitted access.

TEMPORARY CONSTRUCTION CONDITIONS

While build-out trip generation is very low for a solar facility, construction impacts of solar facilities are much more intense than operational conditions. To address construction traffic needs, information was also obtained and summarized to provide trip estimates throughout the construction process.

Construction on the property is anticipated to begin during the 3rd quarter of 2019, with completion anticipated by the end of the year. Construction will be initiated with on-site grading and access improvements. Following site preparation, the majority of trucks will be standard tractor trailers with 40-foot long shipping containers.

The peak of the construction activity spans 12 weeks from September 2019, of which eight weeks from mid-October through mid-November will see the highest amount of construction related traffic both in terms of larger trucks (for materials) and passenger vehicles for commuting laborers. During this eight-week span is when the actual installation of the solar photovoltaic (PV) modules will occur. During this eight-week installation period the facility site is conservatively estimated to generate 3 to 5 truck trips per day for material transport and 40 to 80 passenger car trips per day for commuting laborers (assuming very little carpooling and no shuttle/bus usage).

Construction traffic (both material and labor) will arrive from major population centers surrounding this site. This includes the City of Prineville to the east and Bend-Redmond area to the west. Laborers will not be permitted to remain on the premises overnight.

To maintain the safety of the highway connection to OR 126 and to increase visibility and awareness for laborers that are unfamiliar with the area, the following summarizes recommended construction mitigation measures:

- "Trucks Entering Highway" temporary construction signage should be installed on either side of the access throughout the construction period to warn motorists of construction activity. Similar advance warning signs should also be located 1,000 feet from the intersection to warn following drivers of the otherwise unexpected deceleration near the horizontal curve. Advance coordination and approval from ODOT will be required to place signs in the highway right-of-way.
- The applicant should coordinate with the Crook County road master and ODOT to ensure a plan is in place to prevent rocks and debris from entering OR 126. This may require extending the asphalt apron into the property.
- Separate on-site areas should be designated for passenger vehicle parking and truck staging. No parking should be permitted along OR 126 shoulders.
- The applicant should coordinate with the Crook County road master on any permits required to support the solar facility along internal site roadways and secondary access roads.
- If access from Three Springs Ranch Road is needed easements will be required from the property owner along this private facility. The design and location on a tangent highway section makes this a more ideal access location for construction trips.

We trust this letter provides a general understanding of the long-term build-out and construction needs of the proposed Solar Facility. The operations of the facility will not trigger the County's formal Transportation Impact Analysis requirements. If you have any questions or need any additional

West Prineville Solar Facility

information on this traffic letter please contact me at (503) 997-4473 or via email at joe@transightconsulting.com.

Attachments:

- **Approved ODOT Approach Permit**
- **Preliminary Site Layout Maps**

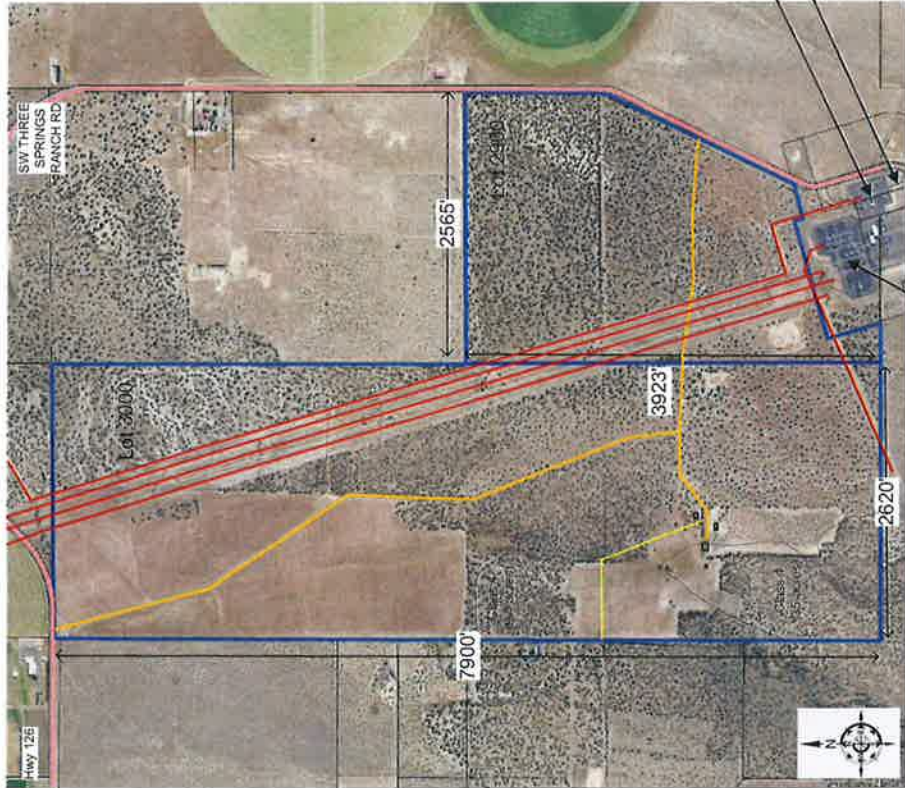
Exhibit B

Site Plan



Site Plan: Present Overview TL 2900 & 3000

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



GENERAL NOTES

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Existing PAC Ponderosa Substation

New PAC Corral Substation
(under construction)

Existing BPA Ponderosa Substation

Notes:

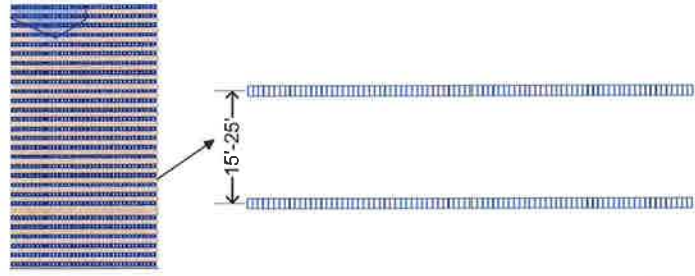
Revision History
Goal 3 Exception mod 04012020

TITLE			
SITE PLAN OVERALL			
DRAWN BY: Mark Blaszczyk			
REV	DATE	BY	DESCRIPTION
1	04/12/20	Mark Blaszczyk	Initial

Prepared for: West Pineville Solar Farm LLC

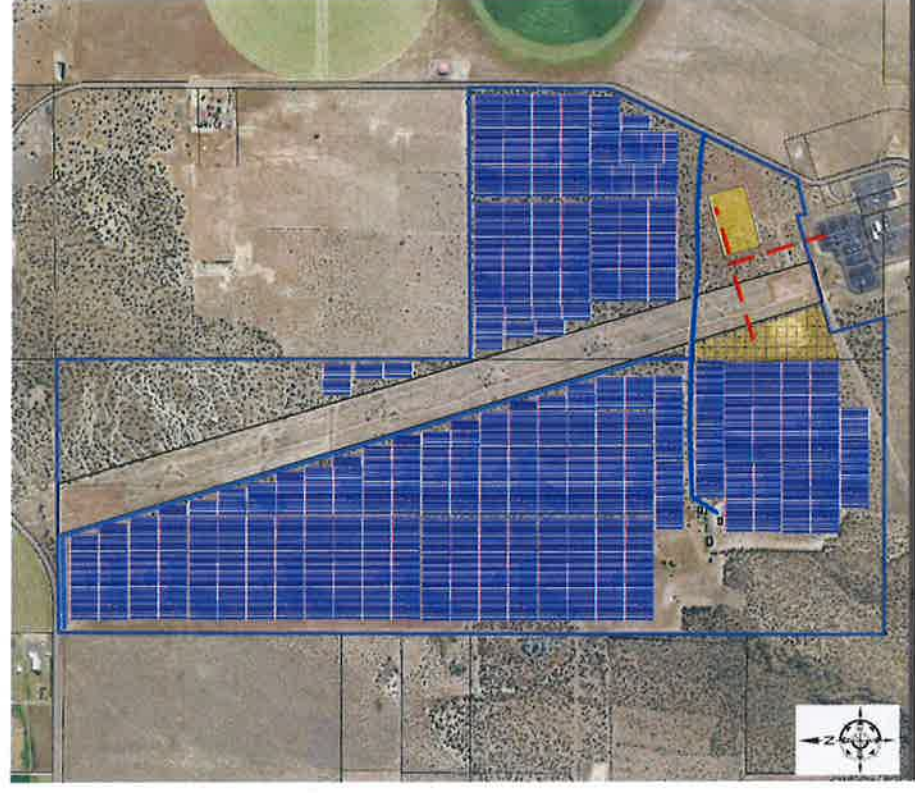


ZOOMED IN VIEW OF MODULE/
TRACKER ROWS



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

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



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3. SETBACK REQUIREMENTS SHALL CONFORM TO CROOK COUNTY STANDARDS FOR PARCELS ZONED EFU-3.
4. PV STRUCTURES LAYOUTS ARE SHOWN IN APPROXIMATE LOCATIONS ONLY. TRACKER ROWS RUN NORTH SOUTH, FIXED RACKS RUN EAST-WEST. ACTUAL LOCATION SUBJECT TO FINAL DESIGN.
5. DRAWING NOT TO SCALE.

Legend

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

Notes:
Revision History
Goal 3 Exception mod 04012020

TITLE: SITE PLAN LAYOUT	
DRAWN BY: EXAMPLE	
Prepared for: West Prineville Solar Farm, LLC	REV
Mark Balesworth	NA
PAGE	3 of 3