

February 24, 2017

# Governor's Advisory Committee on Energy and Agriculture in the Umatilla Basin

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Dear Governor Brown:

Thank you for establishing the Advisory Committee on Energy and Agriculture in the Umatilla Basin. The committee members have met for over a year to find ways to resolve concerns in the Umatilla Basin regarding energy transmission development and the associated impacts to agriculture. We appreciate the hard work of the committee members and agency staff, and we appreciate the thoughtful discussion to consider ideas for solutions.

Renewable energy developers need transmission lines to get their power to the market. These transmission lines can be many miles from the renewable energy development to the electric grid and must cross a range of landscapes, including highly productive agricultural land. A key next step identified by the Advisory Committee is a pilot project in Morrow County to conduct a community process that would establish an energy corridor that should be considered by future energy developers. This pilot project will require assistance of Department of Land Conservation and Development (DLCD) staff to bring a temporary rule through Land Conservation and Development Commission (LCDC) to allow the pilot project to move forward.

We appreciate your continued support in resolving concerns around energy development and agriculture in our districts through the Morrow County pilot project.

Sincerely,

Senator Bill Hansell

Representative Greg Smith

cc: Committee Members  
Jim Rue, DLCD Director  
Greg MacPherson, LCDC Chair

## TABLE OF CONTENTS

1.0 Background .....	5
1.1 Committee Purpose and Scope.....	5
1.2 Committee Membership.....	5
1.3 The Region .....	7
1.4 The Region’s Agriculture .....	7
1.5 The Region’s Energy Production .....	9
2.0 Advisory Committee Meetings Summary .....	13
2.1 Meeting 1: October 27, 2015 – Boardman, Oregon .....	13
2.2 Meeting 2: November 12, 2015 – Portland, Oregon .....	13
2.3 Meeting 3: December 21, 2015 – Boardman, Oregon.....	13
2.4 Meeting 4: February 5, 2016 – Salem, Oregon .....	13
2.5 Meeting 5: October 18, 2016 – Boardman, Oregon .....	13
3.0 Key federal, state, and local laws and regulations.....	14
3.1 Federal .....	14
3.2 State & Local .....	15
4.0 Ideas for Resolving Issues .....	19
4.1 Idea: County-only corridor approach.....	19
4.2 Idea: County and State (LCDC) Goal 3 approach.....	20
4.3 Idea: County and State (LCDC) Goal 5 approach.....	21
4.4 Idea: State (EFSC) approach.....	22
4.5 Idea: Financial Incentives .....	22
5.0 Next Steps .....	25
6.0 Attachments.....	26
ATTACHMENT A. Governor’s Framework for the Advisory Committee in Umatilla Basin .....	27
ATTACHMENT B. 10.27.15 Meeting Agenda and Minutes .....	28
ATTACHMENT C. 11.12.15 Meeting Agenda and Minutes .....	31
ATTACHMENT D. 12.21.15 Meeting Agenda and Minutes .....	36
ATTACHMENT E. 2.5.16 Meeting Agenda and Minutes.....	42
ATTACHMENT F. 10.18.16 Meeting Agenda and Minutes.....	49
ATTACHMENT G. HB 2508-1 (2015).....	53
ATTACHMENT H. Associated Transmission Line Check Box .....	54

ATTACHMENT I. Cumulative Impact Clarification..... 57  
ATTACHMENT J. Energy Projects Currently Under Review..... 72

# 1.0 Background

## 1.1 Committee Purpose and Scope

The Umatilla Basin region is home to irreplaceable high-value agricultural land. Recent proposed energy development, including generation facilities and associated generation-tie transmission lines, have the potential to take portions of high-value agricultural land out of production. It is important to ensure that as energy projects are constructed to meet the region's energy needs, developers consolidate resources, particularly transmission lines, to avoid, to the maximum extent practicable, any impacts to this land, as well as site future energy substations in locations that avoid cumulative impacts of transmitting energy to and from substation locations. The purpose of this Advisory Committee was to scope out the agricultural and energy generation and electrical transmission needs in the Umatilla Basin and the region, and to determine whether or not any changes in the federal, state or local laws or regulations are necessary and, if so, how they should be pursued to better protect this land.

## 1.2 Committee Membership

The Advisory Committee includes:

- A representative from the Governor's Office
  - Margi Hoffmann, Energy Policy Advisor (until October 2015)
  - Ruchi Sadhir, Energy Policy Advisor (November 2015 to present)
- A member of the Oregon State Senate
  - Senator Bill Hansell, SD 29
- A member of the Oregon State House of Representatives
  - Representative Greg Smith, HD 57
- A representative of an investor-owned utility
  - Gary Bauer, Northwest Natural
  - Varner Seaman, Portland General Electric
- A representative of the irrigated agricultural community
  - Kent Madison, Madison Ranches
- A representative from a land-owner organization
  - JR Cook, Northeast Oregon Water Association
- A representative from Morrow County
  - Commissioner Leann Rea (until January 9, 2017)
  - Commissioner Melissa Lindsey (January 9, 2017 to present)
- A representative from Umatilla County
  - Commissioner George Murdock, Chair
- A representative from Gilliam County
  - Steve Shaffer, County Judge
- A representative from the local utility
  - Steve Eldridge, Umatilla Electric Cooperative (until April 2016)
  - Robert Echenrode, Umatilla Electric Cooperative (April 2016 to present)
- A representative from the Port of Morrow
  - Gary Neal, General Manager

- A representative from a renewable energy organization
  - Hillary Barbour, Renewable Northwest (until April 2016)
  - Cliff Gilmore, Renewable Northwest (April 2016 – September 2016)
  - Rikki Seguin, Renewable Northwest (October 2016 to present)
  - Johnny Casana, EDP Renewables [member of and representing Renewable Northwest] (October 2016 – January 2017)

Technical support has been provided to the Advisory Committee by:

State Agencies –

- Oregon Department of Energy (ODOE)
  - Michael Kaplan, Director
  - Todd Cornett, Assistant Director for Siting
- Oregon Department of Agriculture
  - Jim Johnson, Land Use and Water Planning Coordinator
- Oregon Department of Land Conservation and Development (DLCDD)
  - Jon Jinings, Community Services Specialist
- Oregon Department of Fish and Wildlife (ODFW)
  - Steve Cherry, District Wildlife Biologist
  - Jon Germond, Habitat Resources Program Manager, Wildlife Division, Tribal Liaison
- Oregon Public Utility Commission (OPUC)
  - Jason Eisdorfer, Utility Director
  - Lori Koho, Administrator of Safety, Reliability, and Security Division

Local Agencies –

- Morrow County
  - Carla McLane, Planning Director
- Umatilla County
  - Tamra Mabbott, Planning Director

Federal Agencies –

- Bonneville Power Administration (BPA)
  - Crystal Ball, Oregon Liaison
  - Brian Altman, Customer Account Executive in Transmission Sales
  - Anders Johnson, Electric Engineer in Long Term Planning

### 1.3 The Region

This report focuses on an irreplaceable high-value agricultural region, including the Umatilla River Watershed and irrigated regions of West Umatilla County, North Morrow County, and North Gilliam County.

Water is a key resource that supports environmental, economic, social, and cultural values within the Umatilla Basin. Access to sustainable water supplies to support high-value irrigated agriculture is only feasible within 1,000 feet above full pool elevations of the McNary and John Day pools of the Columbia River.

This high-value region provides 200 varieties of agricultural products, driving a more than strong agriculture-based economy that supports hundreds of quality rural jobs and contributes billions of dollars to the state's economy.



Figure 1 Map of the Region

### 1.4 The Region's Agriculture



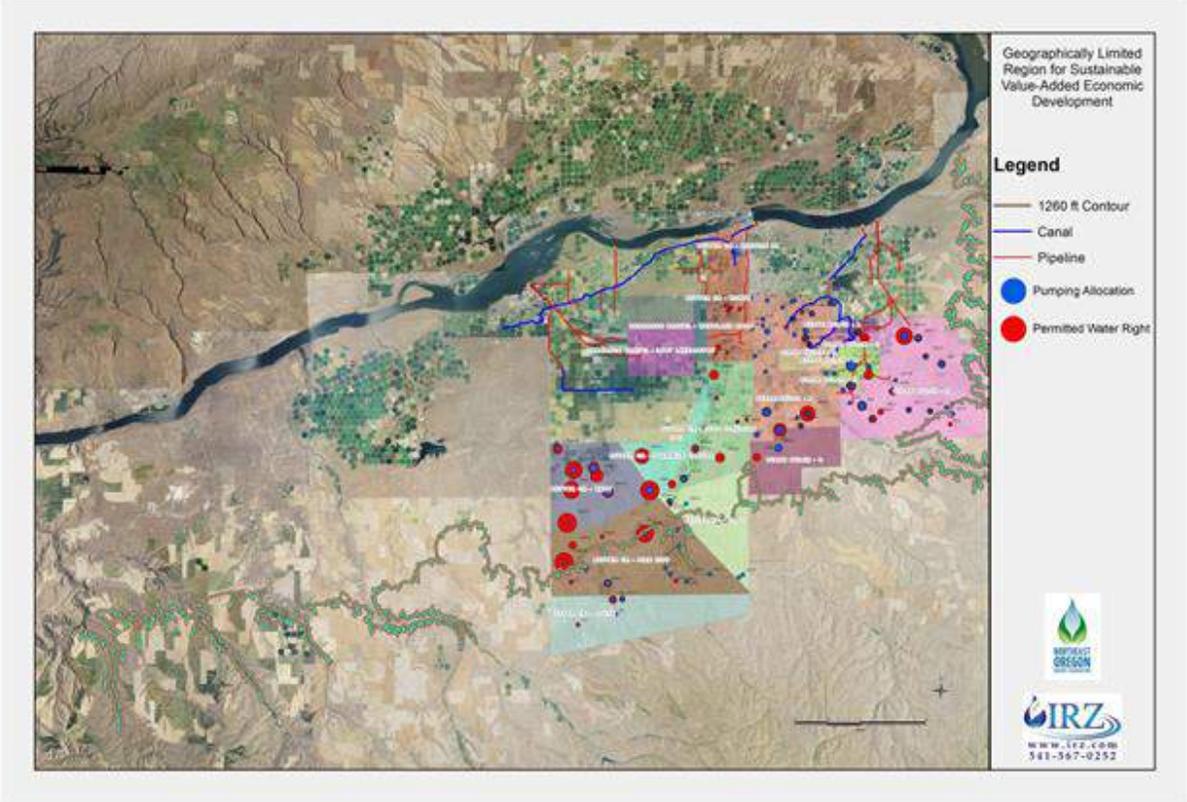
Figure 2 Hermiston

Much of the regional economy in the Umatilla Basin is driven by agriculture. Once land has water rights for irrigation, its value increases due to changes in options for agricultural output. For example, dryland wheat, grown without irrigation, produces agricultural output valued at approximately \$100 per acre. Adding one acre-foot of water to irrigate the land increases that value to \$500 per acre. A second acre-foot of irrigated water allows a farmer to grow hay and some vegetables valued to \$1,500 per acre. A third acre-

foot of water allows production of potatoes, onions, and carrots, which increases value to \$5,000 per acre or more after adding processing and international shipment value.

At the same time, there is a threshold where it is no longer economical to pump water for the purpose of irrigation. Based on presentations given to the Columbia River Umatilla Solutions Task Force (CRUST), the three costs that dictate economic feasibility of irrigation projects are (1) the capital cost of the infrastructure, (2) power costs and maintenance, and (3) the cost of obtaining mitigation water from the Columbia River through storage or upstream efficiency projects. These three costs combined must be between \$125 to \$150 per acre-foot for an irrigation project to break even. Additionally, based on the three cost factors above, the economic limit of sustainable Columbia River irrigation projects is 900 feet to 1,000 feet of pumping elevation above the full pool level of the McNary pool and John Day pool. Therefore, there is a strong regional interest to protect previously made and anticipated investments to sustain this irreplaceable irrigated land base. For areas where it is not economical to pump water for irrigation

purposes, there is an interest by dryland agricultural entities to diversify income streams with renewable energy development. For instance, a wind turbine sited on an agricultural field adds economic diversity to an income stream for a parcel by taking a small fraction of an acre out of production but compensating a landowner with lease payments. These payments are often greater than the proportional crop yield and provide an economic buffer against drought and lean years.



**Figure 3: Economic Limit of Columbia River Irrigation**  
Note that the 1,260 foot contour is equivalent of 1,000 feet of pumping elevation above full pool

## 1.5 The Region's Energy Production

The Columbia River Basin has long served as an area of large-scale energy development. Dams in the Columbia River and its tributaries began producing hydroelectric power in the late 1930s and now contribute about 40 percent of the electricity used in the Pacific Northwest. The Bonneville Power Administration (BPA) is a federal, nonprofit power marketing administration that was created by Congress in 1937 to market power produced by the federal dams and deliver that power to publicly-owned utilities. Four federal dams, operated by the U.S. Army Corps of Engineers, are located on the Columbia River's segment that comprises Oregon's northern border: Bonneville Dam (constructed 1938 – 1,225 MW<sup>1</sup>), The Dalles Dam (constructed 1960 – 2,086 MW), John Day Dam (constructed 1971 – 2,480 MW) and McNary Dam (constructed 1957 – 1,120 MW (Max capacity)). Power produced by the Columbia River system helps drive economic growth throughout the region.



Figure 4: Photo of the McNary Dam

BPA owns and operates more than 15,000 circuit miles of high-voltage transmission lines and nearly 300 substations, which makes up about 75 percent of the electric transmission system in the four-state Pacific Northwest region – Oregon, Washington, Idaho, and Montana. BPA is responsible for moving power from where it is generated to where it is consumed.

Two not-for-profit rural electric cooperatives in the Umatilla Basin, Umatilla Electric Cooperative (UEC) and Columbia Basin Electric Cooperative (CBEC), buy power from BPA under long-term contracts to provide rural electric service to roughly 14,000 households and 4,000 commercial, industrial, and irrigation customers.

BPA substations step down high voltage electricity for delivery to UEC and CBEC. These substations interconnect new generation in the region and step it up to be transmitted on the broader high voltage electrical grid. Existing substations in the area include McNary, Coyote Springs, and Boardman.

In 2016, BPA completed construction of a 230/115 kV substation near Boardman called the Morrow Flat Substation. This new substation, combined with enhancements to existing infrastructure, allows BPA to accommodate the growing demand for electricity in UEC's service territory and the surrounding area while ensuring safety and

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<sup>1</sup> MW stands for "megawatt," which is the standard form of measurement for bulk electricity. One megawatt is enough electricity to power about 600 homes.

operational standards are met. The increase in demand for energy comes from existing development and food processing plants as well as development of new data centers. The Morrow Flat Substation is approximately 1.5 miles east of the existing Boardman Substation, along an existing corridor containing three BPA transmission lines – the 230-kV McNary-Boardman, the 230-kV McNary-Jones Canyon, and the 500-kV McNary-Coyote Springs. The McNary-Boardman and McNary-Jones Canyon lines feed through Morrow Flat Substation. Approximately 22 acres of land zoned for industrial use, and formerly used for agricultural production, were developed for the new Morrow Flat Substation. BPA plans to expand the existing Morrow Flat Substation in the 2019-2020 timeframe to accommodate anticipated load growth in the area. BPA is also in the early stages of considering building two additional substations, Longhorn and Stanfield. As proposed, the Longhorn Substation will be a 500kV substation adjacent to the new Morrow Flat Substation. At this time, BPA has not set a formal location or made an attempt to acquire land for the proposed Stanfield Substation. To this end, a rough idea of the location for Stanfield is for study purposes only.

BPA has partnered with Idaho Power and PacifiCorp to fund the permitting phase of the proposed Boardman to Hemingway (B2H) 500 kV transmission line project. This project is a 290 mile, 500 kV transmission line extending from the proposed Longhorn Substation to the Hemingway substation located southwest of Boise, Idaho. Idaho Power is the lead utility in the federal and state permitting processes for this project. The B2H project is intended to meet the energy needs of the partnering utilities and help increase the efficiency, reliability, and resiliency of the electric system in the Pacific Northwest. The B2H project will help create capacity to integrate renewable generation on a regional scale and allow additional energy to be transmitted between the Pacific Northwest and Mountain West regions. The B2H project is currently in the permitting phase and is expected to be in service in 2023 or later.

In addition to renewable energy produced by the Columbia River hydroelectric dams, the presence of transmission, transportation, and natural gas facilities support other forms of utility-scale energy production. The Boardman Plant is a coal-fired facility owned by Portland General Electric (PGE) with a nameplate capacity<sup>2</sup> of 550 MW. It is scheduled to cease coal-fired operations in 2020. The company is exploring the use of biomass as a future fuel source for the plant or other options for replacement of the coal operations after 2020. Four significant natural gas-fired plants are also located in the area. The Coyote Springs co-generation plant, co-owned by PGE and Avista, is located at the Port of Morrow and has a nameplate capacity of 503 MW. In addition, PGE owns and operates the Carty Generating Station, currently a 440 MW plant south of Boardman that has been approved by the Energy Facility Siting Council to be built up to

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<sup>2</sup> “Nameplate capacity” refers to the full load sustained output of a power plant. Coal fired plants and natural gas fired plant are considered “base load” plants that are dedicated to producing base load supply by consistently and continuously operating at their nameplate capacity. Renewable energy plants such as wind or solar are considered “intermittent energy sources” because they operate at about 30 percent efficiency and are not continuously available. Hydroelectric dam energy output is adjusted up and down to respond to load demand.

900 MW. The Hermiston Power Project, owned by Calpine, and the Hermiston Generating Project are both located near Hermiston, Oregon in Umatilla County and have nameplate capacities of 546 and 474 MW, respectively.



Figure 5: Wind Turbines

Over the last decade much attention has been dedicated to developing new, renewable sources of energy, mostly in the form of wind power. This area has wind projects in all phases of application and development, and several other projects have expressed intent to submit their applications in the near future. Additionally, this region is just beginning to see interest in utility scale<sup>3</sup> solar projects, several of which are at the beginning application phase. The region also has potential for new natural gas plants. With retirements of some generating units in the west and changing

river flows impacting hydro-electric operations, there are questions from utility planners on how to reliably meet demand for electricity.

As for broader regional grid considerations, it is worth noting that there is potential for major changes within the next five to ten years in the western transmission system in the form of a potential new multi-state regional system operator (RSO). If an RSO is established, planning around future generation and transmission will likely change.

Currently, transmission rights in the western United States are firm and owned by specific entities who negotiate and establish contracts to move power across transmission lines. In contrast, regional markets in the eastern, mid-western, and southern regions of the U.S. share and optimize transmission rights across the system. An RSO will likely reduce inefficiency and redundancy in the system, reduce the need for new lines, increase use and value of existing lines, and lower the cost of managing variable renewable resources.

In the next few years, the California Independent System Operator (ISO) and the PacifiCorp transmission system may enter into an agreement to integrate into a single RSO, which is being discussed and analyzed in California, Oregon, Washington, Idaho, Wyoming, Nevada, and Utah. If the proposed RSO is created, it would open opportunities for many other regional utilities and balancing authorities to join and benefit from a real-time, day-ahead, and week-ahead market, reducing transmission congestion as well as the inefficient procurement of local reserve capacity through contracts. The proposed RSO would significantly impact how transmission rights and access for future build-out are considered in the northwest. It is important to note that BPA would be unlikely to fully participate in an RSO because of legal constraints on

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<sup>3</sup> Utility Scale generation can be defined as a generation project directly interconnected to the transmission system or to generation projects intended for a utility. These are usually above a certain MW nameplate capacity, often defined above than 1-10 MW, depending on the market. Alternately, 'utility scale' can mean generation that is not meant for 'behind the meter' uses (i.e. not for on-site use by a specific business or residence).

operation of the federal transmission system; however PacifiCorp, PGE, and Idaho Power, which have transmission in Oregon, have the legal space to more seriously consider joining an RSO.

## **2.0 Advisory Committee Meetings Summary**

This section provides a brief summary of Advisory Committee meetings. Agendas and minutes for each meeting are attached to this report.

### **2.1 Meeting 1: October 27, 2015 – Boardman, Oregon**

The first meeting took place on October 27, 2015 in Boardman, Oregon. The meeting agenda involved discussion of potential cumulative impacts to agricultural land and an overview of energy acquisition needs from UEC, PGE, BPA, and Renewable Northwest. (See Attachment B)

### **2.2 Meeting 2: November 12, 2015 – Portland, Oregon**

The second meeting took place on November 12, 2015 in Portland, Oregon. The meeting agenda involved discussion of energy and agriculture definitions and terms, proposed projects, identification of issues, agency roles and responsibilities, and transmission project processes. (See Attachment C)

### **2.3 Meeting 3: December 21, 2015 – Boardman, Oregon**

The Advisory Committee next met on December 21, 2015 in Boardman, Oregon. The agenda involved an ODOE demonstration of a consolidated map with layers of energy projects and natural resource data and discussion of the problem statement and potential solutions. (See Attachment D)

### **2.4 Meeting 4: February 5, 2016 – Salem, Oregon**

The fourth meeting took place on February 5, 2016 in Salem, Oregon. The agenda covered ODOE's consolidated data map and discussion of state law mechanisms for helping to resolve the issues discussed at the last meeting. (See Attachment E)

### **2.5 Meeting 5: October 18, 2016 – Boardman, Oregon**

The Advisory Committee's final meeting was held on October 18, 2016 where members reviewed the draft report and provided feedback. Additional feedback was provided over email, thus a sixth meeting was not necessary. (See Attachment F)

## 3.0 Key federal, state, and local laws and regulations

### 3.1 Federal

#### Federal Energy Regulatory Commission (FERC):

- All corridor approaches need to be aligned with FERC open access requirements. FERC requires that transmission system owners allow non-discriminatory, fair access to transmission facilities, typically through a transmission queue and, after the necessary studies, an open access tariff.
- As an example, take a scenario where an established transmission corridor and a public utility is providing transmission to new generation that does not have transmission capacity. Query whether the public utility could be required to build new transmission capacity and charge the developer of the new generation. If the public utility that owns the new transmission capacity is a FERC-jurisdictional entity, such as an investor-owned utility, the new capacity would be subject to FERC's open access requirements. If BPA was owner of the new capacity, BPA is not FERC-jurisdictional, but BPA has adopted an open access transmission tariff and could offer the capacity under that tariff. Consumer-owned utilities are generally not FERC-jurisdictional entities, and as such, are generally not required to have an open access transmission tariff or comply with FERC's open access requirements.
- A transmission owner may be required to upgrade a system to interconnect additional generation, if that entity is FERC jurisdictional or if it has a tariff in place that would require it to do so. Whether the generator would be charged for the upgrades depends on the location of the upgrades relative to the point of interconnection. If the transmission provider is otherwise exempt from FERC jurisdiction, then it generally cannot be compelled as part of FERC's open access requirements to upgrade its facilities.

#### Federal Land Management and the Section 368 West-wide Corridors:

- Section 368 of the Energy Policy Act of 2005 (EPAct) directed the Secretaries of Agriculture, Commerce, Defense, Energy, and Interior to designate, under their respective authorities, corridors for oil, gas, and hydrogen pipelines and electricity transmission and distribution facilities on federal lands in the 11 contiguous Western States (Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, and Wyoming), to perform any required environmental reviews, and to incorporate the designated corridors into agency land use and resource management plans. Section 368 also directed the agencies to take into account the need for upgraded and new infrastructure and to take actions to improve reliability, relieve congestion, and enhance the capability of the grid to deliver energy.

- In 2009, the United States Bureau of Land Management (BLM) and United States Forest Service (USFS) finalized a record of decision that amended land-use plans and designated 5,000 miles of Section 368-corridors on BLM managed land and 990 miles of Section 368-corridors on USFS managed land. Shortly thereafter, several non profit environmental organizations filed a lawsuit against the corridors.
- In 2012, the court dismissed the case, approving a settlement agreement that set forth five provisions with the objective of ensuring that future Section 368 Corridor revisions, deletions, and additions consider the following principles: Location of Section 368 Corridors in favorable landscapes; facilitation of renewable energy projects where feasible; avoidance of environmentally sensitive areas to the maximum extent practicable; diminution of the proliferation of dispersed rights-of-way crossing the landscape; and improvement of the long-term benefits of reliable and safe transmission.
- In 2014, federal agencies began their review of the corridors with these guiding principles through an Environmental Impact Statement process, which continues today. Simultaneously, federal land managers are processing applications for transmission line right-of-ways on BLM-managed and Forest Service-managed federal lands through the National Environmental Policy Act (NEPA), Endangered Species Act (ESA), and National Historic Preservation Act (NHPA) (among many other federal laws and requirements).

### **3.2 State & Local**

#### Oregon Land Use Planning Law:

- Oregon’s land use planning program is comprised of a combination of state statute, statewide planning goals adopted by the state’s Land Conservation and Development Commission (LCDC), and administrative rules. Over time, court decisions have interpreted state law and shaped various aspects of the program. Oregon’s land use planning program is ultimately administered at the local level through city and county comprehensive plans and adopted ordinances that have been acknowledged to comply with the statewide planning goals.
- Much of Oregon’s open landscape and nearly all of the Umatilla Basin region is characterized by farm and ranch activities. These areas have been inventoried by local comprehensive plans under statewide planning goal 3 and are protected as “agricultural lands.” The agricultural lands designation is implemented by exclusive farm use (EFU) zoning districts subject to the provisions of ORS Chapter 215 and OAR Chapter 660, Division 33.
- Most land use activities that may be considered under EFU zoning are set forth at ORS 215.283(1) & (2). Those uses listed by ORS 215.283(1) have been interpreted to be “uses of right” (see Brentmar v. Jackson County, 321 OR 481, 900 P2d 1030 (1995)). Uses of right may not be limited by criteria in local

ordinances or local plans. Those uses listed by ORS 215.283(2) are generally considered “conditional uses,” which can be denied and may be limited by criteria in local ordinances or local plans. In other words, counties may not impose local criteria on uses of right but they can choose to be more restrictive than state law for conditional uses.

- Transmission Facilities on agricultural land are considered a “utility facility necessary for public service” pursuant to ORS 215.283(1). Therefore, they are considered a use of right and counties may not impose criteria that is more restrictive than state law. However, the Legislature chose to establish ORS 215.274 (“associated transmission lines as defined at ORS Chapter 469) and ORS 215.275 to guide the consideration of facility siting.
- Other features of the Oregon planning program include OAR Chapter 660, Division 4, which interprets statewide planning goal 2 (Land Use Planning) and ORS 197.732 concerning how to convert land from an agricultural designation. Statewide planning goal 5 (Natural Resources, Scenic and Historic Areas, and Open Spaces) as implemented by OAR Chapter 660, Division 23, provides a framework to inventory and protect energy sources.

#### Local Planning Programs:

- As stated above, city and county planning programs are comprised of comprehensive plans and implementing ordinances that have been acknowledged to be compliant with the statewide planning goals.
- Therefore, Oregon planning law is generally carried out by decision-makers at the local level; however, an exception is energy or energy related projects subject to the jurisdiction of the state’s Energy Facility Siting Council (EFSC).

#### Energy Facility Siting Council:

- The Governor-appointed and Senate-confirmed seven member Energy Facility Siting Council (Council) has regulatory and siting responsibility for large renewable and non-renewable electric generating facilities, many high voltage transmission lines, some gas pipelines, and radioactive waste disposal sites. The state review consolidates the Council’s 14 general standards, facility specific Council standards, as well as all other applicable state agency requirements and local land use regulations under a single review.
- While jurisdiction remains with the Council, these state agencies and local governments are notified throughout the review to ensure the appropriate standards and requirements are identified and that staff and Council have received input on how to apply those standards and requirements.

- State agencies and local governments are eligible to receive reimbursement to encourage their participation. State-level oversight of energy facilities helps ensure that siting, construction, and operation of energy facilities is accomplished in a manner consistent with protection of public health and safety and in compliance with the energy policy and air, water, solid waste, land use and other environmental protection policies of this state (ORS 469.310). The Council's work is supported by the Oregon Department of Energy's Siting Division staff.
- Two of the key distinctions between state energy siting and local government energy siting are the required studies and landowner consent. State energy siting requires many more resource studies than local government energy siting, and each study is generally required to be conducted at a more in-depth level to prove the corresponding state standard is met. State energy siting allows an applicant to submit an application without all of the underlying landowner's consent, whereas that is prohibited at the local government energy siting level. However, because the Council does not have eminent domain authority, this occurs very infrequently.

#### State Renewable Energy Laws:

- The electric transmission system that crosses the Umatilla Basin is part of a broad, regional, synchronous grid that serves 17 different states and provinces across the western United States, Canada, and Mexico. Many of these states and provinces, including Oregon, have laws which require renewable electricity (either explicitly via a Renewable Energy Portfolio Standard or implicitly via greenhouse gas reduction policy).
- Furthermore, many of these renewable energy laws are recent. Oregon's corner of that interconnected grid is an essential bridge, and Oregon is in a position to potentially benefit from the economic development of its wind and solar resources as these laws spur the growth of renewable energy demand and opportunity.
- As Oregon utilities and developers assess transmission planning processes and needs, it is important to ensure the outcome works to serve the diverse needs of energy generation and use within the state and throughout the West. Doing so will help set Oregon up for success in renewable energy investment in rural areas and reduced costs and risks in achieving state climate change goals.

#### Oregon Department of Fish and Wildlife:

- The mission of the Oregon Department of Fish and Wildlife (ODFW) is to protect and enhance Oregon's fish and wildlife and their habitats for the use and enjoyment by present and future generations. For energy projects throughout Oregon, ODFW's role is to provide permitting agencies with recommendations on how to best avoid, minimize, and mitigate the impacts to fish and wildlife and

their habitat (as per the ODFW Fish and Wildlife Habitat Mitigation Policy; OAR Division 415).

- At the county level, ODFW recommendations focus primarily on the Goal 5 Resources identified in the county comprehensive plans. For energy projects permitted at the state level by the Energy Facility Siting Council, the ODFW Fish and Wildlife Habitat Mitigation Policy is incorporated by reference into the Council's Fish and Wildlife Habitat Siting Standard (OAR 345-022-0060). ODFW's role is to provide Oregon Department of Energy with recommendations as well as interpretation of the ODFW Fish and Wildlife Habitat Mitigation Policy so as to meet the Council's standard.

## 4.0 Ideas for Resolving Issues

The Advisory Committee's meetings built a common understanding of the problem statement. Discussions related to the problem statement also addressed: 1) transmission lines built to interconnect new generation resources, their cumulative impacts, and the potential lack of safety oversight; 2) existing energy project applications such as the Boardman to Hemingway 500 kV transmission line project and the Wheatridge Wind Energy project and whether this Committee can influence their location; and 3) whether to include underground natural gas pipelines in addition to overhead electrical transmission lines in the discussion. To keep the Committee's discussions in line with its purpose and scope, ultimately, the problem statement was limited to ***the best way to establish overhead electrical transmission corridors through highly productive agriculture areas in North Morrow County, Northwest Umatilla County and North Gilliam County that will allow important and needed renewable energy generation to connect to the grid while reducing or mitigating impact to highly productive agricultural land.*** The Advisory Committee discussed the information below as ideas to help resolve this problem statement.

### 4.1 Idea: County-only corridor approach.

Idea: Counties conduct a stakeholder process to adopt land use plan and ordinance changes to designate corridors. Ordinance changes would be designed to incent developers to use corridors through process streamlining or other means such as enterprise zones.

#### Discussion:

- Incentives could be provided to encourage developers to use "incentive corridors." For instance, counties could pre-screen the corridors for compliance with other comprehensive plan and zoning ordinance constraints and demonstrate that the corridors provide an easier path toward local permitting. As another example, counties could identify all applicable substantive criteria for projects in the corridor providing greater certainty to developers of any possible constraints. There would likely be interest in a non-mandatory, incentive corridor that results in less conflict and impacts. BPA, utilities, and developers try to minimize conflicts and impacts so that they can avoid protracted project delay costs and mitigation costs.
- Without a corresponding change to state rules or statutes, locally adopted land use ordinances intended to mandate—rather than incent—the siting of a transmission line in a corridor may not be compatible with all LCDC or EFSC authorities. For instance, if the intent was for the county to establish "mandatory corridors," it would likely not be compatible with existing statutory and regulatory frameworks that otherwise authorize "utility facilities necessary for public service" in EFU lands (see, e.g., ORS 215.213(1)(c), ORS 215.274; ORS 215,275; ORS 215.283(1)(c)). Also, for EFSC projects, if the project does not comply with one or more county applicable substantive criteria, such as a county-designated

corridor, the applicant may still meet the EFSC land use standard by demonstrating the project otherwise complies with statewide planning goals (see OAR 345-022-0030(2)(B)).

- Also there may be practical reasons why a mandatory corridor would not work. For example, avoiding all highly productive agricultural lands likely would be difficult because the majority of eastern Oregon is designated as Goal 3 (agriculture) or Goal 4 (forest) land indicating those lands are valued for agriculture. There may be difficulties in anticipating all future developer needs and project locations in determining how and where to establish a corridor.
- Generally, a project requires years of biological studies and siting evaluation by a developer, and it is not financially feasible to pre-identify areas in an entire region with the detail and specificity needed to achieve the ideal of a mandatory corridor.
- However, the discussion of local needs and values is important. Land use planning principles and standards with determined methodologies rather than pre-determined geographic boundaries could allow the values that may create a conflict to be brought into the development process early on. Ultimately this approach keeps the burden and cost on the developer rather than a government entity to prove a project meets a "low-conflict" standard. However, it may be difficult to predict if and where utilities will build the next substation, creating the possibility of a county mandating a "corridor to nowhere." In addition, individual county interests and decisions may result in an unworkable, non-contiguous patchwork of corridors across county lines.
- Finally, there is no guarantee that mandatory corridors will meet all otherwise applicable state and federal siting laws and regulations. In general, this approach and any corridor approach would be unlikely to result in pre-approved, mandatory corridors that developers are required to use; site-specific analysis of local, state, and federal permitting and siting laws and regulations would still be required to mitigate a developer's legal liability.

#### **4.2 Idea: County and State (LCDC) Goal 3 approach**

Idea: LCDC adopts a rule implementing Goal 3 and ORS 215.283 that limits transmission lines to corridors sited under a local process, where counties have gone through a specified stakeholder process and designated them by local plan and ordinance amendments. LCDC rule implements Goals 3 and 13.

#### Discussion:

- Most concerns with the idea of a county-only approach (Section 4.1) also apply to this idea, as conflicts may arise between new LCDC rules and existing state statutes, authorizing transmission lines in EFU lands, the latter of which would prevail if there is a conflict.

- Predicting the location of future wind and solar and the associated transmission lines will likely be difficult. A mandatory corridor may not align with the needs of power producers depending on where generation locations are established. Requiring connection through a pre-established, mandatory corridor could be cost prohibitive based on the economics of their particular projects.
- For projects that go through the state EFSC process, it is difficult to ensure an established mandatory corridor will be able to meet all applicable standards if less than a full evaluation is completed. A full evaluation, which includes field surveys for several standards, can be costly and time consuming. Even if a full evaluation is completed, the information can become stale if there are changes in circumstances on the ground or to applicable laws, rules, and statutes. Therefore, there is no guarantee an application for a generation tie-in line submitted after the original full evaluation would continue to meet all applicable standards.
- The same applies to federal permitting compliance – there is no guarantee that the corridors will meet all otherwise applicable federal siting laws and regulations (e.g. Endangered Species Act, National Historic Preservation Act).
- Conversely, if corridors were non-mandatory and based on analysis showing that there were fewer conflicts, BPA, utilities, and developers would likely consider the corridors when planning future energy infrastructure as they try to minimize the impacts caused by building the facilities since mitigating those impacts have protracted project delay costs and impact mitigation costs. However, other requirements – environmental or operational, for example – may cause BPA, utilities, and developers to decide to build outside of the incentive corridors.
- LCDC's capacity to engage in rulemaking is depended on adequate staffing and may be constrained by budget issues. New rulemaking may also trigger notice requirements under Ballot Measure 56 to be satisfied, adding additional expense.

### **4.3 Idea: County and State (LCDC) Goal 5 approach**

Idea: LCDC adopts a rule implementing Goal 5 and OAR 660-023-019 (Goal 5 Energy Sources) to allow transmission corridors to be designated as a Goal 5 protected resource in Morrow County as a pilot project. Morrow County conducts a stakeholder process to identify corridors and implementing ordinances. Desktop surveys are conducted to determine if transmission corridors will likely meet local and state siting requirements. Morrow County designates corridor(s) in plan and adopts ordinances requiring the use of the corridor(s) unless an applicant can justify it would unreasonably increase the cost of a project or impact its functionality.

Discussion: Similar to Section 4.2 discussion above.

#### **4.4 Idea: State (EFSC) approach**

Idea: EFSC adopts a rule preventing developers of transmission from avoiding local ordinances, by applying statewide goals (Goal 3) where an applicable county has gone through a corridor designation process (same as above). This may require an LCDC rule as well, allowing EFSC to limit transmission to corridors, notwithstanding ORS 215.283.

Discussion: Similar to Section 4.2 discussion above.

#### **4.5 Idea: Financial Incentives**

Idea: The state could establish a financial incentive to overbuild a transmission line using one or a combination of the following:

- 1) oversizing right-of-way to accommodate a second set of poles and conductors;
- 2) building towers large enough to hang multiple conductors for multiple projects; or
- 3) overbuilding poles and conductors.

For example, at the time a developer is ready to engage in the permitting process for a transmission line project, the state could offer a financial incentive to encourage them to overbuild using one or a combination of the options included above. Payment for the transmission line could be sequenced in the following way:

- Original Applicant(s): Pays the full cost of a single purpose line minus the X% (to be determined) that the state pays to incent them to overbuild the line.
- State: Pays all additional costs associated with overbuilding the line, with the single purpose line cost as the baseline.
- Future Applicants: Pay full cost to the state to tie into the line minus the X% (to be determined) to incent them to tie into that line.

Discussion:

- This approach does not rely on Oregon land-use laws as the prior ideas do, but would require legislation. It would be responsive to projected future market conditions as well as ensuring all legal requirements and standards are met at the time the transmission line is approved.
- In some situations, a transmission line could be constructed to be capable of operating at a higher voltage in the future, which would be helpful since higher voltage lines can generally transmit more power and could therefore accommodate future energy generation. For example, a line could be built to 230 kV design specifications but initially operate at 115 kV or 69 kV until demand grows and other terminal equipment upgrades can be made to enable higher voltage operation.
- However, it is worth noting that such “overbuild” could also create an onerous risk if available “extra” capacity is underutilized for too long, or even indefinitely, in which case the taxpayer-subsidized program would present a substantial and

possibly intractable financial burden on the state. Higher voltage operation requires greater electrical clearance, which would mean additional insulators and phase separation, and so the cost to overbuild can be exorbitant. Also, unnecessarily high voltage could be an impediment to economic development in the region, because it is more expensive to interconnect new energy generation infrastructure at higher voltages, and that difference in interconnection cost can determine the viability of building new wind or solar generation.

- An important factor in this concept is the viability of predicted future need—because even though it can be more expensive to rebuild or expand a line years or decades after it has been built, it can also be incredibly difficult to predict where and when additional capacity is likely to be needed. If such an “overbuild” program were to exist, some entity would need to pay the incremental cost of building in the added capacity up front, capacity which may or may not ultimately be needed in the future. This is why the Public Utility Commission typically will not allow the costs of this type of overbuild to be recovered in a regulated utility’s consumer rates.
- If the state financial incentive makes up the difference of the incremental cost through an incentive, there may be more opportunity for overbuilding the transmission line. In this instance, it would be Oregon taxpayers taking the financial risk rather than utility ratepayers, and in many parts of the state those two groups are one and the same, so the incentive would likely face all the same challenges that a utility would face when attempting to justify an overbuild at the Public Utility Commission or consumer-owned utility board.
- Determining costs is complicated because full transmission project costs include engineering, payment of additional equipment or right of way, construction, operation, and maintenance. Also, the need for capacity can change over time as electricity markets evolve, which means that predictions of future needs face the challenge of “overbuilding” in the wrong places.
- There may be an opportunity to allow rate-based compensation to utilities for building to projected capacity needs, but it would require rigorous scrutiny to ensure the utility can justify the anticipated future need. It is difficult to know in advance where it will be useful to have added capacity on a line, and it is extremely costly to overbuild just in case. In any of these instances, there would likely be concern if the State were to take on the financial risk of subsidies when there is so much uncertainty on how much transmission capacity will be useful at a future date.
- Finally, the state could create a bond fund as a financial incentive. A transmission line is proposed and through the various review processes, a potential need is identified to overbuild the line and place the line into a “corridor” class project that would obligate other transmission users to use the overbuilt line to serve future transmission needs. The proposing entity, such as an IOU, COU, or private developer, would build the larger capacity line, determined through

EFSC, PUC, or county processes, and seek additional funds from the State of Oregon for those costs in excess of the original project scope. Oregon would issue bonds to fund the excess amounts of the project and be reimbursed from revenues generated from the excess capacity of the line as it is used through wheeling rates. The state would have influence in the most efficient use of the transmission resources, determining capacity, routing and sharing the risk. This mechanism likely reduces the financial risk of a project that is overbuilt in order to accommodate future opportunities. To gain access to the bond funds, the project would have to qualify as a corridor project.

## 5.0 Next Steps

As this Advisory Committee's work comes to a close, the ideas discussed above could be used by local governments, state agencies, and policy makers to help balance energy facility development and protection of natural resources like highly productive agricultural land. However, the approach discussed in Section 4.1 is unlikely to be available without meaningful changes to state statute.

As discussed in this report, the LCDC may not promulgate rules that are inconsistent with state statute. However, the restrictions created by *Brentmar* do not apply to administrative rule proceedings in the same way they limit local government. The courts have recognized that LCDC has been delegated authority to take necessary steps to protect agricultural land. Given the complexities surrounding this subject, including the important questions raised in the ideas discussion above, it may be prudent to limit the timing and extent of a LCDC rulemaking process regarding Goal 3 and/or Goal 5. A "pilot project" could set the stage for conversations and enable local decision makers to make policy choices regarding transmission corridors during an open, public process. Morrow County expressed interest in participating in a pilot project. As a next step, Morrow County is working with DLCD staff to establish a pilot project with regard to Goal 3 and/or Goal 5 as discussed in Section 4.2 and Section 4.3.

Since this pilot project with DLCD and Morrow County is being established, the idea discussed in Section 4.4 is not necessary. The pathways for financial incentives like bonding need more discussion with technical experts and policy makers as discussed in Section 4.5. In addition, representatives of Umatilla County continue to suggest legislative solutions around the following topics: (1) energy generation projects should be evaluated with their associated transmission lines, and (2) generation-tie lines should be evaluated pursuant to ORS 215.283(2) instead of ORS 215.283(1). Finally, LCDC is encouraged to consider an evaluation of statewide planning goal 13 (energy conservation).

## **6.0 Attachments**

- A.** Governor's Framework for the Advisory Committee in Umatilla Basin
- B.** 10.27.15 Meeting Agenda and Minutes
- C.** 11.12.15 Meeting Agenda and Minutes
- D.** 12.21.15 Meeting Agenda and Minutes
- E.** 2.5.16 Meeting Agenda and Minutes
- F.** 10.18.16 Meeting Agenda and Minutes
- G.** HB 2508-1 (2015)
- H.** Associated Transmission Line Check Box
- I.** Cumulative Impact Clarification
- J.** Energy Projects Currently Under Review

## **ATTACHMENT A. Governor's Framework for the Advisory Committee in Umatilla Basin**

### **Governor's Advisory Committee on Energy & Agriculture Umatilla Basin, Oregon**

#### **Purpose**

Northeast Oregon is home to irreplaceable high-value agricultural land. Recent proposed energy development, including generation facilities and associated transmission lines, have the potential to take portions of high-value agricultural land out of production. There is a need to ensure that as energy projects are constructed to meet the region's energy needs, developers consolidate resources, particularly transmission lines, to avoid to the maximum extent practicable any impacts to this land, as well as site future energy substations in locations that avoid cumulative impacts of transmitting energy to and from substation locations. The purpose of this Advisory Committee is to scope out the agricultural and energy needs in the Umatilla Basin and the region, and to determine whether or not any changes in the federal, state or local laws or regulations are necessary and if so how they should be pursued to better protect this land.

#### **Scope**

The Advisory Committee shall review investor-owned and public utility future energy needs in the region and potential resources to help meet the demand in energy. The Advisory Committee will review federal, state and local laws and regulations to determine the extent to which changes can help encourage transmission line consolidation to avoid future potential impacts to high value agricultural land in the Umatilla Basin.

If the Advisory Committee determines there are changes that need to be made, they will provide those recommendations to the Governor in a report no later than January 15, 2017.

#### **Membership**

The Advisory Committee shall include:

- A representative from the Governor's Office
- A member of the Oregon State Senate
- A member of the Oregon State House of Representatives
- A representative of an investor-owned utility
- A representative of the irrigated agricultural community
- A representative from a land-owner organization
- A representative from Morrow County
- A representative from Umatilla County
- A representative from Gilliam County
- A representative from the local utility
- A representative from the Port of Morrow
- A representative from a renewable energy organization

Technical support will be provided to the Advisory Committee by:

- The Oregon Department of Energy
- The Oregon Department of Agriculture
- The Oregon Department of Land Conservation and Development
- The Oregon Public Utility Commission
- The Bonneville Power Administration

**ATTACHMENT B. 10.27.15 Meeting Agenda and Minutes**

**Governor's Advisory Committee on Energy & Agriculture  
Umatilla Basin, Oregon  
October 27, 2015**

**Location**

Port of Morrow, Sand Hollow Room  
2 Marine Drive  
Boardman, Oregon

888-204-5984  
298149

**Agenda**

Welcome & Introductions	15 minutes
Overview of potential cumulative impacts to ag land	30 minutes
Overview of energy resource acquisition needs	30 minutes
• Umatilla Electric Cooperative	
• Portland General Electric	
• Bonneville Power Administration	
• Renewable Northwest Project	
Discussion, Wrap Up	15 minutes

## **LOCATION:**

2 Marine Drive, Boardman, Oregon | Port of Morrow, Sand Hallow Room

## **OPENING:**

The first meeting of the Governor's Advisory Committee on Energy & Agriculture was called to order at 3:30pm on October 27, 2015 by Margi Hoffman.

## **MEETING NOTES:**

- **High Value Agriculture – J.R. Cook**
  - Restricted by 1260 foot contour – above sea level and too expensive to pump from McNary pool.
  - Restricted by soil type (SE has heavier soil)
  - Restricted by water rights and water restrictions
  - There is a mix of farm size and crop type.
- **Umatilla Electric Coop – Steve Eldridge**
  - Irrigated agriculture, industry, and small amounts of residential.
  - Use existing right of ways or adjoining rights of way.
  - Only 16% is open for development – so much exclusive land like high value agriculture, national forests.
  - Transmission is already built near the Columbia River because of the dams
  - Changes in FERC/NERC oversight of smaller lines
    - Bulk transmission across state/country lines
    - As opposed to BPA lines that serve local areas – local load serving lines
  - There are terminology issues – pathways versus corridors versus proposed projects to build lines
  - East side of bombing range road?
    - Big enough poles for later addition of lines
    - Should not do a “hopefully they will come” line – ratepayers should not pay
  - JR – only concerned about the “free ways” not the local load serving lines.
- **PGE – Varner Seaman**
  - Focused on Carty and RPS compliance (100 aMW of renewable energy/250 MW nameplate capacity)
  - There is a market for eastern Oregon solar
  - Grasslands substation for Carty – yes, additional capacity
- **BPA – Crystal Ball, Brian Altman, Matt**
  - Owns 75% of high voltage transmission in Oregon (500kv and 200kv lines)
  - BPA responds to requests for interconnections
  - Stanfield substation – preliminary site in Hermiston for on-ramp of power
  - 3-5 years for process - \$20,000 - \$50,000 for doing the study
    - Interconnection study
    - Facility Study (land use, real estate)
    - Construction agreement → design → build → electrification
  - More likely to be a developer trying to connect to BPA substation
  - Substation seems to be driver for other development
  - Transcanada and Williams pipeline in the same area as Stanfield
- **Renewable Northwest – Hillary Barbour**
  - \$9.8 Billion – 3350 MW in Oregon - \$158.8 Million for public revenue – from renewable energy projects
  - Project needs:
    - Good resource (sun, wind)
    - Willing land owner
    - Transmission
    - Permits
    - Off-taker/market

- Financing for project
- **Group Discussion:**
  - Need to define cumulative impacts and type of projects and high value in production potential (versus statute definition for soil type)
  - Two products
    - 1- region issue on cumulative impacts
    - 2- work towards framework
- **Next Meeting:** need to get a concrete list of issues and concerns. Try to work on getting a half day meeting to make the travel time worth it.

**ATTACHMENT C. 11.12.15 Meeting Agenda and Minutes**

**Governor's Advisory Committee on Energy  
& Agriculture**

**November 12, 2015**

**10:00am – 12:00pm**

**Location:** Oak Conference Room, 421 SW Oak Street, Suite 770, Portland, OR

**Conference Line:** 1-888-204-5984; Code: 298149

**Agenda**

<b>When</b>	<b>What</b>	<b>Who</b>
10:00- 10:15	<ul style="list-style-type: none"> <li>Welcome, meeting goals, and introductions</li> </ul>	All.
10:15 – 10:45	<ul style="list-style-type: none"> <li>Common understanding of definitions/terminology &amp; Q/A</li> <li>Proposed generation and transmission projects in the Umatilla Basin &amp; Q/A</li> </ul>	BPA.  Umatilla County, Morrow County, Gilliam County, ODOE.
10:45 – 11:30	<ul style="list-style-type: none"> <li>Identification of issues</li> <li>Problem statement discussion</li> </ul>	Land-owners, Irrigated Agricultural Community, and discussion by All.
11:30-11:45	<i>Break</i>	
<i>11:45 - 12:45 - Working Lunch</i>		
11:45 – 12:15	<ul style="list-style-type: none"> <li>Oregon state agency process and roles/responsibilities</li> </ul>	Dept. of Energy, Dept. of Land Conservation and Development, Dept. of Fish and Wildlife, Public Utility Commission, Dept. of Agriculture.
12:15- 12:45	<ul style="list-style-type: none"> <li>Each County's process and roles/responsibilities</li> </ul>	Morrow County, Umatilla County, Gilliam County.
12:45 – 1:15	<ul style="list-style-type: none"> <li>Developer and Utility roles/responsibilities in generation and transmission development</li> <li>Process for determining size and location of different types of transmission (gen-tie, bulk transmission, etc.)</li> </ul>	Portland General Electric, Umatilla Electric Cooperative, NW Natural, Renewable Northwest.
1:15 – 1:30	<ul style="list-style-type: none"> <li>Interested Party Comment Opportunity</li> </ul>	Any interested parties
1:30 – 2:00	<ul style="list-style-type: none"> <li>Discussion and Next Steps</li> </ul>	All Committee Members

## **Governor's Advisory Committee on Energy & Agriculture** Meeting Minutes

Thursday, November 12, 2015

### **LOCATION:**

421 SW Oak Street, Portland, OR 97204 | Lincoln Building

### **OPENING:**

The second meeting of the Governor's Advisory Committee on Energy & Agriculture was called to order at 10:00am on Thursday, November 12, 2015 by Ruchi Sadhir.

### **ATTENDANCE:**

**Advisory Members:** Ruchi Sadhir, Bill Hansell, Kent Madison, J.R. Cook, Leann Rea, Steve Shaffer, Steve Eldridge, Gary Bauer, George Murdock, Hillary Barbour

**State Agency Staff:** Mike Kaplan (ODOE), Art Martin (ODFW), Todd Cornett (ODOE), Robin Freeman (ODOE), Jorge Ordenez (OPUC),

**Federal Agency Assistance:** Crystal Ball (BPA), Brian Altman (BPA),

**Interested Parties:** Carla McLane, Don Rice, Mitch Colburn, Anders Johnson, Tamra Mabbott, Brendan McCarthy (for Varner Seaman), Cindy Finlayson,

### **MEETING NOTES:**

Ruchi described agenda for the meeting, asked for committee members to contribute information per the "who" column on the agenda, and asked if there were questions about or suggested additions to the agenda from members.

#### BPA:

- Crystal provided "Typical Electrical System" document that provides level setting and terms that BPA uses but not everyone is familiar with. Will share the link to NERC for a glossary of terms for members and interested parties.
- Brian Altman gives overview of BPA backbone system and distribution system based on document. There is a difference between "networked" lines and "radial" lines. Some transmission lines are for load-serving customers (consumer-owned utilities), other lines are for point-to-point use (delivering generation to a substation to get on the grid). Also discussed Open Access Transmission Tariff (OATT) requirements by FERC. They can't say no to new applications for using transmission lines, but the costs can go up to be prohibitive.
- Discussion on specific performance requirements and standards.
- Discuss function of a line and infrastructure needs to establishing a corridor, route establishment, and financial responsibility of each invested party.
  - Ruchi identifies two components to the conversation:
    - Risk – what comes first – transmission line or generators?
    - Cost – who is paying (upfront by utility? Generator?)
      - The requester/generator could pay for the whole gen-tie line, or the utility could pay for the line and charge for its use to recoup the costs of building the line.

- JR mentions bombing range as good example of establishing a right of way and parameters and then let energy folk's work within the established parameters.
- Discussed co-investment of substations. Discussed the example of BPA's Slate substation versus the Longhorn station (that may be jointly owned by Idaho Power Company)
  - Discussed utilities being the transmission line builder:
    - Steve/Kent: Utility already has some sort of right of way, may be used for existing service, encourage renewable energy. Counties can opt in/out if they want.
    - Todd: limit the scale to this specific area and issue to avoid limiting the economic success of future projects by creating too many corridors. The types of project applications may shift from wind to solar in the future.

### AGENCY

- Todd provided "ODOE – Siting Division Energy Facilities" document that provides state jurisdictional energy facilities with site certificates list and break down, along with a map of projects.

### MORROW COUNTY

- Commissioner McLane provided "Wind Projects & Met Towers" map and brief explanation of map.
  - Group discussion on creating a map that includes:
    - T-lines, soil type, planned projects, existing and pending substations, Met towers, water rights, roads, gas t-lines, sage grouse map.
    - Soils, right of ways – Todd & Steve \*Steve will send information to Todd | Todd to get Sage Grouse info from ODFW \*
    - BPA to pull GIS maps (including PacifiCorp lines), include power lines \*Crystal to show Steve Eldridge first\*

### PROCESSES

- Jorge explains PUC Staff role related to discussion.
  - Utility has an obligation to serve all its customers in their designated service territory and for the utility to forecast needs to serve all its customers. Once a need (like transmission) is identified, the integrated resource planning (IRP) stakeholder process is used to determine how to meet needs with the least cost and least risk to ratepayers.
  - Siting and permitting considerations are not directly part of this analysis. But siting and permitting do effect the timing of a project and may increase the project costs because of the studies and analysis needed for permits. The actual costs of the project would not be put into rates until there is a Rate Case – IRP acknowledgment is not approval.
  - Note that the PUC only deals with Investor-Owned Utilities (PGE, PacifiCorp, and Idaho Power Company). But the governing boards of Consumer-Owned Utilities (like Umatilla Electric Coop) may have similar

processes related to forecasting and fulfilling utility service needs at least cost.

- Brendan McCarthy explains the utility's and the public's role in the IRP.
  - Group discussion about Cascade Crossing to illustrate detail, time line, and depth of IRP process.
- Todd explains role of Energy Facility Siting Council (EFSC)
  - Includes explanation of three part test for a t-line to be an energy facility (exceptions do occur but it is a standards based process)
  - Public process
  - Explains EFSC jurisdiction over all standards, except no jurisdiction over tribes. They are sovereign nations.
- Todd acknowledges this Committee will need a creative evaluation to come to a solution in this region (rather than state-wide solution) and notes JR's concern about one project outweighing another.
- - Local comprehensive plans and land use plans are included as standards (in the EFSC process) at the time of the preliminary application, however state standards can change during the pending application (because those state standards apply consistently statewide).
  - Discussion of Statewide Planning Goal 5, Goal 13, and Goal 12 \*potential to work with DCLD \*
- Discuss creating an incentive based corridor
  - Kent: make sure it is structured in a way that it's an incentive to use it but no law that states you must use the corridor.

#### ACTION ITEMS BEFORE NEXT MEETING

- ODOE to create a consolidated map that includes UEC/BPA/PacifiCorp transmission lines, soil types, roads, pending projects/met towers, substations (existing and planned), economic boundaries for water rights, transcanada pipeline, and natural resource sensitives (sage grouse and ground squirrel). *BPA and counties* coordination to help ODOE get transmission line GIS layers and county projects.
- Research potential Statewide Planning Goal changes – any need for legislation? (*Ruchi, ODOE, DLCD, and state agencies*)
- *UEC and Counties*: discuss corridor ideas – potential in both 207 and Boardman
- *UEC and Counties*: Discuss 115 kv line process in counties and whether there is reason for different treatment than larger transmission lines.

NOTE:

- Request: more lead time on the agenda
- Request: materials be sent to Ruchi in advance of meeting so they can be distributed in email with agenda to members/interested parties.
- Stacey to send out email with date/times options for next meeting.

**ATTACHMENT D. 12.21.15 Meeting Agenda and Minutes**

**Governor's Advisory Committee on Energy & Agriculture**

**December 21, 2015**

**12:30 PM – 4:00 PM**

**Location:** Port of Morrow, Riverfront Center

**Conference Line:** 1-888-204-5984; Code: 298149

**Agenda**

<b>When</b>	<b>What</b>	<b>Who</b>
12:30- 12:45	<ul style="list-style-type: none"><li>• Welcome, meeting goals, and introductions</li></ul>	All Committee Members.
12:45 – 1:30	<ul style="list-style-type: none"><li>• Overview of Consolidated Map</li><li>• Q/A</li></ul>	ODOE. All Committee Members.
1:30 – 2:15	<ul style="list-style-type: none"><li>• Report out on discussions between UEC, Morrow County, Umatilla County, and landowners.</li><li>• Q/A</li></ul>	UEC, Morrow County, Umatilla County, and landowners, and  Q/A by All Committee Members.
2:15 – 2:45	<i>BREAK</i>	
2:45 – 3:45	<ul style="list-style-type: none"><li>• Discussion of problem statement and potential solutions.</li></ul>	All Committee Members.
3:45 – 4:00	<ul style="list-style-type: none"><li>• Next Steps</li></ul>	All Committee Members

**LOCATION:**

2 Marine Drive NE, Boardman, OR 97818 | Port of Morrow

**OPENING:**

The third meeting of the Governor's Advisory Committee on Energy & Agriculture was called to order at 12:30pm on Monday, December 21, 2015 by Ruchi Sadhir.

**ATTENDANCE:**

**Advisory Members:** Ruchi Sadhir, Kent Madison, J.R. Cook, Leann Rea, Steve Shaffer, Steve Eldridge, Gary Neal, George Murdock, Hillary Barbour, Rep. Greg Smith, Varner Seaman, Gary Bauer,

**State Agency Staff:** Mike Kaplan (ODOE), Todd Cornett (ODOE), Steve Cherry (ODFW), Jon Germond (ODFW), Matt Lawyer (ODOE)

**Federal Agency Assistance:** Crystal Ball (BPA)

**Interested Parties:** Carla McLane, Don Rice, Mitch Colburn, Tamra Mabbott, Cindy Finlayson, Alan Hickenbottom

**MEETING NOTES:**

Ruchi opened meeting by describing the intent of the third meeting: to build off of the previous two meetings using the consolidated map created by ODOE and to provide feedback on what should be added and/or removed from the map. In addition, to get a report out on the discussions between the counties, UEC, and landowners about the problem statement and potential solutions.

**OVERVIEW OF CONSOLIDATED MAP/Q & A**

Todd talked about the different layers of the map created so far emphasizing the map is a working draft only. Invites members to described layers of map.

- ODOE - FSEC facilities
- Umatilla County
- Morrow County
- Yellow dots at bottom are MET Towers
- Red rectangle – bombing range
- Blue bubble – Flight path, no development zone
- Yellow lines and dots – transmission lines  
Note: ODOE had a hard time downloading BPA's lines but some were included based on the Platts layer.
- Irrigation lines/Water Rights Boundaries – JR discusses pivots and place of use on map.
- Sage Grouse was removed because it was no applicable to the area.

**REPORT OUT ON DISCUSSIONS/ Q & A**

Review *Energy Task Force Working Outline* document (produced through side meetings of the counties, UEC, and landowners. Circulated by J.R.

Steve notes the outline provides the group's thoughts on how to propose/manage/coordinate any number of transmission lines that could be sited on farm land.

- Discuss connection of MET towers to Stanfield or Longhorn.
- Can BPA tell how much capacity is left at Longhorn? How does power get from (proposed) Stanfield tower to grid?
  - Crystal: Longhorn - Will inquire about it and report back. States Longhorn is a proposed substation with a three party ownership.
  - Crystal: Stanfield – BPA engineer's state there have not been enough requests for them to study the possibility of a substation for Longhorn and Stanfield.
  - Ruchi asked Crystal to provide total amount of energy requests in queue in Boardman area.
- Tamra provides description of type two land use, sub-one, and sub-two. All transmission lines are sub-one use. The bar is lower and you can meet definitional standards and local government cannot put conditions on a permit. Sub-two is how they permit an energy generation facility (wind farm). EFSC would ask for criteria and go by state standards which are more discretionary.
- Concept idea: County somehow codify predesignated corridors using a process that has legal standing under landuse law.. If private developer doesn't want to use predesignated corridors than they would need to go with a sub-two without incentives. Tamra asks for state legal assistance if asked to come up with a concept.
- Discuss cumulative impacts keeping in mind agriculture and natural resources.
  - Steve Cherry (ODFW) – provides description of agency's process for studying the wildlife movement of the area, specifically Washington ground squirrel, an Oregon endangered species (category 1 habitat). Discusses the avoidance of disturbing a colony.

## PROBLEM STATEMENTS & POTENTIAL SOLUTIONS

Ruchi asks for discussion about roles and responsibilities for the next meeting.

- JR: need BPA's constraints on where to site Stanfield substation and whether they need an additional line. Steve and Crystal to talk through BPA questions about the east corridor.
  - Crystal emailed: "There is no set location for Stanfield. The proposed location is just for study purposes. BPA has made no attempt to acquire land. If we move the substation to the east, we would need to build a transmission line to connect it to the system. Building additional miles of transmission line will impact landowners, but we would study that if we ever actually start the realty process for Stanfield. At this point, no one has put up the money for interconnection at Stanfield."
- J.R: send Todd layer with pink line eliminated (central corridor)
- J.R: landowners will reach out to other landowners to start a conversation.

Discuss the use of pre-approved corridors.

Note: Group discussed concern of using term “pre-approved” which sounds definitive. Group agreed on “preferred” as suitable term.

- Kent: Notes the incentive of creating a preferred route sub-one corridor. An initially pre-approved corridor would have the basic ground work completed so if a developer comes in, even if a study is needed later, reducing initial hurdles for the developer. A sub-two corridor would be required if the developer decides to work outside of the preferred route corridor.
- J.R: At next meeting, asked ODOE and Counties what is realistically feasible for preferred route in a corridor? What boxes can be checked that the applicant will need (i.e. how far down the finish line does the preferred route get a developer?).
- Kent: proposes pre-approving/expediting bombing range road (west) corridor. Developer wants to put down power poles *now* if there was a preferred route corridor. Concur east corridor may never be built.
- Suggestion of minimal fee for using preferred route versus a large fee for using non-preferred route.

Discuss county ordinance to memorialize corridor

- Tamra will need help from agency with land use laws. Ruchi and Todd will find out who she can work with for next meeting.
- Tamra would like a conference call with Todd, Carla, and Ruchi to discuss whether they can establish a county ordinance (for a long-range plan or corridor) under the existing statutory language.
- Ruchi would like a definition of cumulative impacts by statute. J.R. will research and clarified that the cumulative impacts under land use law (ORS 215) are related to farm use, not cumulative impacts associated with environmental, aesthetic or other.

Discuss MOA

- Discuss concept of an MOA between utilities and counties to make clear there is an intent, when a developer would be using a line through a utility, the first choice would have it be run through the corridor. This wouldn't include privately developed transmission lines outside of the utilities.
  - Hillary will discuss with the Renewable Northwest members and provide their perspective at the next meeting.
- Steve Eldrige notes that public safety is a concern when private developers build their own lines. Asks that the state require private developers to adhere to same construction, maintenance, and operational standards as utilities. Discussed writing a recommendation for administrative rule changes to reflect necessary uniform safety standards.
  - Hillary will speak with her members about the public safety aspect to gauge their response.
- Steve discussed receiving email confirmation from other utilities about interest in an MOA.

Discuss the legal mechanism offered by state law without need for legislation.

- Ruchi will talk to Richard Whitman about attending the next meeting.
- Tamra suggests a goal 5 and goal 13 corridor discussion via follow up phone call.

Discuss codification of administration that need to be changed to ensure agency recognition of agreements moving forward.

- MOA with other utilities/counties
- Planning process in place that establishes corridors
- Mechanism for corridors to be recognized under state law and EFSC

Note: Concern was raised about laying this proposal out on a statewide basis. Not all jurisdictions want to come to a consensus that this is a regional effort specific to this project.

#### ACTION ITEMS BEFORE NEXT MEETING

- Consolidated Map Needs:
  - Washington ground squirrel data from ODFW.
  - Umatilla and UEC for their boundaries – Todd will reach out
  - Potential transmission lines and substations data
  - Natural gas line layer – suggestion by Kent
  - Roadways – Steve Eldridge
  - ODOE has information on U.S. roadways but not local. They will reach out to ODOT. Counties may keep their own roads map. Tamra can get layer to Todd for Umatilla County.
  - Steve & Todd note the concern of building on a road right-of-way including avoiding local jurisdiction and land owners.
  - Steve asks for a map that differentiates, in color, proposed versus existing agriculture development. JR will get those layers to Todd.

- JR will send Todd the place of use boundaries for all of their regional projects. Boundaries of existing water rights data which would cover critical ground area and wells. Historical issues map (Oregon Trail?)
- Before the next meeting:
  - Send requested layers (above) to Todd to add to the consolidated map.
  - Crystal – share information about capacity of Stanfield substation and requests in the queue. Work with Mitch (Idaho Power) for capacity for Longhorn substation.
  - Crystal emailed: “right now the total amount is about 1500 MW around Morrow Flats/Longhorn and about the same around Stanfield.”
  - **Phone Call** with Ruchi / Richard / Tamra (Umatilla County) /Karla (Morrow County) / Todd (ODOE) /Jon Jinings (DLCD) – (1) Discuss type 2 process at county for development of corridor, (2) Help in developing concept for county ordinance (long range plan? Corridor?).
  - Todd – share information about the applicant check-list to help understand how to incentivize corridor use.
  - J.R. – outreach with landowners on corridors idea and location. Research on term “cumulative impacts.”
  - Steve – outreach with Columbia Basin and PacifiCorp on MOA concept to declare intent to use corridors in good faith.
  - Hillary – discuss with RNW members: (1) reaction to use of MOA and use of corridors, (2) private transmission owner requirements to build/maintain/operate transmission lines within public safety rules and who provides oversight?
  - Ruchi – follow up with Richard and DLCD to attend next meeting to discuss state law mechanisms (goal 5 and goal 13?) to “codify” the corridor designations in this region only (not state-wide).

NOTE:

- It was recommended the next meeting be held in Boardman considering that is the affected area. Early on, there had been agreement to share the travel burden by having two meetings in Portland/Salem and two meetings in Boardman. The driving principle should be to have the necessary parties at the table to find solutions. An option of Hood River or The Dalles was suggested as compromise location to accommodate parties coming from the Portland and Boardman area.
- Stacey to send out email with date/times options for next meeting.

## **ATTACHMENT E. 2.5.16 Meeting Agenda and Minutes**

### **Governor's Advisory Committee on Energy & Agriculture**

**February 5, 2016**

**1:00 PM – 4:00 PM**

**Location:** Governor's Conference Room, Salem, OR

**Conference Line:** 1-888-204-5984; Code: 298149

#### **Agenda**

**1:00 – 1:15 – Welcome, meeting goals, and introductions**

**1:15 – 1:45 – ODOE Updates to Consolidated Map**

**1:45 – 2:15 – Report out on Action Items**

- Crystal – share information about capacity of Stanfield substation and requests in the queue. Work with Mitch (Idaho Power) for capacity of Longhorn substation.
  - Crystal emailed: “right now the total amount is about 1500 MW around Morrow Flats/Longhorn and about the same around Stanfield.”
- Ruchi / Richard / Tamra (Umatilla County) /Karla (Morrow County) / Todd (ODOE) /Jon Jinings (DLCD) – (1) Discuss type 2 process at county for development of corridor, (2) Help in developing concept for county ordinance (long range plan? Corridor?).
- Todd – share information about the applicant check-list to help understand how to incentivize corridor use.
- J.R. – outreach with landowners on corridors idea and location. Research on term “cumulative impacts.”
- Steve – outreach with Columbia Basin and PacifiCorp on MOA concept to declare intent to use corridors in good faith.
- Hillary – discuss with RNW members: (1) reaction to use of MOA and use of corridors, (2) private transmission owner requirements to build/maintain/operate transmission lines within public safety rules and who provides oversight?

**2:15 – 2:30 – *BREAK***

**2:30 – 3:30 – Discussion of state law mechanisms**

- County-only approach: Counties adopt land use plan and ordinance changes designating corridors. Design ordinances to incent developers to use corridors through process streamlining or other means (enterprise zones with tax advantages?).
- County and LCDC approach: LCDC adopts a rule implementing Goal 3 and ORS 215.283 that limits transmission lines to corridors sited under a local process, where counties have gone through a specified process and designated them by local plan and ordinance amendments. LCDC rule implements Goals 3 and 13.

- County and EFSC approach: Counties adopt land use plan and ordinance changes designating corridors. EFSC adopts a rule that prevents developers of transmission from avoiding local ordinances, by applying statewide goals ((Goal 3) where applicable county has gone through a process (same as above). May require an LCDC rule as well, allowing EFSC to limit transmission to corridors, notwithstanding ORS 215.283.

**3:30 – 4:00 – Next Steps**

# Governor's Advisory Committee on Energy & Agriculture

## Meeting Minutes

Friday, February 5, 2016

### Location:

900 Court Street, Salem, OR 97301 | State Capitol Building, Governor's Conference Room

### ATTENDANCE:

**Advisory Committee Members:** Ruchi Sadhir, J.R. Cook, Leann Rea, Steve Eldridge, George Murdock, Hillary Barbour, Senator Bill Hansell, Varner Seaman, Gary Bauer, **State Staff:** Richard Whitman (Governor's Office), Mike Kaplan (ODOE), Todd Cornett (ODOE), (ODFW), Jon Germond (ODFW), Matt Lawyer (ODOE), Lori Koho (OPUC), Jon Jinings (DLCD).

**Federal Agency Assistance:** Crystal Ball (BPA)

**Interested Parties:** Carla McLane, Mitch Colburn, Tamra Mabbott, Alan Hickenbottom, Anders Johnson, Tim McMahan, Elaine Albrich.

### MEETING NOTES:

Ruchi opened meeting by describing the intent of the fourth meeting: to build off the progress of the last three meetings by reviewing the additional layers of the consolidated map and discuss the feasibility of three strategic proposals for moving forward.

### OVERVIEW OF CONSOLIDATED MAP/Q & A

Todd described the additional layers that were added into the map. The purpose of the exercise was to see if there were/are siting constraints and conflicts when including additional layers to the map.

- Washington ground squirrel
  - Jon Germond: because landowners do not want actual data released, the map layer supplied by ODFW doesn't show exactly where the ground squirrel population exists but where they are likely to exist. Listed as state endangered species, not federally.
- Wind projects – proposed, approved, contested wind facilities in Columbia basin (green, blue cream)
- Morrow County facilities – Carla McLane:
  - - Echo is built (part of Echo is in Umatilla County).
    - Butter Creek is permitted but not built.
      - Problems at the Federal level and other developments issues. Construction was stopped. Developers anticipate a reapplication
- Umatilla County Facilities – Tamra Mabbott:
  - Wind facilities: the county just permitted a small wind facility last week. Otherwise, aside from MET towers what is on map is actually constructed.

- Columbia Basin Cooperative/Transmission Lines/Service Territory/Distribution/Substations
  - Ruchi notes this map layer has relevance because existing Bonneville line serves Columbia Basin Cooperative.
- Right of Ways
  - State Right of Ways (from ODOT) were added
- Could not integrate BPA information in this version

Steve Eldridge noted it would be helpful to know which EFSC jurisdictional facilities are existing, planned, and the expected name plate is of development of facilities. *Todd can make that available next time. He'll reach out to Carla and Tamra.*

### **Review of Action Items:**

Ruchi asked everyone who had an action item assignment from the December 21st meeting to provide an update on their respective assignment.

Capacity question of line right now:

Crystal Ball:

- Emailed in real time during the December meeting a response on a capacity question about the 1500 mw at Longhorn and Stanfield stations: “right now the total amount is about 1500 MW around Morrow Flats/Longhorn and about the same around Stanfield.”
- Looked at Calpine and McNary line for capacity. Calpine line was built for 600 mw and McNary was built for 650 mw. 1250 mw is capacity for one element through the grid, otherwise they have to carry more reserve. Mitch & Anders discussed limits of grid and circuits out of each substation.
  - Steve notes and Crystal agrees, 1250 mw is an operational constraint for liability purposes but Crystal adds there is existing infrastructure to integrate wind that is proposed and anything beyond that existing infrastructure they've proposed new facilities such as Stanfield. Example: do not have room for more equipment so they have to build Stanfield.

### **Overview Type 1/Type 2 Process:**

Tamra Mabbott:

- Type 1 is a use allowed outright with permit and a limitation on standards. All transmission lines are permitted as Type 1. Discussion about making it a Type 2, which is a conditional use. Statute does not distinguish between Gen-Tie line for a facility or a large overhead transmission line for a public utility or member owned cooperative.
  - Richard notes: Type 1-3 is a county construct. In order to create a process for development of a corridor and to limit siting of new transmission in that corridor, there may be a way to do it without a change in statute. Normally counties cannot limit Type 1 uses including transmission lines beyond what is in statute.

### **Three Mechanisms to Resolve Issues (see bullets on agenda):**

Richard Whitman explains three proposed concepts for development of corridor:

#### **1) County Only – no state rule would be required**

- The county would create incentives for new transmission and apply those incentives only within the corridor. That puts the person who is looking at siting a new transmission facility to make a decision for private reasons to determine whether they want the incentives provided by county.
- It would be up to the county and the efficacy would come down to the strength of the incentives that the counties could bring to the discussion. This is believed to be more of an economic tool than a regulatory tool, but there could be some streamlining on the regulatory side.
- Mechanism would be an ordinance and dependent on a collaborative process. Need to work with landowners, then research in field, and finally go to county with initial work done.
  - Jon Germond: County Only approach may run risk of not qualifying in an EFSC process.

#### **2) State Action Required - LCDC**

- Go through land use program directly. LCDC, by rule, would create limitations or conditions (and keep in mind incentives) to push transmission siting into corridors. This would occur only where the corridors are developed in a collaborative way. Possibly a pilot program in a subarea of the state.
  - Jon Germond had spoken with the LCDC and there isn't opposition to the concept but council may need direction or help in taking it on.
    - Note that the process should make sure the proposal goes through a rule advisory committee, right to rule, then to be considered, and finally adopted. LCDC meetings are in March, July, and September.
  - Richard notes that, given the nature of ever evolving energy industry, something to consider is a mechanism to ensure this is revisited at a later date; a possible sunset or expiration. If LCDC adopted a statewide rule, it might be best to look at existing rules and try to design something that fits within it. (Jon Germond mentions Provision 33 Section 130 for modifications)

#### **3) State Action Required – EFSC**

- Rule would only apply to EFSC jurisdictional facilities. EFSC would limit the authority of developers to go around local ordinance. EFSC rule would require them to use the local corridor, if established in a collaborative way.
- This would happen via a rule amendment by the Energy Facility Siting Council. EFSC would need to initiate rule making by going through rule advisory committee. The goal is to include the collaborative process as part of the process.
- State rule would set up a process with side board that the county would have to operate within. Balancing would happen at local level.
- This is least developed of three concepts and needs more work.
- Need to explore use of EGA – Energy Generation Area

**Applicant Checklist** – What incentives could there be to site in a corridor?

Todd refers to page 2 - 3 of the *Associated Transmission Line Check Box* handout. (See Attachment H) This handout gives a sense of what an applicant must submit to meet EFSC standards.

- Standards: Structural standards, Soil Protection, Protected Areas, Fish and Wildlife Habitat, Threatened and Endangered Species, Scenic Resources, Historic, Cultural and Archeological Resources, Recreation, and Public Services.
- Crystal notes that they have a federal process (NEPA) and would want to make sure the corridor meets federal requirements.

**Cumulative Impacts:**

J.R. provided two documents *Cumulative Impact CL* (See Attachment I) and *Proposed Transmission Lines and existing BPA 010516* (See Attachment J).

- *Cumulative Impact CL* – Cites ORS 215 and headnotes from Land Use Board of Appeals (LUBA) case law pertaining to impacts to agriculture.
- *Proposed Transmission Lines and existing BPA 010516* – map illustrating the POU's for Northeast Oregon Water Association's (NOWA) new water projects as well as existing BPA lines and the corridor areas that may be a start if the state finds a way to acknowledge a pre-planned overhead transmission corridor through or around NEWA's irreplaceable high-value agricultural land.
  - Tamra notes: Cumulative impacts only apply to Type 2 use. So, if for example, LCDC were to adopt rule changes, they could use this other than reinventing a definition.

**Columbia Basin and PacifiCorp on MOA:**

Steve provided an update on his outreach with PacifiCorp's Pat Reiten and Columbia Basin Electric Co-Op's, Tom Wolf.

- The discussion was positive and both were enthusiastic about the idea of facilitation of generation lines whether they connect to Pacific or Bonneville. They agreed it would be helpful and expressed interest in entering into an MOA. Also noted, although transmission providers would be interested in entering into an MOA he doesn't see why others wouldn't be interested. However, having the right and utilizing it are two different things. Utilities are the ones who have expertise to operate the facilities versus a non-utility. Best for public.
- Question (Ruchi): At what point would an MOA need to be entered into? Timing-wise and sequence-wise?
  - Steve Eldridge believes once the counties have the green light signal they'll work together. They're ready and standing but cannot do it without planning piece.
  - Hillary Barbour states her members are very interested based on her initial reaching out but need more details. Having the three concept options and the MOA helps give more substance to go back to her group with.
  - Steve feels JR can now talk to the landowners

Discussion regarding width of corridors for max capacity build out.

- Eileen would like to consider from a developers perspective how this will work. Question about how power will get to the corridor from the generation facilities.

J.R. notes the advisory committee's focus is to concentrate on high value farmland and developers will have to figure out how to connect power to the corridor, but the corridor gets them to the substation/grid.

- Discuss overbuilding. Steve relays that when utilities receive a request they try to build ahead of demand but states there is a limit. Varner notes there is always a margin and forecasting needs is important but at some point, utilities cannot go outside of limits/bounds.
- Question (Anders): Is there a way to economically build in an optionality?
  - Could consider a second circuit added later to oversized poles – there could be a wheeling charge or prepay/reimburse.

#### Discuss public safety

- Public safety requirements are already in the statute at PUC.
- Lori Koho: The PUC's authority is to enforce the national safety code.

Off-topic discussion regarding gap in communication between PUC, utilities, counties, and public relating to pole safety. Richard suggests Tamra raise this issue with the AOC or LOC. Tamra to send Lori emails on a specific situation.

#### **Next Steps:**

Gain a better shared understanding of three concept options/approaches. More work needs to be done on which approach would be best. The group would like to wait on meeting again until the B2H preferred alternative is released from BLM.

- J.R. and UEC will meet with landowners and Bonneville regarding terminal points but will wait for the preferred alternative for B2H from BLM.
- J.R. will address potential issues with the corridor that were raised through the checklist discussion and will get Todd a map layer on the east side of bombing range road.
- Richard will work with Jon, Todd, and Business Oregon on (1) additional analysis and research on the mechanisms, (2) explore use of energy generation areas, (3) research options for incentives that could be used at the county level.
- Lori will work with a sub-group (including UEC and the counties) regarding pole safety.
- Todd will include EFSC local jurisdictions and get further input on the consolidated map for use at the next meeting.
- Varner will provide Ruchi, via email, an MOA between PGE and two cities as an example MOA for group to consider.

**ATTACHMENT F. 10.18.16 Meeting Agenda and Minutes**

**Governor's Advisory Committee on Energy & Agriculture**

**October 18<sup>th</sup>, 2016**

**12:30 PM – 2:30 PM**

**Location:** Port of Morrow, Sand Hollow Room

**Conference Line:** 1-888-204-5984; Code: 298149

**Agenda**

<b>When</b>	<b>What</b>
12:30- 12:45	<ul style="list-style-type: none"><li>• Welcome, meeting goals, and introductions</li></ul>
12:45 – 1:30	<ul style="list-style-type: none"><li>• Walk through the Draft Report</li></ul>
1:30 – 2:15	<ul style="list-style-type: none"><li>• Feedback on Draft Report</li></ul>
2:15 – 2:30	<ul style="list-style-type: none"><li>• Next Steps</li></ul>

# Governor's Advisory Committee on Energy & Agriculture

## Meeting Minutes

Tuesday, October 18, 2016

### **LOCATION:**

2 Marine Drive NE, Boardman, OR 97818 | Port of Morrow

### **OPENING:**

The fifth meeting of the Governor's Advisory Committee on Energy & Agriculture was called to order at 12:30pm on Tuesday, October 18, 2016 by Ruchi Sadhir.

### **ATTENDANCE:**

**Advisory Committee Members:** Ruchi Sadhir, J.R. Cook, Leann Rea, Steve Shaffer, Robert Echenrode, Gary Neal, George Murdock, Johnny Casana, Varner Seaman, Gary Bauer.

**State Agency Staff:** Mike Kaplan (ODOE), Todd Cornett (ODOE), Robin Freeman (ODOE), Nigel Siedel (ODFW), Steve Cherry (ODFW), Jon Jinings (DLCD).

**Local Agency Assistance:** Tamra Mabbott, Carla McLane

**Federal Agency Assistance:** Crystal Ball (BPA)

**Interested Parties:** Don Rice, Mitch Colburn, Cindy Finlayson, Sonja Bogart, Matt Vickery

### **MEETING NOTES:**

Ruchi opened the meeting by describing the intent of the fifth meeting: to review the draft report, provide feedback, and have a discussion to make sure Advisory Committee members, staff, and interested parties are on the same page with the intent that this be the last meeting. The draft report is due by January 2017, so the meeting's purpose is to ensure that the Advisory Committee has all of the necessary information needed to finalize a report that reflects the work of the committee appropriately.

### WALK THROUGH DRAFT REPORT:

Ruchi and committee members walked through each section of report with staff and interested parties. Discussed whether there should be additions/revisions made.

#### Background

- The Region
- The Region's Agriculture
- Umatilla Basin Energy Production
- Committee Purpose and Scope
- Committee Membership

#### Advisory Committee Meeting Summary

- Meeting 1: October 18, 2015 - Boardman, Oregon
- Meeting 2: November 12, 2015 – Portland, Oregon
- Meeting 3: December 21, 2015 – Boardman, Oregon

- Meeting 4: February 5, 2016 – Salem, Oregon
- Meeting 5: October 18, 2016 – Boardman, Oregon

#### Ideas for Resolving Issues

- Key federal, state, and local laws and regulations
- Idea: County-only corridor approach
- Idea: County and State (LCDC) Goal 3 approach
- Idea: State (EFSC) approach
- Idea: Incentives

The discussion around the “problem statement” reminded the members, staff, and attendees about the original purpose and intent of the Advisory Committee. There was discussion about the need to include the Boardman to Hemingway transmission line project as important context for the start of the issues this Advisory Committee has been considering, in addition to the purpose of focusing on regionally specific interests of accommodating electric transmission line development while protecting the region’s irreplaceable high-value agricultural land base. The meeting participants discussed the challenges of a dynamic energy industry, on-going changes with conditions on the ground and legal requirements for avoiding/minimizing/mitigating impacts, differences between utility and private developers, and differences in needs/interests of local communities – there is likely not a one-size-fit-all approach to resolving concerns with overhead transmission line siting. There was also substantive discussion regarding how the “menu of ideas” contained in the report could be used: longer-term, broad ideas around the corridor concept compared to more immediate opportunities for a Morrow County Pilot that could build on work around overhead transmission lines on Bombing Range Road and connecting to the Longhorn Substation. Morrow County (Commissioner Leann Rea and Carla McLane) committed to working with DLCD (Jon Jinings) and ODOE (Todd Cornett) on a pilot concept.

Overall, the meeting discussion about the elements of the draft report resulted in agreement on the following action items to complete and finalize the report.

#### NEXT STEPS

*Please provide your action items to Ruchi ([ruchi.sadhir@oregon.gov](mailto:ruchi.sadhir@oregon.gov)) and Stacey ([stacey.oneil@oregon.gov](mailto:stacey.oneil@oregon.gov)) via email by Monday, December 5, 2016.*

- Jon/Todd – Compile all the attachments for the appendix
- J.R. – Suggest language to expand the description of the “region” (page 1)
- Robert – provide numbers for electric service in the area (page 3)
- Crystal – Find out if there is more specific information that could be added for the location of substations (page 4)
- Varner – Add language about currently operating Carty gas plant/Grasslands Substation (page 4)
- Todd/Carla/Tamra – Create a table of projects that are currently in process with application for appendix.
- Varner/Johnny/Todd – suggest language for describing utility scale (MW? Size?) (page 4)

- Varner/Johnny – suggest a short paragraph that describes future project potential (rather than describing by name facilities that may be in the IRP phase). (page 4)
- Mitch – suggest language that puts B2H in context with the region’s energy discussion (section 1.3)
- Jon/Todd – Add local agencies section with Carla and Tamra (page 6)
- Mitch – suggest a sentence that provide context for B2H and cumulative impacts of future transmission lines for the problem statement paragraph (page 8)
- Jon/Todd – change “Port of Morrow” to be West Umatilla County, North Morrow County, and North Gillam County and make problem statement more broad for all types of energy (page 8)
- Jon – Some revisions in Local Planning Programs summary (e.g. include ORS 215.276, requiring consultation) (page 10)
- Todd – Some revisions in the EFSC summary (page 11)
- Steve Cherry – Add summary of ODFW role
- Varner/Johnny – Suggest language for a paragraph about renewable energy growth, including policy drivers like RPS (page 11)
- Jon/Todd – move key federal, state, local laws and regulations section to be its own.
- Jon/Todd/Johnny – Add language about the idea regarding checklist for developers instead of geographic boundaries of a corridor (page 11)
- Jon/Todd – add distinction between state versus local process with required studies and landowner consent (page 11)
- Jon/Todd/Carla/Tamra – Carla agreed that Morrow County would be a good place to work on a pilot, so this sub-group agreed to work on language regarding a potential preferred approach for a pilot from the “menu” of ideas
- Jon/Todd – make clear in definitions/background that significant resource includes energy generation and transmission facility (for these purposes) does not include pipelines.
- Jon/Todd – Clean up language in discussion sections so that the opportunities/challenges regarding corridors are all in one place. Use the state mechanisms and incentives ideas/discussion to keep building menu of options from there.
- Kaplan/Robert/Johnny/Varner – Clean up language and add language in incentives section to potentially list out separately the types of incentives that might work (overbuild, corridor, checklist, monetary incentive from state or west coast infrastructure exchange, note potential issues with IOU/PUC or COU/Board processes)
- Rep. Greg Smith – Ruchi and Mike Kaplan met with Rep. Smith on Monday 10/24/2016 to provide information about the meeting, and Rep. Smith committed to following up with local entities on the meeting and action items.

## ATTACHMENT G. HB 2508-1 (2015)

This bill added a new set of review criteria for “Transmission Lines” being sited in an Exclusive Farm Use Zone as a “Utility Facility Necessary for Public Service” under ORS 215.213(1)(c) or 215.283(1)(c). This new set of review criteria, included in ORS 215.274, is intended to evaluate the proposed associated transmission line based on its potential impact to productive farmland.

**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.

(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.

(4)(a) Except as provided in subsection (3) of this section, the governing body of a county or its designee shall approve an application under this section if, after an evaluation of reasonable alternatives, the applicant demonstrates that the entire route of the associated transmission line meets, subject to paragraphs (b) and (c) of this subsection, two or more of the following factors:

- (A) Technical and engineering feasibility;
- (B) The associated transmission line is locationally dependent because the associated transmission line must cross high-value farmland, as defined in ORS 195.300, or arable land to achieve a reasonably direct route or to meet unique geographical needs that cannot be satisfied on other lands;
- (C) Lack of an available 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;
- (D) Public health and safety; or
- (E) Other requirements of state or federal agencies.

(b) The applicant shall present findings to the governing body of the county or its designee on how the applicant will mitigate and minimize the impacts, if any, of the associated transmission line on surrounding lands devoted to farm use in order to prevent a significant change in accepted farm practices or a significant increase in the cost of farm practices on the surrounding farmland.

(c) The governing body of a county or its designee may consider costs associated with any of the factors listed in paragraph (a) of this subsection, but consideration of cost may not be the only consideration in determining whether the associated transmission line is necessary for public service. [2013 c.242 §2]

## ATTACHMENT H. Associated Transmission Line Check Box

### EFSC's ability to adopt a rule that prevents developers of a transmission line from avoiding locally adopted transmission line corridors.

#### ODOE response

Current statute (ORS 469.504) and rule (OAR 345-022-0030) allow EFSC to determine an applicant complies with statewide planning goals either through application of the local land use ordinances or by application of the goals directly. The statute and the rule are linked so there is no opportunity to change the rule without changing the statute.

We are still evaluating the opportunity to amend other EFSC rules that would require acknowledgment and use of locally adopted transmission line corridors. However, without a change to statute, there would always be a risk of a challenge to any rule because of the language in the land use standard in OAR 345-022-0030 and its link to ORS 469.504.

#### 469.504 Facility compliance with statewide planning goals; exception; amendment of local plan and land use regulations; conflicts; technical assistance; rules.

*(1) A proposed facility shall be found in compliance with the statewide planning goals under ORS 469.503 (4) if:*

*(a) The facility has received local land use approval under the acknowledged comprehensive plan and land use regulations of the affected local government; or*

*(b) The Energy Facility Siting Council determines that:*

*(A) The facility complies with applicable substantive criteria from the affected local government's acknowledged comprehensive plan and land use regulations that are required by the statewide planning goals and in effect on the date the application is submitted, and with any Land Conservation and Development Commission administrative rules and goals and any land use statutes that apply directly to the facility under ORS 197.646;*

***(B) For an energy facility or a related or supporting facility that must be evaluated against the applicable substantive criteria pursuant to subsection (5) of this section, that the proposed facility does not comply with one or more of the applicable substantive criteria but does otherwise comply with the applicable statewide planning goals, or that an exception to any applicable statewide planning goal is justified under subsection (2) of this section; or (Emphasis Added)***

#### OAR 345-022-0030 – Land Use

***(2)(b)(B) For a proposed facility that does not comply with one or more of the applicable substantive criteria as described in section (3), the facility otherwise complies with the statewide planning goals or an exception to any applicable statewide planning goal is justified under section (4); or (Emphasis Added)***

*(3) As used in this rule, the "applicable substantive criteria" are criteria from the affected local government's acknowledged comprehensive plan and land use ordinances that are required by the statewide planning goals and that are in effect on the date the applicant submits the application. If the special advisory group recommends applicable substantive criteria, as described under OAR 345-021-0050, the Council shall apply them. If the special advisory group does not recommend applicable substantive criteria, the Council shall decide either to make its*

*own determination of the applicable substantive criteria and apply them or to evaluate the proposed facility against the statewide planning goals.*

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## **Site Specific Energy Facility Siting Council Standards**

An applicant for a state jurisdictional energy facility is obligated to meet all local land use standards or the appropriate land use goals as previously discussed, and all applicable Energy Facility Siting Council (EFSC) standards. Unless a locally adopted transmission line corridor was evaluated against all potentially applicable EFSC standards, there is no guarantee EFSC could approve a transmission line proposed to be sited in the locally adopted transmission line corridor. The following subset of EFSC standards require project specific and site specific evaluations as part of the application process. Each standard requires the applicant to conduct studies of varying distances from the project boundary. See “Study Area” distances below for examples.

Structural Standard – This standard protects public health and safety, including the safety of facility workers, from seismic hazards. The Council requires that the assessment of seismic hazards and non-earthquake related hazards be based on actual physical exploration, not merely on available literature.

Soil Protection - This standard requires the applicant to consider problems of erosion and drainage that could affect land in the surrounding area. The applicant must also consider potential impacts on soils from cooling tower drift and other forms of chemical deposition.

Protected Areas - For proposed facilities near protected areas, the standard ensures that energy facilities located near these areas would have no significant adverse impact. The applicant must address not only direct impacts but also downstream impacts such as air and water quality.

Fish and Wildlife Habitat - This standard requires that the proposed facility comply with the habitat mitigation goals and standards of the Oregon Department of Fish and Wildlife. The Council must determine whether the applicant has done appropriate site-specific studies to characterize the fish and wildlife habitat at the site and nearby. If impacts cannot be avoided, the applicant must provide a habitat mitigation plan.

Threatened and Endangered Species - Through this standard, the Council seeks to avoid harmful impacts to plant and animal species identified as threatened or endangered under state law. The applicant must provide appropriate studies of the site to identify threatened or endangered species that the proposed facility could affect.

Scenic Resources - This standard protects scenic values that identified as significant or important in local or state land use plans, tribal land management plans or federal land management plans identify as significant or important. The preferred site is one where an energy facility would have no adverse impact on identified scenic values, either because of distance or because the facility is inherently low in visual impact.

Historic, Cultural and Archeological Resources - This standard protects the public interest in preserving places that have historic, cultural or archeological significance, including sites of historic or religious importance to Native American Tribes. The standard preserves historic and cultural artifacts and prevents permanent loss of the archaeological record unique to particular sites in the state. The applicant must conduct appropriate surveys at the proposed site to identify and avoid places of historic, cultural or archaeological significance.

Recreation - Under this standard, the Council must decide whether construction or operation of the proposed facility would adversely affect important recreational opportunities at the site or in the surrounding area. The applicant must identify the recreational opportunities and describe the potential impact of the facility.

Public Services - This standard protects the ability of providers in local communities to deliver critical services. The applicant must assess the proposed facility's needs for water and for disposal of wastewater, storm water and solid waste. The applicant must evaluate the expected population increases in local communities resulting from construction and operation of the facility. The applicant should address all permanent and temporary impacts on housing, traffic safety, police and fire protection, health care and schools.

OAR-345-0010 – Definitions – The following definition establishes the distances from the project boundary an applicant must evaluate as part of their Notice of Intent. These could be the same distances an applicant must study as part of the application process or they could be changed based on ODOE's evaluation and state agency, local government and tribal government input.

*(59) "Study area" means an area defined in this rule. Except as specified in subsections (f) and (g), the study area is an area that includes all the area within the site boundary and the area within the following distances from the site boundary:*

*(a) For impacts to threatened and endangered plant and animal species, 5 miles.*

*(b) For impacts to scenic resources and to public services, 10 miles.*

*(c) For land use impacts and impacts to fish and wildlife habitat, one-half mile.*

*(d) For impacts to recreational opportunities, 5 miles.*

*(e) For impacts to protected areas described in OAR 345-022-0040, 20 miles.*

*(f) The distance stated in subsection (a) above does not apply to surface facilities related to an underground gas storage reservoir.*

*(g) The distances stated in subsections (a) and (d) above do not apply to pipelines or transmission lines.*

## ATTACHMENT I. Cumulative Impact Clarification

Cumulative Impact Clarification for February 5, 2016.

ORS 215.296 provides the meaning behind what is commonly referred to in the past task force discussions as “cumulative impacts.” The statute citation below and the attached headnotes should provide clarity to the discussion that “direct and cumulative impacts” being discussed in this task force relate to impacts on agriculture, not environmental, cultural or other.

Cite:

(1) A use allowed under ORS 215.213 (2) or 215.283 (2) may be approved only where the local governing body or its designee finds that the use will not:

(a) Force a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest use; or

(b) Significantly increase the cost of accepted farm or forest practices on surrounding lands devoted to farm or forest use.

(2) An applicant for a use allowed under ORS 215.213 (2) or 215.283 (2) may demonstrate that the standards for approval set forth in subsection (1) of this section will be satisfied through the imposition of conditions. Any conditions so imposed shall be clear and objective.

(3) A person engaged in farm or forest practices on lands devoted to farm or forest use may file a complaint with the local governing body or its designee alleging:

(a) That a condition imposed pursuant to subsection (2) of this section has been violated;

(b) That the violation has:

(A) Forced a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest use; or

(B) Significantly increased the cost of accepted farm or forest practices on surrounding lands devoted to farm or forest use; and

required, direct the user to apply for approval within 21 days and warn the user against the commission of further violations. If the user does not apply for approval within 21 days, the local governing body or its designee shall order the suspension of the use until the user applies for and receives approval. If there is a determination pursuant to subsection (4) of this section following the receipt of a complaint that a further violation occurred after approval was granted, the violation shall be deemed a second violation and the local governing body or its designee at a minimum shall assess a fine against the violator.

#### STANDARDS FOR ALL

#### CONDITIONAL USES.

The following limitations shall apply to all conditional uses in an EFU zone. Uses may be approved only where such uses:

- (A) Will not force a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest use; and
- (B) Will not significantly increase the cost of accepted farm or forest practices on lands devoted to farm or forest use.

**3.3.8 EFU Statute/Ordinances – Nonfarm Uses – No Significant Change/Increase Std.** A county errs in requiring an applicant to apply the ORS 215.296 “significant change/increase” standard to a study of the “surrounding area” that encompasses all agricultural land in the county, on the theory that a proposed conditional use will remove land from agricultural use and require county farmers to shoulder a greater burden of fixed costs in the county’s agricultural economy. The focus of ORS 215.296 is on the impacts of the proposed conditional use on agricultural practices in the proximate surrounding area, not attenuated impacts to the larger economy caused by conversion of the subject property from agricultural use to a conditional non-farm use otherwise allowed under ORS chapter 215. *Hood River Valley PRD v. Hood River County*, 67 Or LUBA 314 (2013).

**3.3.8 EFU Statute/Ordinances – Nonfarm Uses – No Significant Change/Increase Std.** The scope of “surroundings lands” to which ORS 215.296 applies is not limited to lands adjacent to the subject property. However, failure to define the outer limits of the study area or to evaluate impacts on non-adjacent farm operations is not necessarily fatal to the application, if the surrounding agricultural area is homogenous, and there is substantial evidence that the conditional use has no significant impacts on farm practices on adjacent farm parcels. *Hood River Valley PRD v. Hood River County*, 67 Or LUBA 314 (2013).

**3.3.8 EFU Statute/Ordinances – Nonfarm Uses – No Significant Change/Increase Std.** ORS 215.296(1) does not require a demonstration that a proposed conditional use of an EFU-zoned parcel will not prevent future agricultural use of the soils occupied by the non-farm conditional use. Because ORS chapter 215 authorizes in EFU zones several uses such as mining or solid waste disposal facilities that involve removal or loss of agricultural soil, such a requirement would effectively prohibit uses allowed in EFU zones under ORS chapter 215. *Hood River Valley PRD v. Hood River County*, 67 Or LUBA 314 (2013).

**3.3.8 EFU Statute/Ordinances – Nonfarm Uses – No Significant Change/Increase Std.** ORS 215.296(1) requires some description of farm practices on surrounding farm lands, in order to evaluate whether the proposed conditional use will significantly change or increase the costs of such practices. Where the record and planning commission decision includes no such description, on local appeal the governing body could conclude that the planning commission decision approving the conditional use is not supported by substantial evidence. *Hood River Valley PRD v. Hood River County*, 67 Or LUBA 314 (2013).

**3.3.8 EFU Statute/Ordinances – Nonfarm Uses – No Significant Change/Increase Std.** A winery that was initially approved as a permitted use under ORS 215.283(1)(n) and 215.452 was not required to consider its impact on farm and forest practices on nearby lands because ORS 215.296(1)(a) and (b) do not apply to such permitted use wineries. However, if that winery is to be expanded later in ways that are not allowed under ORS 215.452, as a “commercial activit[y] that [is] in conjunction with farm use” under ORS 215.283(2)(a), the expanded winery must comply with ORS 215.296(1)(a) and (b), which

apply to “commercial activities that are in conjunction with farm use.” In that circumstance ORS 215.296(1)(a) and (b) apply to the entire winery as expanded, not just the later approved expansion. *Friends of Yamhill County v. Yamhill County*, 66 Or LUBA 212 (2012).

**3.3.8 EFU Statute/Ordinances – Nonfarm Uses – No Significant Change/Increase Std.** Petitioners’ challenge to a winery expansion presents no basis for remand under the ORS 215.296(1)(a) and (b) significant change/increase standard, where the county’s findings can be read to identify “spraying pesticides, burning fence lines and plowing fields” as accepted farming practices that might be impacted by an expanded winery operation, the county imposes a 200-foot buffer setback requirement on the winery and requires a recorded acknowledgement by the winery owner that nearby farms have a right to continue their accepted farming practices even if they impact the winery, and petitioners offer no direct challenge to the adequacy of those measures to avoid significant changes in or increases in the cost of accepted farming practices. *Friends of Yamhill County v. Yamhill County*, 66 Or LUBA 212 (2012).

**3.3.8 EFU Statute/Ordinances – Nonfarm Uses – No Significant Change/Increase Std.** ORS 215.296(2), which provides that an applicant for a conditional use allowed under ORS 215.213(2) or 215.283(2) may demonstrate compliance with the ORS 215.296(1) no significant change/increase standard through imposition of clear and objective conditions, does not impliedly limit conditions to those intended to protect farm and forest uses. Neither does ORS 215.296(2) prohibit counties from adopting additional EFU zone approval standards to address the impacts of wind energy facilities on residential uses or Goal 5 resources. *Cosner v. Umatilla County*, 65 Or LUBA 9 (2012).

**3.3.8 EFU Statute/Ordinances – Nonfarm Uses – No Significant Change/Increase Std.** A hearings officer does not err in concluding that a county standard requiring a showing that the proposed “use” will not force a significant change in farm or forest practices or significantly increase costs of farm and forest practices does not apply to a property line adjustment, where the county standard applies to “uses” listed in the county’s EFU zone, and property line adjustments are not listed as a use. *Louks v. Jackson County*, 65 Or LUBA 58 (2012).

**3.3.8 EFU Statute/Ordinances – Nonfarm Uses – No Significant Change/Increase Std.** Findings are inadequate to explain how a proposed waste water treatment facility on EFU land would either “force a significant change in” the adjacent farming practices or “significantly increase the cost of” an adjacent organic farming operation under ORS 215.296(1) where the findings do not explain what the “significant impacts” to the organic farming operation would be or explain how the potential for spray drift from the proposed facility would either “force a significant change in” the organic farm practices or “significantly increase the cost of” the operation. *Falcon Heights WSD v. Klamath County*, 64 Or LUBA 390 (2011).

**3.3.8 EFU Statute/Ordinances – Nonfarm Uses – No Significant Change/Increase Std.** A criterion that requires a local government to find that a proposed dwelling will not

force a significant change in accepted farm practices on surrounding lands does not require the local government to address the indirect and speculative possibility that the owner of the land on which the proposed dwelling will be located may decide in the future not to lease any portions of the subject property that may have been available for leasing for grazing in the past. *Womelsdorf v. Jackson County*, 62 Or LUBA 34 (2010).

**3.3.8 EFU Statute/Ordinances – Nonfarm Uses – No Significant Change/Increase Std.** A general statement of concern that a proposed campground would cause “interactions between livestock and people” is insufficient under ORS 197.763(1) to raise the issue of compliance with a local code analogue to the ORS 215.296(1) that requires a finding that the proposed use will not force a significant change in or significantly increase the cost of accepted farm practices on surrounding lands devoted to farm use. *Olstedt v. Clatsop County*, 62 Or LUBA 131 (2010).

**3.3.8 EFU Statute/Ordinances – Nonfarm Uses – No Significant Change/Increase Std.** Where a petitioner fails to challenge all the reasons a hearings officer gives for finding that a proposed wind turbine facility will not force a significant change in or significantly increase the cost of accepted farm practices on nearby farms, petitioner’s challenge to the adequacy of one of the reasons the hearings officer gave provides no basis for reversal or remand. *Falls v. Marion County*, 61 Or LUBA 39 (2010).

**3.3.8 EFU Statute/Ordinances – Nonfarm Uses – No Significant Change/Increase Std.** When a petitioner was required to raise local appeal issues below pursuant to *Miles v. City of Florence*, 190 Or App 500, 79 P3d 382 (2003), raising the issue that approval of a nonfarm dwelling would significantly increase the cost of farming practices is not sufficient to raise any issue concerning impacts on the stability of the overall land use pattern, and the petitioner may not raise the stability standard at LUBA. *Zeitoun v. Yamhill County*, 60 Or LUBA 111 (2009).

**3.3.8 EFU Statute/Ordinances – Nonfarm Uses – No Significant Change/Increase Std.** A county does not err in concluding that, as conditioned, a personal use airport will not “significantly” impact a neighboring equine facility, where the only adverse impact identified by the facility owner is that guests are advised to delay mounting or dismounting horses until after planes land or take-off, and conditions of approval limit operations to 20 flights per month. *Johnson v. Marion County*, 58 Or LUBA 459 (2009).

**3.3.8 EFU Statute/Ordinances – Nonfarm Uses – No Significant Change/Increase Std.** In analyzing significant changes to or significant increases in cost of farming practices on nearby lands, where a county wishes to disqualify unspecified farm practices that the county believes are not intended to generate a profit, it is incumbent on the county in its findings to identify which practices it has not analyzed for that reason. *Comden v. Coos County*, 56 Or LUBA 214 (2008).

**3.3.8 EFU Statute/Ordinances – Nonfarm Uses – No Significant Change/Increase Std.** A county’s error in failing to identify which farm practices on nearby lands are excluded from the significant change/increase analysis because they are part of “hobby

farms” and are not intended to generate a profit is harmless error, where the governing body adopted unchallenged planning commission findings that discuss impacts of the proposed mining on farm practices without distinguishing between “hobby farms” and other farms, and conclude that any impacts on farm practices will be insignificant. *Comden v. Coos County*, 56 Or LUBA 214 (2008).

**3.3.8 EFU Statute/Ordinances – Nonfarm Uses – No Significant Change/Increase Std.** A county does not err in failing to define a geographic area of analysis for the impacts of a non-forest use in a forest zone under a code “significant change/increase” standard that does not implement the similar significant change/increase standard applicable to EFU zones and that, unlike the statute, does not require analysis of impacts on “surrounding lands” or any other particular geographic area. *Comden v. Coos County*, 56 Or LUBA 214 (2008).

**3.3.8 EFU Statute/Ordinances – Nonfarm Uses – No Significant Change/Increase Std.** Findings that describe the only forest practice that adjoining timber operators identified as impacted by proposed mining on forest land are adequate for purposes of a code significant change/increase standard, where the code standard does not implement the statutory significant change/increase standard, and the petitioners do not explain why the code standard requires an exhaustive description of all forest practices on nearby lands. *Comden v. Coos County*, 56 Or LUBA 214 (2008).

**3.3.8 EFU Statute/Ordinances – Nonfarm Uses – No Significant Change/Increase Std.** While a county’s failure to describe accepted farming practices on nearby lands would likely require remand under the ORS 215.296(1) significant change/increase standard or a code provision implementing that standard, such a failure is not necessarily reversible error under a similar code significant change/increase standard that does not implement the statute. Any failure to describe accepted farming practices under the code standard is harmless, where the county adopted unchallenged findings, supported by substantial evidence, that the proposed mining will not significantly affect any farm or forest practices. *Comden v. Coos County*, 56 Or LUBA 214 (2008).

**3.3.8 EFU Statute/Ordinances – Nonfarm Uses – No Significant Change/Increase Std.** ORS 215.296(1) does not require that a county prevent all impacts on farming practices, only that the proposed use, as conditioned, not force a significant change in accepted farm practices or significantly increase the cost of accepted farm practices. *Rural Thurston Inc. v. Lane County*, 55 Or LUBA 382 (2007).

**3.3.8 EFU Statute/Ordinances – Nonfarm Uses – No Significant Change/Increase Std.** A hearings officer’s conclusion that a fence between a public park and grazing land is sufficient to ensure compliance with ORS 215.296(1) is supported by substantial evidence, notwithstanding the possibility that dogs may exit the park through an unfenced boundary and travel across intervening parcels to harass cattle, where there are no reported incidents of trespass across the unfenced boundaries and only speculation to support the possibility. *Rural Thurston Inc. v. Lane County*, 55 Or LUBA 382 (2007).

**3.3.8 EFU Statute/Ordinances – Nonfarm Uses – No Significant Change/Increase Std.** Remand is necessary where the local government’s approval of an asphalt batch plant fails to address issues raised regarding the impact of emissions on especially sensitive crops grown nearby. *Rickreall Community Water Assoc. v. Polk County*, 53 Or LUBA 76 (2006).

**3.3.8 EFU Statute/Ordinances – Nonfarm Uses – No Significant Change/Increase Std.** The scope of “accepted farming or forest practices” that must be evaluated under the no significant change/increase standard is a fact-specific inquiry. A hearings officer does not err in evaluating the scope and intensity of “accepted forest practices” on adjacent lands based on the forest uses currently or recently occurring in the area, and need not assume that forest practices on adjacent parcels will occur at the most intensive level possible. *Central Oregon Landwatch v. Deschutes County*, 53 Or LUBA 290 (2007).

**3.3.8 EFU Statute/Ordinances – Nonfarm Uses – No Significant Change/Increase Std.** ORS 215.284(2)(a) requires a demonstration that a proposed nonfarm dwelling or “activities associated with the dwelling” will not force a significant change in or significantly increase the cost of accepted farming practices on nearby lands. Improvements such as driveways, wells and septic systems are not “activities associated with the dwelling.” However, such improvements must be considered part of the proposed dwelling and thus must be considered when determining compliance with ORS 215.284(2)(a). *Wetherell v. Douglas County*, 51 Or LUBA 699 (2006).

**3.3.8 EFU Statute/Ordinances – Nonfarm Uses – No Significant Change/Increase Std.** For purposes of determining whether a nonfarm dwelling proposed in the middle of an existing vineyard will force a significant change in or significantly increase the cost of accepted farming practices on “nearby lands,” the county’s determination of the dwelling’s impact on nearby lands must include consideration of the impact of the dwelling on the existing vineyard on the subject property itself. *Wetherell v. Douglas County*, 51 Or LUBA 699 (2006).

**3.3.8 EFU Statute/Ordinances – Nonfarm Uses – No Significant Change/Increase Std.** An allegation that the county failed to consider the potential impact of a proposed nonfarm dwelling on wells located on nearby properties that serve *domestic* purposes does not provide a basis to reverse or remand the approval of a nonfarm dwelling, where the applicable approval criterion requires a demonstration of whether the proposal will force a significant change in or significantly increase the cost of accepted *farming practices*. *Wetherell v. Douglas County*, 51 Or LUBA 699 (2006).

**3.3.8 EFU Statute/Ordinances – Nonfarm Uses – No Significant Change/Increase Std.** Under a code standard requiring that a proposed forest dwelling not significantly change or increase the cost of farm or forest practices on nearby resource lands, the hearings officer’s failure to separately analyze more distant properties in the study area or identify its outer boundaries is not reversible error, where the hearings officer found no significant impacts on parcels adjacent to the subject property and, given the

homogeneity of the surrounding area, significant impacts on non-adjointing parcels are unlikely. *Sisters Forest Planning Comm. v. Deschutes County*, 48 Or LUBA 78 (2004).

**3.3.8 EFU Statute/Ordinances – Nonfarm Uses – No Significant Change/Increase Std.** Testimony that approval of a non-farm dwelling will increase agricultural land costs because of the parcel's increased value as a building site is at best indirect evidence of an increase in the cost of "farm practices" within the meaning of ORS 215.296(1). *Frazer v. Jackson County*, 45 Or LUBA 263 (2003).

**3.3.8 EFU Statute/Ordinances – Nonfarm Uses – No Significant Change/Increase Std.** Findings concluding that adjacent farms do not use pesticides or aerial spraying and will not cause conflicts with proposed nonfarm dwellings are sufficient to show compliance with the no significant change/increase standard, where petitioners do not identify other farm practices or conflicts that the county's findings fail to address, and do not challenge the findings regarding pesticide use and aerial spraying. *Hanna v. Crook County*, 44 Or LUBA 386 (2003).

**3.3.8 EFU Statute/Ordinances – Nonfarm Uses – No Significant Change/Increase Std.** Where a party during local proceedings advises the county that an existing or prior farm use on surrounding lands is in the process of being abandoned, and plans for the new farm use are sufficiently developed to allow the new farm use to be described in sufficient detail to allow the farm practices that will be associated with the new farm use to be identified, an applicant for a nonfarm use that is subject to ORS 215.296(1) must address the accepted farming practices that will be associated with that new farm use. *Dierking v. Clackamas County*, 38 Or LUBA 106 (2000).

**3.3.8 EFU Statute/Ordinances – Nonfarm Uses – No Significant Change/Increase Std.** Organic farming is not properly viewed as either a "farm use" or an "accepted farm practice." However, organic farmers may employ accepted farming practices that are not normally associated with other types of farming. *Dierking v. Clackamas County*, 38 Or LUBA 106 (2000).

**3.3.8 EFU Statute/Ordinances – Nonfarm Uses – No Significant Change/Increase Std.** Impacts on "farm families, residents and workers" are not impacts on "accepted farm practices," that must be considered under ORS 215.296(1). *Dierking v. Clackamas County*, 38 Or LUBA 106 (2000).

**3.3.8 EFU Statute/Ordinances – Nonfarm Uses – No Significant Change/Increase Std.** ORS 215.286 does not require a guarantee that aggregate mining on land zoned for exclusive farm use will cause no adverse impacts on the water table on surrounding lands. *Jorgensen v. Union County*, 37 Or LUBA 738 (2000).

**3.3.8 EFU Statute/Ordinances – Nonfarm Uses – No Significant Change/Increase Std.** Petitioners' argument that the county used a different definition of "accepted farming practices" than the definition provided in ORS 215.203(2)(c) does not provide a basis for reversal or remand, where petitioners do not demonstrate that the county's definition is inconsistent with the statutory definition, or that application of the county's

definition supports a different result than would application of the statutory definition. *Wilbur Residents v. Douglas County*, 37 Or LUBA 156 (1999).

**3.3.8 EFU Statute/Ordinances – Nonfarm Uses – No Significant Change/Increase Std.** It is inconsistent with ORS 215.296(1) to arbitrarily limit the scope of analysis to properties within 500 feet of the subject property, where doing so results in failure to consider substantial evidence in the record of significant impacts from the proposed use to accepted farming practices on lands beyond 500 feet. However, where petitioners fail to challenge a finding that there are no significant impacts within 500 feet, and an extrapolation of that finding to lands beyond 500 feet, the county's error does not provide a basis for reversal or remand. *Wilbur Residents v. Douglas County*, 37 Or LUBA 156 (1999).

**3.3.8 EFU Statute/Ordinances – Nonfarm Uses – No Significant Change/Increase Std.** Petitioners' argument at LUBA that using agricultural land for a golf course buffer violates the ORS 215.296(1) prohibition against forcing a significant change in farm practices on surrounding lands devoted to farm use was waived, where petitioners' arguments during the local proceedings concerning the proposed buffers were not sufficient for the decision maker to understand and respond to that issue. *DLCD v. Jackson County*, 36 Or LUBA 88 (1999).

**3.3.8 EFU Statute/Ordinances – Nonfarm Uses – No Significant Change/Increase Std.** A local provision requiring compatibility between a proposed use and development of abutting properties by outright permitted uses does not require an exhaustive listing and discussion of every subcategory of use permitted in the area. A county's general description of permitted uses and explanation why the proposed use is compatible with types of permitted uses is adequate. *Thomas v. Wasco County*, 35 Or LUBA 173 (1998).

**3.3.8 EFU Statute/Ordinances – Nonfarm Uses – No Significant Change/Increase Std.** Adequate findings of compliance with a local standard requiring that proposed nonresource uses not significantly increase the cost of accepted farm and forest practices must identify the farm and forest practices in the area, even if the local standard does not implement and thus need not be consistent with the similar statutory standard. *Thomas v. Wasco County*, 35 Or LUBA 173 (1998).

**3.3.8 EFU Statute/Ordinances – Nonfarm Uses – No Significant Change/Increase Std.** In applying a local provision based on the no significant change/increased cost standard, the local government is not required to perform the impossible task of proving a negative or to quantify how much imposed conditions will reduce conflicts with farm uses below a certain threshold. It need only affirmatively consider the impacts of a proposed use on farm or forest practices, and in so doing, consider whether the use will force a significant change or significantly increase the cost of those practices. *Gutoski v. Lane County*, 34 Or LUBA 219 (1998).

**3.3.8 EFU Statute/Ordinances – Nonfarm Uses – No Significant Change/Increase Std.** Under ORS 215.296(1), the applicant bears the burden to demonstrate that the proposed use will force no significant change in accepted farming practices or their cost,

and the local government's findings must affirmatively explain why it believes there are no such significant adverse impacts. *Just v. Linn County*, 32 Or LUBA 325 (1997).

**3.3.8 EFU Statute/Ordinances – Nonfarm Uses – No Significant Change/Increase Std.** In order to demonstrate compliance with ORS 215.296(1), county findings must: (1) describe the farm and forest practices on surrounding lands devoted to farm or forest use; (2) explain why the proposed use will not force a significant change in those practices; and (3) explain why the proposed use will not significantly increase the cost of those practices. *Brown v. Union County*, 32 Or LUBA 168 (1996).

**3.3.8 EFU Statute/Ordinances – Nonfarm Uses – No Significant Change/Increase Std.** Under ORS 215.296(1), the county may not assume from an absence of information in the record that there are no adverse farm impacts. The burden is on the county to identify and explain why it believes there are no significant adverse impacts and why it believes the cost of accepted farm practices would not be increased. *Brown v. Union County*, 32 Or LUBA 168 (1996).

**3.3.8 EFU Statute/Ordinances – Nonfarm Uses – No Significant Change/Increase Std.** Where the only use approved by the challenged decision is mineral and aggregate extraction on a 186-acre site, and no uses on the remainder of intervenor's 490-acre parcel are subject to review under ORS 215.296, the county's findings correctly limit the evaluation of compliance with ORS 215.296 to the 186-acre area of mineral and aggregate extraction. *Mission Bottom Assoc. v. Marion County*, 32 Or LUBA 56 (1996).

**3.3.8 EFU Statute/Ordinances – Nonfarm Uses – No Significant Change/Increase Std.** ORS 215.296(1) does not require of the local government the impossible task of proving a negative; rather, the local government must affirmatively consider the impacts of a proposed use on farm or forest practices, and in consideration of those impacts, consider whether the use will force a significant change or significantly increase the cost of those practices. *Mission Bottom Assoc. v. Marion County*, 32 Or LUBA 56 (1996).

**3.3.8 EFU Statute/Ordinances – Nonfarm Uses – No Significant Change/Increase Std.** Where the local code requires that a proposed use will not force a significant change in, or significantly increase the cost of, accepted farm or forest practices on surrounding land, the applicant has the burden of identifying the relevant accepted farm and forest practices and producing evidence showing those practices will not be significantly changed or their costs significantly increased. *Lyon v. Linn County*, 28 Or LUBA 402 (1994).

**3.3.8 EFU Statute/Ordinances – Nonfarm Uses – No Significant Change/Increase Std.** Findings of fact stating that accepted farm practices which occurred on adjoining properties have continued after a golf course was constructed do not constitute an improper interpretation of ORS 215.296(1) as being met simply because those past accepted farm practices have continued. *Von Lubken v. Hood River County*, 28 Or LUBA 362 (1994).

**3.3.8 EFU Statute/Ordinances – Nonfarm Uses – No Significant Change/Increase Std.** Findings that it is possible to apply agricultural sprays with little or no drift if label restrictions are followed do not constitute findings that spray drift is not an accepted farm practice. *Von Lubken v. Hood River County*, 28 Or LUBA 362 (1994).

**3.3.8 EFU Statute/Ordinances – Nonfarm Uses – No Significant Change/Increase Std.** Where impacts on an individual accepted farm practice are such that they almost force a significant change in that practice, additional impacts on other accepted farm practices may lead to a conclusion that there is a cumulative significant change in accepted farm practices, but such is not necessarily the case. *Von Lubken v. Hood River County*, 28 Or LUBA 362 (1994).

**3.3.8 EFU Statute/Ordinances – Nonfarm Uses – No Significant Change/Increase Std.** An applicant may not construct a golf course, prior to receipt of a decision approving such construction that is sustained on appeal, and thereafter rely on the fact that construction has already occurred to avoid showing that the impacts on accepted farm practices and the costs thereof during construction of the golf course are not significant. *Von Lubken v. Hood River County*, 28 Or LUBA 362 (1994).

**3.3.8 EFU Statute/Ordinances – Nonfarm Uses – No Significant Change/Increase Std.** Findings that an orchard's accepted farming practices have not been significantly affected by trespassing golf balls are supported by substantial evidence where the evidence shows no orchard employees have been hit by golf balls, tree buffers are effective in deflecting golf balls and petitioner's testimony was discredited by video tape of petitioner collecting golf balls on the golf course property. *Von Lubken v. Hood River County*, 28 Or LUBA 362 (1994).

**3.3.8 EFU Statute/Ordinances – Nonfarm Uses – No Significant Change/Increase Std.** Where there is conflicting evidence concerning the effectiveness of a condition requiring golf course closures during spraying operations to avoid significant effects on or cost increases in such spraying, a finding that the condition has been effective is supported by substantial evidence. *Von Lubken v. Hood River County*, 28 Or LUBA 362 (1994).

**3.3.8 EFU Statute/Ordinances – Nonfarm Uses – No Significant Change/Increase Std.** Where the aerial spray applicator formerly used by an orchard will not spray orchards surrounded by a golf course and the only sprayer who will charges 2000 dollars more to do so, the county's findings must explain why this cost increase, viewed cumulatively with any other cost increases attributable to the golf course, is not significant. *Von Lubken v. Hood River County*, 28 Or LUBA 362 (1994).

**3.3.8 EFU Statute/Ordinances – Nonfarm Uses – No Significant Change/Increase Std.** Petitioner's argument that the county failed to address evidence that escaped dogs can cause great damage in rural areas provides no basis for reversal or remand, where the county found the proposed kennel will comply with a code standard requiring no significant increase in the cost of accepted farm and forest practices because the design of

the kennel will result in no dogs escaping from the facility. *Larry Kelly Farms, Inc. v. Marion County*, 26 Or LUBA 401 (1994).

**3.3.8 EFU Statute/Ordinances – Nonfarm Uses – No Significant Change/Increase Std.** Where testimony below does not refer to ORS 215.296 by its statutory citation, title or any recognized abbreviation for either, and does not employ any of the operative terms of the statute, a reasonable local decision maker would not have understood that compliance with ORS 215.296 was raised below, and petitioner may not raise this issue before LUBA. *Spiering v. Yamhill County*, 25 Or LUBA 695 (1993).

**3.3.8 EFU Statute/Ordinances – Nonfarm Uses – No Significant Change/Increase Std.** Where a golf course adjoining an orchard will force alterations in accepted farming practices and increase the costs associated with such practices, the relevant question under ORS 215.296(1) is whether such alterations and increased costs will be *significant*. Where there is evidence in the whole record that would allow a local government decision maker to answer that question either way, LUBA is required by ORS 197.835(7)(a)(C) to defer to the local government's judgment. *Von Lubken v. Hood River County*, 24 Or LUBA 271 (1992).

**3.3.8 EFU Statute/Ordinances – Nonfarm Uses – No Significant Change/Increase Std.** Where there is evidence in the local government record that the number of golf balls claimed to have landed in adjoining orchards is exaggerated, a decision approving a golf course and imposing a condition requiring the planting of trees to contain golf balls on-site and installation of a fence and screen to prevent golfers and golf balls from entering adjoining orchard property, is supported by substantial evidence. *Von Lubken v. Hood River County*, 24 Or LUBA 271 (1992).

**3.3.8 EFU Statute/Ordinances – Nonfarm Uses – No Significant Change/Increase Std.** Where the aerial application of chemicals on an orchard adjoining a proposed golf course will be rendered more difficult, although possible, in that at least one aerial sprayer indicates he would be willing to spray the affected orchard, and the decision approving the golf course requires the operator to close the golf course to facilitate such spraying, there is substantial evidence in the record that the golf course will not force a significant change in or significantly increase the cost of aerial spraying of the adjoining orchard. *Von Lubken v. Hood River County*, 24 Or LUBA 271 (1992).

**3.3.8 EFU Statute/Ordinances – Nonfarm Uses – No Significant Change/Increase Std.** A decision that a golf course will not significantly change or increase the cost of ground spraying of an adjoining orchard is supported by substantial evidence, where there is conflicting evidence concerning the magnitude of ground spraying drift expected to travel onto adjoining properties, and the decision imposes a condition requiring that the golf course operator provide monitors to prevent golfers from coming into contact with ground spray drift. *Von Lubken v. Hood River County*, 24 Or LUBA 271 (1992).

**3.3.8 EFU Statute/Ordinances – Nonfarm Uses – No Significant Change/Increase Std.** Where petitioners do not specifically challenge county findings which (1) identify a

specific area surrounding a proposed golf course as the "surrounding lands" to be considered in determining compliance with ORS 215.296(1) and identical local code provisions, and (2) explain how the area was chosen, but rather assert a larger area should have been chosen, LUBA will uphold the county's identification of "surrounding lands." *Schellenberg v. Polk County*, 22 Or LUBA 673 (1992).

**3.3.8 EFU Statute/Ordinances – Nonfarm Uses – No Significant Change/Increase Std.** ORS 215.296(1), and identical local code provisions, require that a county consider the impacts of a proposed nonfarm use on *all* "surrounding lands devoted to farm or forest use," whether that use is commercial or noncommercial. *Schellenberg v. Polk County*, 22 Or LUBA 673 (1992).

**3.3.8 EFU Statute/Ordinances – Nonfarm Uses – No Significant Change/Increase Std.** A county may properly base its identification of "accepted farm or forest practices," as those terms are used in ORS 215.296(1), on the definition of "accepted farming practice" in ORS 215.203(2)(c). *Schellenberg v. Polk County*, 22 Or LUBA 673 (1992).

**3.3.8 EFU Statute/Ordinances – Nonfarm Uses – No Significant Change/Increase Std.** Where the evidence establishes a reasonable farmer would not significantly change the manner in which the farm is managed due to a proposed golf course, and the opponents' evidence shows only that there is a remote possibility that there could be some impacts from such proposed golf course, the county's determinations that the proposed golf course will not seriously interfere with, force a significant change in, or significantly increase the cost of accepting farming practices in the area, are supported by substantial evidence. *Washington Co. Farm Bureau v. Washington County*, 22 Or LUBA 540 (1992).

**3.3.8 EFU Statute/Ordinances – Nonfarm Uses – No Significant Change/Increase Std.** Under ORS 215.296(1), the burden is on the applicant to show a proposed golf center will force no significant change in accepted farming practices or their cost, and on the county to so find. *Berg v. Linn County*, 22 Or LUBA 507 (1992).

**3.3.8 EFU Statute/Ordinances – Nonfarm Uses – No Significant Change/Increase Std.** Findings which fail to identify the farm practices employed on surrounding properties devoted to farm use cannot explain why the proposed use will not cause a significant change in or increase the cost of such practices, and are inadequate to comply with ORS 215.296(1). *Berg v. Linn County*, 22 Or LUBA 507 (1992).

**3.3.8 EFU Statute/Ordinances – Nonfarm Uses – No Significant Change/Increase Std.** Although the EFU zoning statutes do not establish specific approval standards for golf courses in EFU zones, ORS 215.296(1) establishes standards applicable to nonfarm uses in EFU zones generally, and requires that approval of such uses not force a significant change in, or significantly increase the cost of, accepted farm or forest practices on surrounding lands. *Von Lubken v. Hood River County*, 22 Or LUBA 307 (1991).

**3.3.8 EFU Statute/Ordinances – Nonfarm Uses – No Significant Change/Increase Std.** Under ORS 215.296(1) and similar local code provisions, the burden is on the applicant to show the proposed use will force no significant change in accepted farming practices or their cost, and on the county to so find. *Schellenberg v. Polk County*, 21 Or LUBA 425 (1991).

**3.3.8 EFU Statute/Ordinances – Nonfarm Uses – No Significant Change/Increase Std.** ORS 215.296(1) and similar local code provisions require a county to consider all issues relevant to whether the proposed use will force a significant change in accepted farm or forest practices on surrounding lands or significantly increase the cost of such practices. *Schellenberg v. Polk County*, 21 Or LUBA 425 (1991).

**3.3.8 EFU Statute/Ordinances – Nonfarm Uses – No Significant Change/Increase Std.** In order to demonstrate compliance with ORS 215.296(1) and similar code standards, county findings must (1) describe the farm and forest practices on surrounding lands devoted to farm or forest use, (2) explain why the proposed use will not force a significant change in those practices, and (3) explain why the proposed use will not significantly increase the cost of those practices. *Schellenberg v. Polk County*, 21 Or LUBA 425 (1991).

**3.3.8 EFU Statute/Ordinances – Nonfarm Uses – No Significant Change/Increase Std.** Without an adequate identification of the accepted farming practices on surrounding lands, the county's findings cannot explain why the proposed use will not cause a significant change in or increase the cost of such practices, as required by ORS 215.296(1) and the local code. *Schellenberg v. Polk County*, 21 Or LUBA 425 (1991).

**3.3.8 EFU Statute/Ordinances – Nonfarm Uses – No Significant Change/Increase Std.** Findings of compliance with a standard that a proposed golf course will not "force a significant change in," or "significantly increase the cost of," accepted farm or forest practices on surrounding lands do not necessarily satisfy a standard that the proposed golf course will not "interfere seriously" with accepted farming practices. *Washington Co. Farm Bureau v. Washington Co.*, 21 Or LUBA 51 (1991).

**3.3.8 EFU Statute/Ordinances – Nonfarm Uses – No Significant Change/Increase Std.** The requirement that conditions imposed to ensure that a proposed nonfarm use will not force a significant change in, or significantly increase the cost of, accepted farm or forest practices on surrounding lands "be clear and objective," does not necessarily require a local government to adopt *findings* explaining why conditions imposed for this purpose are clear and objective. *Washington Co. Farm Bureau v. Washington Co.*, 21 Or LUBA 51 (1991).

**3.3.8 EFU Statute/Ordinances – Nonfarm Uses – No Significant Change/Increase Std.** Whether a proposed dwelling (1) is permitted outright in an EFU zone, (2) is "accessory" to an underlying nonconforming use, and (3) complies with ORS 215.296(1), are determinations which require "interpretation or the exercise of factual, policy or legal

judgment" within the meaning of ORS 197.015(10)(b)(A) and (C). *Komning v. Grant County*, 20 Or LUBA 481 (1990).

## ATTACHMENT J. Energy Projects Currently Under Review

Name	Location	Facility Description	Jurisdiction	Applicant	Status
Boardman to Hemingway	Morrow, Umatilla, Union, Baker, Malheur, Owyhee (Idaho) counties	500 kV Transmission Line (300 miles)	State	Idaho Power	Expect applicant to submit amended preliminary application in 2 <sup>nd</sup> qtr. of 2017.
Boardman Solar Energy	Morrow and Gilliam Counties	75 MW (600 acres) solar PV facility	State	Boardman Solar Energy, LLC a subsidiary of Invenergy	Request for expedited review was approved. Expect preliminary application in Dec 2016.
Carty Generating Station	Morrow County	<p><u>Approved:</u> 900 MW natural gas facility consisting of two units.</p> <p><u>Operating:</u> Unit 1 (440 MW)</p> <p><u>Amendment Request:</u></p> <p>-Extend construction start deadline for Unit 2 by two years and increase capacity from 450 to 530 MW</p> <p>-increase site boundary area from 2,400 to 2,918 acres</p>	State	Portland General Electric	Received amendment request in Sept. 2016. Applicant ask to suspend review. Expect to receive request to resume in Dec. 2016.

		-add new 330 MW natural gas unit  -add a 50-MW (300+ acre) solar PV facility			
Wheatridge Wind Energy Facility	Morrow and Umatilla Counties	500 MW Wind Energy Facility	State	Wheatridge Wind Energy, LLC, a subsidiary of Swaggart Wind Power, LLC	In contested case phase.
PacifiCorp Wallula to McNary	Umatilla County, City of Umatilla	230 kV Transmission Line (22 miles)	County, City of Umatilla	PacifiCorp	Approved Final Decision Dec 2015, valid to December 2017. Will need amendment to add parcels.
Pacific Northwest Generating Co-op (PNGC) Solar Project	Umatilla County	3 MW solar facility (30 acres)	Umatilla County	PNGC	Expect revised application in Dec 2016. Local hearing set for Jan 2017.
Orchard Wind	Morrow County	40 MW Wind Energy Facility	Morrow County	Oregon Wind	Approved in December 2017. Appeal period still pending
N/A	Morrow County	20 MW Wind	Morrow County	N/A	Application not yet submitted
N/A	Morrow County	20 MW Solar	Morrow County	N/A	Application not yet submitted

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